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STEP Inside

NEWSLETTER OF THE SOCIETY OF TRUST AND ESTATE PRACTITIONERS (CANADA)

STEP Inside

STEP Inside is published three times a year by the Society of Trust and Estate Practitioners (Canada), an organization of individuals from the legal, accounting, corporate trust and related professions who are involved, at a specialist level, with the planning, creation, management of and accounting for trusts and estates, executorship administration and related taxes. STEP Canada has branches in the Atlantic region, Montreal, Ottawa, Toronto, Winnipeg, Edmonton, Calgary, and Vancouver; and three chapters in London and Southwestern Ontario, the Okanagan Valley, and Saskatchewan.

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2017 Student Award Winners

Each year, STEP Canada recognizes the four students who achieve the highest marks in each of the STEP Canada diploma courses, the student who achieves the highest mark in the assessment by essay, and the student recipients of the Gerald W. Owen Book Prize and the Certificate in Estate and Trust Administration (CETA) Award. Awards will be presented to these students during the national conference in May. Please join us in congratulating the following students on their accomplishments in 2017.

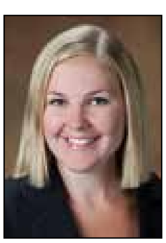
2017 Highest Mark, Law of Trusts Course

Kristina Hyland, JD: TD Private Trust, Toronto

Kristina Hyland obtained her law degree from the University of Toronto and was called to the bar in 2007. She then practised for ten years in the areas of estate planning and administration and corporate law at a firm in Hamilton, Ontario. She is currently an executive trust officer at TD Private Trust.

2017 Highest Mark, Taxation of Trusts and Estates Course

Danielle Carter, CPA, CA: Collins Barrow Kawarthas LLP, Peterborough



Danielle Carter specializes in trust and estate planning, as well as corporate reorganizations. A tax manager who works with individuals and small business owners to assist with their personal and corporate tax needs, her association with Collins Barrow Kawarthas dates back to 2009. STEP Canada's Taxation of Trusts and Estates Course has helped to ensure that she continues to provide the highest level of service and expertise to her clients.

2017 Highest Mark, Wills, Trusts, and Estate Administration Course

Martina Zanetti, BA (Hons.), JD: Norton Rose Fulbright Canada LLP, Vancouver

Martina Zanetti's practice focuses on estate planning, estate administration, and incapacity matters. She assists clients with the preparation of wills, powers of attorney, and healthcare representation agreements. In addition, she helps clients in establishing discretionary family trusts, alter ego and joint partner trusts, and other trust structures. Martina also advises clients acting as executors or trustees about their duties and powers and provides advice regarding the interpretation of trusts. Last year, Martina achieved the highest mark in STEP Canada's Taxation of Trusts and Estates Diploma Course.

2017 Highest Mark, Trust and Estate-Planning Course

Tony Lee, CPA, CA, TEP: Cinnamon Jang Willoughby & Company, Burnaby

Tony Lee is a chartered professional accountant (CPA) with over a decade of experience in public practice. He has received the TEP designation and a certificate of achievement for completing the CPA Canada In-Depth Tax Course. Tony started his career in a boutique accounting firm specializing in audits and worked for a large regional accounting firm specializing in tax before becoming a tax manager at Cinnamon Jang Willoughby (CJW). Tony's current focus at CJW is developing innovative tax and estate-planning solutions for owner-managed businesses and high net worth individuals.

Gerald W. Owen Book Prize, Sponsored by the Bank of Nova Scotia Trust Company

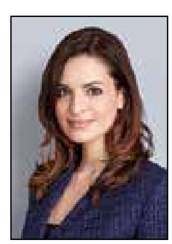
The Gerald W. Owen Book Prize is awarded to the STEP Canada student who achieves the highest overall average in all four diploma courses.

Tony Lee, CPA, CA, TEP: Cinnamon Jang Willoughby & Company, Burnaby

Details about Tony's practice may be found in the text that follows the heading "2017 Highest Mark, Trust and Estate-Planning Course."

2017 Highest Mark, Qualified Practitioner Essay

Carla Figliomeni, LLB: Miller Thomson LLP, Toronto



Carla Figliomeni's practice focuses on trusts and estates and personal tax planning. Carla advises clients on planning for family business succession, corporate reorganizations and amalgamations, estate freezes, maximizing capital gains exemptions, identifying income-splitting opportunities, and drafting wills and trusts while considering probate tax issues. In addition, Carla's practice encompasses domestic and cross-border estate planning, including Canada-US planning and planning involving common- and civil-law jurisdictions.

CETA Award, Sponsored by RBC Wealth Management, Estate & Trust Services

The CETA Award is presented to the STEP Canada student who achieves the highest overall average in the CETA program.

Betty Laidlaw: Fasken Martineau, Toronto

Betty Laidlaw is a law clerk in the Toronto office of Fasken. She has worked in the Private Client Services Group for over 28 years. Betty has extensive experience assisting executors and trustees in managing complex, high-value estates and trusts, and also focuses on estate accounting and estate litigation. Betty is an affiliate member of STEP Canada and an associate member of the Institute of Law Clerks of Ontario.

Congratulations to Our 2017 Graduates

On behalf of STEP Canada and STEP Worldwide, I congratulate and welcome our newest graduates. Our education programs are rigorous, and completing them is a significant achievement.

I encourage you to take full advantage of your membership. Our continuing education program includes more than our informative and entertaining annual conference. Your local branch offers many interesting programs and seminars, and our lifelong learning program covers succession of the family business in the fall of 2018. Consider involving yourself in your branch or national committees. We are constantly striving to maintain our cutting-edge perspective, and we need your fresh insights and experiences.

Welcome to STEP and all it has to offer.

