

THE NOTARIZED WILL

Leave the best possible legacy to your loved ones

A NOTARIZED WILL IS A SURE THING!

A will is a sure thing for you and your heirs.

Consult your **notary!**



WHY OPT FOR A NOTARIZED WILL?

1. TO CLEARLY DEFINE AND EXPRESS YOUR WISHES

When preparing a will, here are some of the questions you should ask:

- + Who will be your **heirs** and what will their share of the inheritance be?
- + Who will **settle your succession** and what powers do you want this person to have?
- + Who will act as **tutor** for your children who are still minors?
- + How to transfer and manage your business?
- + Do you want to consent to a **gift of organs** after your death?

Your notary is the ideal legal professional to advise you on preparing your will. He will help you make **informed choices** by explaining their **legal and tax consequences**. He will also answer the questions you may have, and draft your will in a manner that clearly expresses your wishes.

2. SAVE TIME AND MONEY

Your will is the most important document for **planning your succession**. Your notary will advise you on how to:

- + Reduce taxes on your property after death.
- + Transfer, with no immediate tax consequences after death, savings or retirement funds such as a Registered Retirement Savings Plan (RRSP) or a Tax Free Savings Account (TFSA).
- + Name other people who may continue to contribute to any Registered Education Savings Plan (RESP) you have followed.
- + Manage your children's inheritance.

With a notarized will, your heirs **avoid costly fees and delays** after your death. A will that is not notarized must be probated by a notary or a court before it can be used to settle the succession. This process involves both time and money.

DID YOU KNOW?



All the information you disclose to a notary is confidential. It's only once you have passed away that he may give copies of your will to those people legally entitled to know it.

A NOTARIZED WILL ALLOWS YOUR HEIRS TO AVOID SIGNIFICANT COSTS AND DELAYS AFTER YOUR DEATH.



3. MAKING LIFE EASIER FOR YOUR HEIRS

A notarized will provides added peace of mind and makes life easier for your heirs.

It is also a **reliable and secure** document:

- + Your notarized will is **harder to contest** than one that is not, because your notary ensures its authenticity. He must verify your identity and prepare a will that **conforms to the law** and to **your wishes**. He must also explain its content and certify that you have understood it and signed it freely.
- + A notarized will is always **protected** because your notary has to keep the original in a secure place, as required by law. You can therefore be certain that the document will not be lost, modified or destroyed. Your notary will give you a true copy of the original.
- + After your death, your heirs may **easily check whether you had a notarized will** by submitting a search application to the Register of Testamentary Dispositions of the Chambre des notaires. Indeed, every notary has to transmit information to the Registrar regarding the wills kept in his records. The purpose of the register is to maintain a list of all notarized wills in Québec. However, it does not contain copies of the wills themselves.

4. AVOID UNPLEASANT SURPRISES

If your **will is not notarized**:

- + It must be probated by a notary or by a court before being used to settle your succession. This process usually **costs much more** than having your notary prepare a will while you are alive. The probate procedure may also involve **major delays in settling the succession**.
- + It may **not be valid** in Québec.
- + It could contain clauses that are **illegible, incomprehensible or incompatible** with the law or be **incomplete**.
- + It may be **lost, modified or destroyed**.

If you don't have a will, the law will determine the identity of your heirs and their share of the succession. Here are some of the legal rules that apply:

- + Without a will, your common law spouse does not inherit anything. This rule applies independently of the length of your relationship or whether you have had children together.
- + Your spouse does not necessarily inherit all of your property, unless you have a marriage contract that says so.
- + If you are separated but not divorced, your spouse is still considered your heir. This rule applies even if you have had a new common law partner for several years.
- + Your children could end up being co-owners of your property with your spouse or with other members of the family. Furthermore, if they haven't come of age, the courts will make certain decisions for them, such as selling or mortgaging a house they have inherited.

HOW TO PREPARE?

INFORMATION TO COLLECT

- Your date of birth and social insurance number
- Documents relating to your civil status (*marriage certificate, marriage contract, judgment of divorce, etc.*)
- A patrimonial balance sheet, which is a list of your property, investments and debts, including any property located outside Québec
- Your business documents (*shareholders agreement, partnership or association agreement, etc.*)
- Your life insurance policies
- Any other information requested by your notary

FOOD FOR THOUGHT

- Whom do you want as heirs? What portion of the inheritance do you want to leave them?
- How to share the inheritance if one of the heirs dies or cannot receive his share?
- Who will settle your succession? Do you wish this person to be paid? Who will replace him if it becomes necessary to do so?
- Who will act as tutor for your children who are still minors? Do you want this person to be paid? Who will replace him if it becomes necessary to do so?
- What instructions do you want to give for your funeral?
- Would you consent to a gift of your organs?
- Any other question raised by your notary.