Peter Weissman, TEP
Chair, STEP Canada Education Committee
Partner, Cadesky Tax LLP
Member, STEP Toronto

STEP GRADUATES 2017

Diploma Graduates

Angele (Leblanc) Bilodeau, TEP, Atlantic branch
Clayton Achen, TEP, Calgary branch
Aram Agopian, TEP, Toronto branch
Robin Aitken, TEP, Atlantic branch
Michael Baker, Calgary branch
Ahmad Bakhshai, TEP, Toronto branch
Stephanie Bernier, TEP, Montreal branch
Myles Léo Bilodeau, TEP, Atlantic branch
Phil Boglevsky, TEP, London and Southwestern Ontario chapter
Paula Bosenberg, TEP, Vancouver branch
Robert Boyd, Toronto branch
Shawna Bratin, Montreal branch
Benjamin Carver, TEP, Atlantic branch
Tina (Miao Na) Chen, Toronto branch
Xiao Jin Chen, Toronto branch
Chantal Copithorn, TEP, Toronto branch
Carol Dai, TEP, Toronto branch
Brooke Dean, TEP, Calgary branch
Jonathan Dyck, TEP, Vancouver branch
Titus Ebenezer, TEP, Toronto branch
Emin Berk (Berk) Erke, TEP, Calgary branch
Denese Espeut-Post, TEP, Okanagan chapter
Natalie Fong-Yee, TEP, Toronto branch
Keisha Fonrose, TEP, Calgary branch
Alison Forster, TEP, Toronto branch
Steve Fron, TEP, Toronto branch
Robert Gillings, TEP, Calgary branch
Allison Henkell, TEP, London and Southwestern Ontario chapter
Christian Kennedy, TEP, Winnipeg branch
Jung-Hee Kim, TEP, Toronto branch
Carolyn Kirkland, TEP, Toronto branch
Henry Korenblum, TEP, Toronto branch
Tony Lee, TEP, Vancouver branch
Jeremy Levi, TEP, Montreal branch
Jessica Lo, TEP, Vancouver branch
Nancy Lum, TEP Vancouver branch
Lori MacNaughton, TEP, Atlantic branch
Kevin McDougall, TEP, London and Southwestern Ontario chapter
Anadi Mehta, Calgary branch
Adam Morke, TEP, Toronto branch
James Murphy, TEP, Toronto branch
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Emily Racine, TEP, Atlantic branch
Dana Rittenhouse, TEP, Edmonton branch
Patricia Schmeichel, TEP, Winnipeg branch
Henry Shew, TEP, Toronto branch
Craig Simpson, TEP, Toronto branch
Nicole Slaunwhite, Atlantic branch
Struan Smith, TEP, Atlantic branch
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Renée-Claude Tremblay, TEP, Montreal branch
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Alexander Turner, Toronto branch
Shane Verity, TEP, Winnipeg branch
Geoffrey Warren, TEP, Toronto branch
Jin Wen, TEP, Toronto branch
James Woods, Vancouver branch
Chenggang (Peter) Yuan, TEP, London and South-western Ontario chapter
Lane Zabolotney, TEP, Saskatchewan chapter
Xuezhi (Frank) Zhou, TEP, Calgary branch

Qualified Practitioner Graduates

Pamela Earle, Atlantic branch
Carla Figliomeni, Toronto branch
Andrew Frech, TEP, Toronto branch
Nicole Garton, TEP, Vancouver branch
Jashandeep Grewal, TEP, Toronto branch
Kim Islings, TEP, Montreal branch
Raymond Loucks, TEP, Calgary branch
Arnaud Guy Mary, Montreal branch
Melinda Olliver, Calgary branch

Certificate in Estate and Trust Administration (CETA) Graduates

Yolanda Benoit
Amanda Chamberlain
Dayna Charlebois
Vanessa Christensen
Mark Cresswell
Victoria Elsley
Betty Laidlaw
Samatha Lauzon
Grace McConnell
Rachel Rae
Melissa Saunders
Carey Webster
Florentina Weisz
Kristina Worden

US Tax Reform: Increased Gift and Estate Tax Exemption and Withholding Tax on the Sale of a US Partnership Interest

JOAN E. JUNG, TEP

Member, STEP Toronto

Minden Gross LLP

This article provides commentary on two changes contained in the *US Tax Cuts and Jobs Act* (TCJA) that are of interest to Canadians. The Act was signed into law on December 22, 2017.

Increased Gift and Estate Tax Exemption

The TCJA increased the unified federal estate and gift tax exemption to approximately US$11.18 million (inflation indexed). This exemption applies in the case of deaths and gifts that occurred after December 31, 2017 but has an expiration date of December 31, 2025. In the absence of a further legislative amendment, the exemption will revert to the pre-TCJA amount after the expiration date. The effective doubling of the exemption applies only to US citizens and does not apply to non-resident aliens. Under the Internal Revenue Code, the unified federal estate and gift tax exemption for a non-resident alien is limited to US$60,000, and this exemption was not changed by the TCJA. However, because of article XXIXB of the Canada-US tax treaty, an estate of a resident of Canada who was not a US citizen is allowed a prorated portion of the unified credit available to US citizen. This applies to US estate tax only. In particular, the estate of a resident of Canada who was not a US citizen is allowed an exemption equal to the greater of: (a) the exemption available to a US citizen multiplied by a fraction where the numerator is the value of the deceased's gross estate in the US and the denominator is the value of the deceased's worldwide estate; and (b) the exemption available to a non-resident alien (being US$60,000 as noted above). As a result of the calculation, the estate of a Canadian resident who was not a US citizen is typically subject to estate tax on US situs property only if his or her worldwide estate exceeds the amount of the unified credit (which is US$11.18 million for a death occurring today).

Because the increased exemption expires on December 31, 2025, a clawback issue arises. For example, today a person may make a gift to which the increased exemption applies, yet at the time of the person's death, the exemption may have reverted to a lower amount. The issue is whether the offset for gift taxes payable will be based on the exemption amount at the time of the gift or at the time of death. Under the TCJA, regulations that avoid a clawback are to be prescribed.

A US person could give property to a non-resident alien (for example, a Canadian), and make use of the increased unified estate and gift tax exemption. A US person could die and bequeath property to a non-resident alien (for example, a Canadian), and make use of the increased unified estate and gift tax exemption. However, the different basis implications are significant. In the case of a gift, there is no step-up in basis for the recipient to fair market value when the gift is given. Rather, in the event that the donor paid no gift tax because of the exemption, the recipient is entitled to a carryover basis only meaning that the recipient's basis is effectively the donor's cost. In contrast, in the case of a bequest or gift by will, there is a basis bump to fair market value for the recipient. The basis implications for a

Canadian recipient are important if the nature of the property makes its subsequent dealing subject to US tax.

Withholding Tax on the Sale of a US Partnership Interest

The TCJA includes a provision that introduces a 10 percent withholding tax on the sale of certain partnership interests, overriding the 2017 US Tax Court decision in *Grecian Magnesite Mining, Industrial & Shipping Co. SA v. Commissioner*, 149 TC No. 3. This new provision has implications for foreign persons, such as Canadians, who sell US partnership interests that have US-source effectively connected income (not real estate). The sale of an interest in a partnership holding "US real property interests" (as defined) is already classified as effectively connected under the Foreign Investment in Real Property Tax Act (FIRPTA) and subject to FIRPTA withholding, just as a direct sale of the real property would be. Thus, the change in the TCJA is relevant to non-real-estate partnerships.

The TCJA revised section 864(c) of the *Internal Revenue Code* to provide that after November 27, 2017, the gain or loss from the sale by a foreign corporation or non-resident alien of an interest in a partnership that is engaged in trade or business in the United States is treated as effectively connected with a US trade or business (and therefore subject to US tax) to the extent that the seller would have had effectively connected income if the partnership itself had sold all of its assets at fair market value on the date of the partnership interest sale. This provision reverses *Grecian Magnesite*, the taxpayer-friendly decision in which the Tax Court held that a foreign corporation's gain on the redemption of its interest in a US limited liability company (which was classified as a partnership for US purposes) was not effectively connected income and thus was not taxable in the United States. The limited liability company (of which the foreign corporation was a member) was engaged in the business of mining and extracting magnesite in the United States. It was conceded that the portion of the gain attributable to the limited liability company's real estate assets in the United States was effectively connected. The result in *Grecian Magnesite* was contrary to the longstanding administrative position contained in Internal Revenue Service revenue ruling 91-32, but a short-lived taxpayer victory in light of the TCJA amendment.

The new provision is based on a hypothetical sale of assets by the partnership and a hypothetical allocation to partnership interests in the same manner as "nonseparately stated items." While the latter term is not defined, commentary suggests that it is analogous to net operating income. If so, for this purpose gains on the hypothetical sale of assets would be allocated using the income allocation ratios in the partnership agreement. Unless the seller certifies that it is not a foreign corporation or a non-resident alien, the transferee is required to withhold 10 percent of the "amount realized" by the seller, which means withholding is based on the gross amount received (mechanically similar to FIRPTA withholding). If the transferee does not withhold the correct amount, the partnership is required to deduct and withhold from distributions the amount that the transferee failed to withhold. Withholding aside, the foreign partner selling its partnership interest must pay US tax at ordinary US income rates rather than capital gains rates. On the basis of the rate changes in the TCJA, a Canadian corporation selling an interest in such a partnership would be subject to US tax at the ordinary 21 percent rate.

Because of the hypothetical sale and allocation mechanism, the amount subject to US tax may not be analogous to the amount recognized as a capital gain for Canadian income tax purposes in respect of the sale of the partnership interest (assuming that the gain is considered to be on capital account). If the seller is a Canadian-controlled private corporation, this situation may exacerbate the integration issues for foreign investment income in the calculation of refundable tax. It may introduce a preference for holding shares of a US corporation rather than a partnership or limited liability company. ■

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Alter Ego Trusts: Every Rose Has Its Thorns

MAUREEN BERRY, TEP
Co-Chair, STEP Canada Tax Technical Committee Member, STEP Toronto
Fasken LLP

Historically, individuals have taken comfort in the knowledge that their last will and testament is a statement of their final wishes for the disposition of their accumulated wealth. However, in the face of increasing wills litigation and fees payable in connection with obtaining probate, advisers are now seeking planning alternatives to traditional wills. One such alternative is the alter ego trust, a tool designed in large part to integrate a consideration of tax consequences with planning for the disposition of assets after death.

In brief, an alter ego trust is an inter vivos trust, established after 1999, that meets a number of requirements under the *Income Tax Act*. A review of these requirements highlights why the trust is aptly named. The Canadian-resident settlor of an alter ego trust must be at least 65 years of age when the trust is created, the settlor must be entitled to receive all trust income until his or her death, and no person other than the settlor can receive or otherwise use the income or capital of the trust before the settlor's death. On the death of the settlor, a deemed disposition of the assets in the trust at fair market value occurs. In other words, the trust is taxed in a manner that simulates continued ownership of the subject property by the settlor of the trust. The requirement that the settlor be at least 65 years of age when the trust is created reflects the fact that these trusts were creatures of tax law designed to facilitate estate planning.

Status as an alter ego trust confers a number of advantages. First, from an income tax perspective, the transfer to the trust of appreciated assets occurs on a rollover basis and does not result in the realization of accrued gains (in contrast to the tax treatment of a transfer to an ordinary inter vivos trust).

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Second, the 21-year deemed disposition that is applicable to other inter vivos trusts does not apply. Again, these results are consistent with those that would have occurred if the settor of the trust had still owned the subject matter of the trust. Finally, alter ego trusts are one of the newly restricted types of trusts to which the principal residence exemption continues to be available.

From a non-tax perspective, there are also numerous advantages to alter ego trusts. Historically, the primary reason for establishing an alter ego trust was the reduction of probate fees because the trust assets do not form part of an estate passing under a will. Today, however, the reasons for establishing an alter ego trust are farther reaching. Increasingly, these trusts are used to avoid will challenges. In the increasingly litigious environment surrounding the dispositive provisions in wills, often in the context of non-traditional or blended families, it may be a sensible strategy to reduce the number of the assets to which a will applies (and thus reduce the financial incentive for a challenge). Some statutory regimes that apply to the challenging and varying of wills do not currently apply to alter ego trusts. While potentially reducing the risk of a challenge, the alter ego trust still affords its settlor the flexibility to provide for the ultimate disposition of assets in the manner that he or she sees fit.

An alter ego trust may also provide some protection from creditors, although the factual circumstances surrounding the trust's establishment may detract from this protection.

Finally, in a world in which people are increasingly concerned about their privacy, an alter ego trust may provide comfort for its settlor because, unlike the contents of a will, the contents of an alter ego trust are not made public.

As the title of this article suggests, however, the establishment of an alter ego trust does present some difficulties. First, although an alter ego trust is treated for income tax purposes as being similar to its settlor, the same may not be the case for other types of taxes. Land transfer tax, goods and services tax, and harmonized sales tax could be payable on the transfer of assets to the trust, even if income taxes are not payable. Second, the establishment and maintenance of an alter ego trust can be costly: professional fees as well as transfer costs must be considered in a cost-benefit analysis. Finally, an alter ego trust is recognized as a taxpayer that is separate from its settlor, although the settlor pays all taxes related to the income and gains of the trust. As a result, capital losses could be trapped in an alter ego trust. It is impossible to elect to have the losses of such a trust applied to the final personal tax return of its deceased settlor, since the alter ego trust is created during its settlor's lifetime. There may, however, be limited ways in which the losses may be used in the trust in certain circumstances.

Finally, an alter ego trust is recognized as a taxpayer that is separate from its settlor, although the settlor pays all taxes related to the income and gains of the trust. As a result, capital losses could be trapped in an alter ego trust.

While a consideration of the advantages and disadvantages of an alter ego trust may lead to the conclusion that the establishment of the trust constitutes wise estate planning, the circumstances of the individual client are of paramount importance. Some clients, particularly aging ones, may not understand the concept of a trust and may find the notion of giving their assets away to a trust and receiving nothing in return distasteful. These feelings can lead to skepticism and anxiety, especially in clients whose experience tells them that they should accumulate assets over the course of their lifetime, and then dispose of these assets on death by means of a will.

An adviser's role is to use the tools available to develop the plan that best serves the client's needs. In doing so, the adviser should never assume that all clients are willing to overlook the existence of thorns for the sake of holding a rose. ■

Risks in Estate and Trust Administration

PAUL FENSOM, TEP
Member, STEP Toronto
Scotia Wealth Management

This is the first part of a two-part article; the second part, by Tom Grozinger, will appear in the October edition of STEP Inside.

The definition of risk is the probability of loss or adverse consequence caused by an external or internal vulnerability that may be avoided by taking certain actions. An understanding of estate and trust administration risk is not only important to avoid liability; it also helps to determine the pricing of the services offered by an executor or liquidator.

The key risk factors in an estate or trust administration include, but are not limited to, (1) the size of the estate, (2) the number of beneficiaries and the jurisdiction in which they are located, (3) the terms and complexity of the governing document, and (4) the complexity of the assets.

As a general rule, the larger the estate, the greater the amount of care required to administer it. For example, compare the amount of interest that is lost in the course of one day in an estate worth $25 million ($685) with the amount of interest that is lost over the same period in an estate worth $300,000 ($8).

The number of beneficiaries and the jurisdiction in which they live may increase risk in administering an estate, but there is not necessarily a directly proportional relationship between these factors. When an estate involves beneficiaries who live in different tax jurisdictions, different withholding and reporting requirements apply. While the tax-reporting requirements increase complexity, the risk is largely quantifiable. However, it is more difficult to quantify the risk associated with the number of beneficiaries. The greater the number of beneficiaries, the greater the chance of encountering a disgruntled beneficiary. Often the source of a beneficiary's disgruntlement has nothing to do with the trustee; instead, it is usually related to unresolved issues between the beneficiary and the deceased or between the beneficiary and other beneficiaries. These issues are best mitigated by means of intelligent communication.

The terms and complexity of a will can create one of the more frustrating risks for executors because often they could have been avoided. For example, in the estate of the late John Kaptyn, the executors were in and out of court, arguing about interpretation issues and incurring significant legal and court costs in the process. A lack of specific powers or direction can lead to misinterpretations and loss. It is a misconception that the length of a will is directly related to the complexity and risk involved in the will's administration. Conversely, though, many practitioners find it miraculous that executors were able to successfully administer the will of the late Frederica Evelyn Stilwell Cook, who died in 1925 in London, England, leaving a 1066-page (95,940-word) will.

The risks associated with complex assets vary widely and are directly related to the type of asset involved – cash, investment portfolios, personal effects, real estate, or private and operating companies, for example. On a relative scale, the least risky assets are cash (this article is written without reference to digital currencies) and marketable securities. The reduced risk involved with these assets is the result of their liquidity and ease of valuation. Furthermore, in respect of longer-term trusts, various provincial trustee statutes have implemented changes over the past 25 years to permit the delegation of investment management to

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specialists, and these changes have significantly reduced risk and liability for trustees.

The next most risky asset is real estate, with estate administration cases involving real estate dating back more than 100 years. Real estate is less liquid than other assets and requires independent professional valuation. There are instances in which judgment is required to decide how to divide the proceeds from the sale of real estate. In *Re Earl of Chesterfield's Trusts* (1883), 24 Ch D 643, the court directed the trustee to divide or apportion the proceeds of sale between the income and capital beneficiaries. In addition, there are risks associated with selling real estate at the wrong time when there is insufficient liquidity in the estate to cover maintenance, insurance, and taxes. This type of risk can be mitigated by setting up a trust with cash or marketable securities to cover the potential expenses.

Perhaps the most challenging assets for executors to administer are private and operating companies. The valuations are complex and can include elements of subjectivity. In addition, a lack of liquidity may affect an executor's ability to deal with an estate's liabilities on a timely basis. Other issues and risks become apparent when private or operating companies are held for relatively long periods of time. For example, an executor who is named as a director of an estate-owned operating company may experience a conflict between his or her duty of loyalty to the company and his or her duty of loyalty to the trust. In addition, an executor or trustee must be aware of any lack of diversification and weigh it against the possibility of loss. ■

Utility Vehicle

DANIEL FRAJMAN, TEP
Spiegel Sohmer Attorneys
Branch Chair, STEP Montreal

Philanthropists in some parts of the world outside Canada may find themselves in a quandary. Although they would like to set aside funds for a charitable use in their country of residence (the country of residence), this country may lack the legislation or practice necessary to accomplish their goals. (For example, see Sarah Hasselbarth, *Islamic Charities in the Syrian Context in Jordan and Lebanon*, Bibliotek der Friedrich-Ebert-Stiftung (2014), bit.ly/2pPLDkZ, which refers to charities in Jordan and Lebanon that carry out valuable work, but that do not always meet the donor's transparency requirement.) A possible solution may be to establish a charitable foundation in Canada to carry out charitable works in the philanthropist's country of residence. In looking at this solution, this article contains a review of the features and uses of Canadian charitable foundations, particularly private foundations.

Registered Canadian Charities

The Income Tax Act (Canada) (ITA) sets out rules for establishing charities, primarily in section 149.1. These rules are amplified in published guidance issued by the Canada Revenue Agency (CRA); case law; and federal and provincial rules, mostly those relating to the formation of corporations and trusts. Some of the principal rules are as follows:

- Canadian charities can carry out their charitable works anywhere in the world without needing to do so in Canada.
- A Canadian charity is first established as an organization, usually a non-share capital corporation (with members who appoint a board of directors that manages the corporation and can appoint officers) and sometimes a charitable trust. Perhaps because third parties are receptive to working with corporations and because standard corporate law should apply to limit the liability of members, directors, and officers, the non-share capital corporation, rather than the trust, has become the vehicle of choice. Often, the corporation is incorporated under the *Canada Not-for-profit Corporation Act* (CNCA), a modern statute that has been in force since 2011. The application for registered chartable status is filed with the CRA on behalf of the organization. To receive charitable status, an organization must demonstrate that its proposed purposes and activities are charitable, as defined under Canadian charity law.
- What is charitable is not defined in the ITA or other legislation. Rather, in Canada it is established by common law (essentially in Commissioners for *Special Purposes of Income Tax v. Pemsel*, [1891] AC 531, a 19th-century decision of the House of Lords) as being the work of those organizations established in service of one or more of the so-called four heads of charity. These four heads are (1) the relief of poverty, (2) the advancement of education, (3) the advancement of religion, and (4) other purposes beneficial to the community.
- The application to the CRA is often a streamlined process, submitted on a prescribed form, and, if the application is properly prepared, charitable status is typically granted in three to six months. As long as the proposed activities of the organization allow for it, when preparing the application it is important to characterize the organization's purposes and activities as being for the public benefit and as falling under one or more of the four heads of charity. The CRA can later review and audit the charity's activities to verify that they are charitable and follow the stated purposes. The charity files an annual information return with the CRA that reports, for example, on activities and financial statements.
- The charity is exempt from Canadian federal and provincial income tax. Donations to the charity provide an individual donor with a Canadian tax credit of roughly 50 percent and provide a corporate donor with a Canadian tax deduction equal to the corporate donor's tax rate.

Canadian Residence

A Canadian charity can operate anywhere in the world, but it must have been created or established in Canada (the formation of a Canadian non-share capital corporation or a Canadian charitable trust satisfies this requirement), and it must reside in Canada (see ITA subsection 248(1)). Conveniently, a charity that is incorporated in Canada is deemed to reside in Canada under ITA subsection 250(4). Compare this situation to that of a Canadian charitable trust, whose management and control must be in Canada in order for the trust to have Canadian residence (see *Fundy Settlement v. Canada*, 2012 SCC 14). Therefore, it appears possible for the Canadian charity established as a corporation to have directors and an asset base that are not in Canada. The CNCA, under which federal corporations are incorporated, does not impose a residence requirement on directors. The ITA, however, does require that the books and records of the charity be kept in Canada, and the CNCA requires that the charity have a registered office in Canada. Additionally, the charity may decide that it wishes to place its endowment in Canada, although this is not a requirement.

Because the members of the charity appoint the board, the members could also be the directors, and the entire board and membership could be composed of the philanthropist-founder and his or her family. The founder could even be the sole member. Although a minimum of three directors is usually required, under the CNCA the founder could be the sole director, provided that the organization does not solicit donations from the public. In a CNCA corporation, the directors can but do not need to be members.

Charitable Activities

Because the organization is controlled at the board level by related persons, and because the principal funder of the organization is likely to be related to the persons who control the board, the organization is classified under the ITA as a "private foundation" and not as a "public charity." As a private foundation, the charity is not allowed to carry on a business. Although it may have passive investments, such as a portfolio of marketable securities or passively invested real estate, it cannot carry on a charitable activity with the intention of earning a profit; however, this should not hinder the charity in carrying out material philanthropy.

In the philanthropist's country of residence, the charity as a private foundation could undertake for example the following actions:

- Carry out one or more charitable activities under one or more of the four heads of charity. To do this, the charity must not intend to earn a profit through its activities. For example, in the country of residence, the charity could provide seminars for nurses and doctors on certain new health care procedures. The seminars would follow a detailed plan or syllabus, and the education of attendees would be assessed. The charity would finance the seminars, but earn little or no revenue from them, and therefore earn no profit. Applicable laws in the country of residence would need to be respected. These purposes and activities could satisfy at least two of the four heads of charity: advancement of education and other purposes beneficial to the community (see *Vancouver Society of Immigrant and Visible Minority Women v. MNR*, [1999] 1 SCR 10).The charity would have to maintain direction and control (through an agent, for example) over how these activities were carried out.
- Donate funds to universities located worldwide, including universities in the country of residence, if the universities in question are on an extensive list, established under the ITA, of universities that are ordinarily attended by Canadians. By donating funds to such a university, a charity can benefit the philanthropist's country of residence without needing to maintain the same direction and control over the use of the funds as required in the preceding example.

Conclusion

Philanthropists and their advisers should know that a Canadian private foundation can be an appropriate vehicle for philanthropic activity worldwide. Such an organization has a number of interesting characteristics: good governance arising from the initial and ongoing review of the foundation's purposes and activities by the CRA; the founder's ability to retain control of the foundation; a longstanding body of law and administrative practice setting out the applicable rules; the security of a jurisdiction such as Canada, in which the deposit and investment of the foundation's endowment is allowed on a tax-free basis; and the ability to disburse the endowment for use anywhere in the world. ■

2018 BC BUDGET SUMMARY: REAL PROPERTY TAX MEASURES

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On February 20, 2018, the BC government announced the details of its 2018 budget. The budget focused heavily on tax measures connected with BC real estate, including the introduction of a new speculation tax, the expansion of the foreign buyers tax, an increase in property transfer tax rates, an expansion of an anti-avoidance rule applicable to the property transfer tax regime, and an increased scope of reassessment and information gathering. The details of these measures are summarized below.

One of the more controversial items in the budget is an annual speculation tax. At the time of writing, no draft legislation has been released on this issue, and very few details have been provided on the proposed measure. Despite this lack of clarity, the government has announced that the tax will be effective for the 2018 tax year, and will be levied at a rate of 0.5 percent of an applicable property's assessed value; the rate is to increase to 2 percent in 2019. The tax will apply to all residential properties, unless an exemption applies, within Metro Vancouver, the Fraser Valley, the Capital and Nanaimo Regional Districts, and the municipalities of Kelowna and West Kelowna.

The Ministry of Finance has suggested that the speculation tax legislation will provide three broad categories of exemptions: (1) principal residences, other than those of "satellite families,"which are defined as households with high worldwide income that pay little income tax in British Columbia; (2) qualifying long-term rental properties; and (3) "certain other cases." If an exemption is not available and the relevant property is owned by a BC resident

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(for example, if a Vancouver-resident homeowner owns a Kelowna vacation property), a non-refundable income tax credit may offset some or all of the speculation tax paid.

The government has expressed its view that the bulk of the speculation tax will be levied on vacant and short-term rental properties owned by individuals who do not live in British Columbia, as well as satellite families. However, on the basis of the limited information available to date, it appears that the tax will also apply to BC-resident property owners in the first instance when no exemption is available, and relief will be available only to the extent that the property owner does not pay sufficient tax in British Columbia to maximize the tax credit.

The 15 percent so-called foreign buyers tax was first introduced by the previous BC government in 2016, and applied to property in the Metro Vancouver area. The 2018 budget has increased the foreign buyers tax rate to 20 percent and has expanded the scope of the tax to the Fraser Valley, the Capital and Nanaimo Regional Districts, and the Central Okanagan.

When the original foreign buyers tax was introduced in 2017, a related anti-avoidance measure was included in the *Property Transfer Tax Act* (PTTA) to ensure that buyers could not avoid paying the additional tax by structuring their transactions differently. The 2018 budget expands this anti-avoidance measure to cover the entire PTTA. It will potentially affect any "taxable transaction" (as that term is defined in the PTTA) that could be considered to be designed to avoid any tax levied under the PTTA.

Before the 2018 budget, property transfer tax applied in British Columbia on the registration of a taxable transaction in the Land Title Office at a rate of 1 percent for the first $200,000 of the fair market value of the property, 2 percent for the fair market value between $200,000 and $2 million, and 3 percent for the fair market value in excess of $2 million. In its 2018 budget, the government announced a further increase in property transfer tax by adding a 2 percent tax on values exceeding $3 million.

The 2018 budget also made a significant change to the reassessment period under the PTTA, moving to a six-year reassessment period for all purposes.

Concurrent with the 2018 budget, the Ministry of Finance released a new expanded property transfer tax return, which requires significantly more detail about the parties to a transaction than was required in previous iterations of the form. When the transferee is an individual, information about the individual's residence, citizenship, date of birth, and social insurance number must now be disclosed. When the transferee is a corporation, information about the directors of the corporation and their respective residence, citizenship, date of birth, and social insurance number must be provided. If the transferee is a bare trustee, the form now requires information about the settlor and beneficiaries of the trust, and their respective residence, citizenship, date of birth, and social insurance numbers (or, in the case of a corporation, those of the directors). The government has announced its intention to create a publicly available database of beneficial ownership of property based on the information disclosed in these returns.

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The government has also announced its intention to address tax evasion on pre-sale condo assignments by creating a database and requiring developers to report assignment information to the province, which will be shared with the federal government to ensure that appropriate taxes are paid.

Finally, the announcements include a few features, effective on royal assent, that should sound a caution note for all advisers who assist with property transfers. First, an administrative monetary penalty will be introduced for non-compliance. Second, a person who "makes or participates in, assents or acquiesces" to either a falsity or an omission of information in a return also commits the offence. Realtors, accountants, lawyers, and notaries beware!

NOT UNTIL DEATH DO US PART

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The Alberta Court of Queen's Bench recently considered an old issue with fresh eyes in *Marasse Estate* (Re), 2017 ABQB 706. The issue was whether the estate of a deceased payee is entitled to continue receiving spousal support payments after the payee's death.

Before their divorce in 2015, Tracy and Jean Marasse entered into a separation and property agreement under which Tracy was to receive $3,000 per month on the first of each month for a period of 60 months (5 years); the date of the final payment was October 1, 2019. The agreement further stated that "[e]ntitlement, quantum, and duration of spousal support is non-reviewable and may not be varied on any material change of circumstances." The divorce judgment was entered into by consent, and both parties were represented by counsel. The paragraphs relating to spousal support were incorporated into the divorce judgment.

The agreement included provisions setting out what was to happen in the event of either party's death because it related to the disposition of property; it further set out what would happen if Jean died before all payments were made, stating that the spousal support payments would be secured by way of an insurance policy. It was silent on the issue of spousal support in the event that Tracy died. When the agreement was made, the parties knew that Tracy was ill, but Jean indicated that he was not aware of how ill Tracy actually was. At the time of Tracy's death in June 2015, only 8 of the 60 payments had been made.

Jean argued that the purpose of spousal support is to satisfy an economic need of the payee and provide for the payee's needs during his or her lifetime and that spousal support is no longer required after the payee's death. He further argued that spousal support is a personal right that cannot be claimed by an estate, citing *Hampton v. Hampton* (1985), 19 DLR (4th) 559, and *Kalawarny Estate v. Fife*, 2016 MBQB 146. In both of these cases, the court found that spousal support is a personal right to be provided during a person's lifetime.

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The court in *Marasse Estate* found that there is a distinction between a court order for spousal support and a contractual agreement to provide spousal support: a contract is enforceable after death. The court determined that the agreement itself formed the juristic reason for continuing the obligation after death. Supporting this juristic reason, the court noted the agreement's enurement clause, its non-reviewability clause, and its comprehensive nature (it was "negotiated with give and take on both sides, where the sum of its parts can be considered to be a whole"). The duration of the payments set out in the agreement was part of a negotiated settlement and based on anticipated need. "[A]ctual need is not expressed to be a premise or precondition to payment."

The court did not find any ambiguity within the agreement, which if found, may have allowed Jean to provide extrinsic evidence about the parties' intention when the agreement was made. The court went further though: observing that even in the absence of ambiguity, in considering the relevant surrounding circumstances in this case, both parties knew of Tracy's illness when they entered into the agreement.

Jean then asked the court to review the agreement to vary his obligations. In doing so, the court was required to consider whether the parties intended a full and final settlement, whether the agreement reflected the parties' original intentions, and whether the agreement was in substantial compliance with the objectives of the *Divorce Act*, as per *Miglin v. Miglin*, 2003 SCC 24. Needless to say, the court found that it should not vary the agreement because the agreement fully and finally resolved the issues between the parties, both parties knew of Tracy's illness when the agreement was made, and other parts of the agreement contemplated the death of either or both of the parties.

The court did not order a lump sum payment to be made; instead, it ordered that the payments were to continue as contracted by the parties until October 1, 2019.

This case acts as a caution for matrimonial lawyers to ensure that their agreements include provisions about what is to happen after the death of the parties and cautions estate practitioners not to assume that death ends all obligations – it does not.

NICE TRY, BUT YOU ARE STILL BARRED

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In the recent case of *Levesque v. Crampton Estate*, 2017 ONCA 455; rev'ing (2016), 134 OR (3d) 636 (SCJ), the Ontario Court of Appeal has provided further guidance regarding limitation periods in the context of the estates of deceased persons.

Since the new Ontario *Limitations Act*, 2002 was enacted, there has been some disagreement among practitioners over how the legislation may apply to estate and trust matters. Estates and trusts can present unique challenges with regard to the limitation periods that govern claims. For example, just how the right to require an executor or trustee to provide an accounting interacts with the usual two-year limitation period in the *Limitations Act*, 2002 has yet to be fully explored in case law. Another difficult issue is how fiduciary obligations regarding disclosure of information interact with discoverability principles as they apply to limitation periods.

The increase in disputes and potential litigation in estates is also giving rise to more and more creative arguments regarding limitation periods. For example, in one case the plaintiffs attempted to argue that the deceased's death restarted the time within which the estate trustees could bring a tort claim on behalf of the deceased; the Court of Appeal confirmed that this was not a reasonable interpretation of section 38(3) of the Ontario *Trustee Act* (see *Camarata v. Morgan*, 2009 ONCA 38).

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In *Levesque v. Crampton Estate*, the court examined the limitation period applicable to a cross-claim by one alleged joint tortfeasor against the estate of the other alleged joint tortfeasor. In summary, the facts of the case are as follows. Father Crampton died in 2010. In 2013, the plaintiffs brought an action against his estate and the church with which he was associated on the basis of an alleged sexual assault by Father Crampton in 1976. In 2014, the church issued a statement of defence to the claim as well as a cross-claim against the estate of Father Crampton for contribution and indemnity, relying on the plaintiffs' allegations in their statement of claim.

The plaintiffs consented to a dismissal of their claim against Father Crampton's estate in 2015 because it was clearly barred by the two-year limitation period in section 38(3) of the Ontario *Trustee Act*. The church, however, refused to concede that its cross-claim was similarly barred by this two-year limitation period, arguing that the limitation period for claims for contribution and indemnity under the *Limitations Act*, 2002 prevailed over any other limitation period.

Section 18(1) of the *Limitations Act*, 2002 provides that for claims for contribution and indemnity by one alleged joint tortfeasor against another, the discovery of the claim is deemed to be the day on which the first alleged tortfeasor is served with the claim. This provision overrides the usual definition of discoverability in the *Limitations Act*, 2002 in regard to cross-claims by co-defendants against each other.

However, section 19 of the *Limitations Act*, 2002 provides that certain other Ontario legislative provisions, enumerated in a schedule, prevail over the provisions of the *Limitations Act*, 2002 in the event of a conflict. Section 38(3) of the *Trustee Act* is one of the sections in this schedule; it provides for a two-year limitation period for claims against an estate arising from the wrongdoing of the deceased (other than libel and slander), regardless of when the alleged wrongdoing is discovered. Section 19 of the *Limitations Act*, 2002 gives the *Trustee Act* limitation period priority over any other conflicting limitation period in the *Limitations Act*, 2002.

The church was successful in its arguments for the estate's motion, but lost on appeal. The Court of Appeal found that the two-year limitation period in section 38(3) of the *Trustee Act* prevails over any other limitation period in the *Limitations Act*, 2002 since section 19 of the *Limitations Act*, 2002 clearly provides that the enumerated limitations periods, of which the two-year limitation period in the *Trustee Act* is one, prevail over any limitation period in the *Limitations Act*, 2002. Because no exceptions are provided for in section 19, the fact that the claim by the church was for contribution and indemnity was found to make no difference to the legal analysis.

It might seem unfair to bar claims that are not discovered before the limitation period has passed. However, the Court of Appeal found this result to be consistent with the policy behind limiting claims against estates arising from a deceased's wrongdoing to two years from the date of his or her death. While acknowledging that the application of this limitation period may seem harsh in some cases, the court noted the clear policy choice for certainty and finality in estate matters.

UPDATE: LOOKING BEHIND THE TRUST

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The Quebec Court of Appeal has overturned the Superior Court's decision in the case of *Karam c. Succession de Yared*, 2018 QCCA 320, which considered whether a family residence held in a trust should be included in the calculation of a couple's family patrimony on dissolution of their marriage as a result of death.

The couple, Taky Yared and Roger Karam, settled a trust in 2011 for the benefit of Ms. Yared and her four children after Ms. Yared was diagnosed with a terminal illness. In 2012, the trust purchased a mixed-use building, in which the family subsequently resided.

In 2014, Ms. Yared filed for divorce from Mr. Karam and executed a notarial will, which provided for her estate to be divided and transferred into trusts to be created for each child. Ms. Yared died in 2015, before the divorce became final.

Ms. Yared's estate liquidators sought a declaratory judgment that the building held by the trust should be included in the calculation of the couple's family patrimony, such that Ms. Yared's share would be included in her estate. If the building were not included in the couple's family patrimony, Ms. Yared's estate would be insolvent.

At trial, Justice Gaudet determined that the building owned by the trust should be added to the couple's family patrimony. Drawing an analogy from article 317 of the *Civil Code of Québec* (CCQ), which permits the lifting of the corporate veil when a legal person has been used to commit fraud, abuse a right, or contravene rules of public order, the court held that it was possible to look behind the trust to include its assets in the couple's family patrimony.

> The Quebec Court of Appeal has overturned the Superior Court's decision ... which considered whether a family residence held in a trust should be included in the calculation of a couple's family patrimony on dissolution of their marriage as a result of death.

In its review of the trial decision, the Quebec Court of Appeal dismissed each element of the lower court's reasoning, finding that the lower court had made several reviewable errors.

From the outset, the court rejected the application by analogy of CCQ article 317 to trusts. Under the CCQ, trusts are not legal persons and have no juridical personality. A trust patrimony is an autonomous patrimony by appropriation, autonomous and distinct from that of the settlor, trustee, and beneficiary and in which none of the settlor, trustee, or beneficiary has any real right (CCQ article 1261). A trust does not stand alone; rather, it involves relationships with several legal persons in respect of the trust patrimony. Therefore, the first condition for the application of CCQ article 317, that the object of the action be a legal person, cannot be met in the context of trusts.

Furthermore, the court held that none of the other conditions for the application of CCQ article 317 was present in this case. The evidence showed that Ms. Yared and Mr. Karam had created the trust willingly and in good faith. The parties had not sought to contravene any rules of public order. Neither spouse had owned the building before its purchase by the trust. The trust was valid and legal. Therefore, to look behind the trust would be to deprive the parties of the rights, advantages, and characteristics of the trust that they had freely chosen to create.

Rather than apply a flawed analogy of CCQ article 317 to trusts, which the court viewed as creating more problems than it resolved, one should refer to the CCQ provisions that specifically address trusts (CCQ article 1260 and following) and family patrimony (CCQ article 415 and following). In the court's view, these provisions contain all the tools necessary to analyze and resolve any problems arising in these contexts. These provisions do not threaten the integrity of the trust regime but give due respect to the free will and autonomy of the trust creators. For example, CCQ articles 421 and 422 allow courts to order compensatory payments or an unequal division of family patrimony when it is evident that property that would otherwise form part of the family patrimony has been misappropriated.

The lower court also erred in referring to Mr. Karam's broad trustee powers as conferring a right to use the family residence under CCQ article 415 but disregarding Ms. Yared and her children's own rights to use the residence as beneficiaries of the trust. Had both spouses' rights to use the property been recognized, these rights would have offset each other. Finally, Justice Gaudet failed to consider Mr. Karam's impoverishment and his children's undue enrichment if he were ordered to pay 50 percent of the value of the building to Ms. Yared's estate, under which his children would benefit as heirs, while the same children retained their rights to 100 percent of the building as trust beneficiaries.

The court held that the trust created by Ms. Yared and Mr. Karam was valid and legal. It was created to achieve a shared objective, which was reflected in the terms of the trust. Therefore, the property held in the trust should not be included in the calculation of the couple's family patrimony. This decision of the Quebec Court of Appeal clearly rejects the concept of lifting the corporate veil in the trusts context and gives comfort that the integrity of validly constituted trusts will be respected in Quebec.

SHOWING "NO DETRIMENT" TO BENEFICIARIES VS. PROVING A BENEFIT: THE NEW TEST TO VARY TRUSTS IN NOVA SCOTIA

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In December, 2017, the Supreme Court of Nova Scotia considered the requirements of the updated *Variation of Trusts Act* (amended by 2011 SNS c. 42), in *The John Risley Family Trust* (Re), 2017 NSSC 318. Before the Act was amended in 2011, those wishing to vary a trust needed to prove to the Court that the variation would be beneficial to all beneficiaries of the trust, including those with contingent interests, and those incapable of consenting. The amended Act changed this test to one where the applicant need only demonstrate that a proposed variation would not be detrimental to any possible beneficiary.

The Applicants in this case were the trustees of a family trust proposing a variation of the trust to include an additional corporate beneficiary. The reason for the addition of a corporate beneficiary was to allow for more tax efficient distribution of trust funds to existing trust beneficiaries resident in the US. It was argued by the applicants that the existing clause in the trust indenture did not provide sufficient flexibility in the context of tax and estate planning for trust beneficiaries resident in the US. In addition to the trustees, the settlor, as well as all of the adult beneficiaries, agreed with the proposed variation. The Court considered the fact that certain beneficiaries were minor children, and therefore not able to consent to the proposed arrangement.

In finding that the proposed arrangement was not a revocation of the trust, the Court noted that the trust indenture purported to be irrevocable, and that the settlor of the trust and all existing trustees intended for the addition of the corporate beneficiary to be characterized as a variation – and not a revocation or resettlement.

Before the Act was amended in 2011, those wishing to vary a trust needed to prove to the Court that the variation would be beneficial to all beneficiaries of the trust, including those with contingent interests, and those incapable of consenting. The amended Act changed this test to one where the applicant need only demonstrate that a proposed variation would not be detrimental to any possible beneficiary.

The Court also concluded that the arrangement should not properly be characterized as a resettlement of the trust. The Court noted that a resettlement of a trust occurs when there is, in effect, a creation of an entirely new trust, but that an arrangement can be instead viewed as a variation of trust in cases where the "substratum [of the original trust] effectuates the purpose of the trust by other means ... even though the means employed are wholly different, and even though the term is completely changed". The Court also considered CRA's stated position that "in general, a variance of a trust may have the consequence of causing the trust to be resettled *if the variance is of significant magnitude to cause a fundamental change in the terms of the trust*". The Court found that no existing beneficiary of the trust would cease to be a beneficiary, and that the interest of each existing beneficiary of the trust would be unaffected by the proposed arrangement – meaning there would be no fundamental change in the terms of the trust, and therefore no resettlement.

The key question is whether the proposed variation met the test for Court approval, as outlined in the Act. In considering whether the proposed variation should be approved, the Court noted that the amended Act creates a lower threshold with respect to the effect on beneficiaries, compared to what was imposed by the legislation prior to 2011; in essence, it is easier to show that a variation is not detrimental to beneficiaries, compared to having to prove that a variation will in fact be beneficial to them. The Court found that variations should generally be approved "absent material and demonstrated detriment to such beneficiaries' interests", ensuring, as required by the Act, that it is otherwise appropriate to confirm such an arrangement.

In this case, the Court found that the proposed variation was not "detrimental" to the interests of any of the beneficiaries of the trust incapable of providing consent. In fact, the variation (the addition of a new corporate beneficiary) would have the result of allowing for a more efficient transfer of trust funds to existing beneficiaries and would "not diminish the existing rights of other beneficiaries in violation of the trust." As such, the Court approved the proposed arrangement as an acceptable variation of the trust.

While in this case the applicants might also have been able to show that the proposed variation would in fact have been beneficial to some of the beneficiaries, it is arguable whether the evidence would have satisfied the pre-2011 test. ■

CHAIR'S MESSAGE

RUTH MARCH

It is my honor to be serving as the national chair during STEP Canada's 20th anniversary year. A number of committees have been planning special events, celebrations, and projects to mark this milestone. This year is a time to celebrate the incredible growth, success, and health of our organization, and, most importantly, to recognize the selfless dedication of the hundreds of professional volunteers who make it all happen.

The technical and social program for the 20th anniversary national conference, which takes place on Monday, May 28 and Tuesday, May 29, is truly impressive. The Conference Committee has developed another first class offering of excellent topics and speakers. On the evening of Monday, May 28, leaders of the trust and estate industry in Canada will gather at a black-tie gala to officially celebrate our anniversary. My sincere thanks go to each and every sponsoring organization for your increased support. It is going to be a very special evening with Canada's own Jonny Harris acting as our emcee.

I know that many of you have viewed our recent webcasts, US Tax Reform and 2018 Federal Budget. The first webcast, viewed by over 500 delegates, was presented in collaboration with STEP USA; the second webcast, for which over 400 delegates registered, was complimentary for STEP members. Both webcasts have been archived and are available for viewing on registration. I want to express my thanks to the speakers: both panels delivered outstanding presentations and prepared excellent technical material to accompany their remarks.

The Education Committee is working hard with staff and partnering organizations to spread the word to francophone and civil-law practitioners about the new educational offerings for this sector. Both the highly successful diploma program and the estate and trust administration program have been translated into French and adapted for civil law. These are unique offerings, and we hope to see a strong and supportive student community develop as enrolment in the programs builds.

Applications for the STEP Private Client Awards 2018-19 are now being accepted. Details can be found at www.steppca.org. Any private client lawyer, accountant, banker, trust manager, financial adviser, or other similar practitioner is eligible for entry. Applications will be accepted until May 31, 2018 from both STEP members and non-member private client practitioners worldwide. I encourage many of you to consider entering this year. Canadian firms and practitioners make formidable contenders for these prestigious international awards.

My thanks go to Chris Ireland, who has now completed his cross-Canada tour, delivering 11 full-day courses on Taxation at Death and Post Mortem Planning to 411 delegates in 11 cities across the country. In late April, all delegates will have access to Chris's archived webcast, which provides updates to his presentation incorporating legislation that was introduced while the tour was in progress. The third full-day course, Succession of a Family Business, is currently being developed and will begin touring in January 2019.

In closing, I wish once again to extend my heartfelt thanks to the hundreds of volunteers who have dedicated thousands of hours to STEP Canada. This is a year in which we can all reflect on how STEP Canada started, what we built and developed, and where we want to be in the next 5, 10, and 20 years.

On behalf of myself and the other members of the Executive Committee – Deputy Chairs Pamela Cross and Chris Ireland, Treasurer Christine Van Cauwenberghe, Secretary Rachel Blumenfeld, and Past Chair Tim Grieve – and senior staff, Janis Armstrong and Michael Dodick, congratulations to STEP Canada and its members on its 20th anniversary! ■