



MTI[®] Continuing Education - Assessment Tool

Overall objective: To manage complex estate and trust accounts ensuring quality client service while applying corporate risk management principles, building productive relationships with beneficiaries, identifying needs that can lead to new business opportunities.

Core Competencies:	Elements of competencies:	Knowledge Areas	Activity Meets This Requirement (v)
<p>1. Administer a portfolio of estates, trusts, other fiduciary accounts and agencies in accordance with the terms of governing documents, relevant law and corporate risk management policies and procedures.</p>	<p>1.1 Identity and exercise the powers given within the Will or source document.</p>	<p>1.1.1 Will interpretation.</p> <p>1.1.2 Will clauses.</p> <p>1.1.3 Trust agreement structure.</p>	
	<p>1.2 Refer to appropriate case law, legislation and company policies and procedures and apply the legal aspects of estates and trusts to individual situations.</p>	<p>1.2.1 Basic family and trust law legislation for your province.</p> <p>1.2.2 Personal representative's responsibilities if a person dies either testate or intestate.</p> <p>1.2.3 The survivorship rules in case of simultaneous death.</p> <p>1.2.4 The procedures for the retirement or removal of a trustee and the appointment of new trustees.</p>	
	<p>1.3 Identify the various legal representative capacities in relation to the administration of the property of incapacitated persons.</p>	<p>1.3.1 Classes of individuals who need assistance in managing their affairs and the organizations that may be appointed to provide such assistance.</p> <p>1.3.2 Main powers, responsibilities and obligations of duly appointed guardians (in Quebec, Tutors and curators, advisors) and custodians.</p> <p>1.3.3 Process involved in the appointment of guardians and custodians (tutors, curators, advisors), and the liability placed upon the appointee in accepting the appointment.</p> <p>1.3.4 How appointments are dissolved.</p> <p>1.3.5 Types of powers of attorney available (in Quebec mandate), the documentation required and briefly explain how powers of attorney (mandate) are revoked.</p> <p>1.3.6 Types of administration of the property of others and situations that would be appropriate for each type.</p> <p>1.3.7 Fee negotiation.</p>	



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	<p>1.4 Assess business risk and exposure and identify problem situations in estate or trust administration.</p>	<p>1.4.1 How an estate is administered and distributed to the heirs when an intestacy occurs.</p> <p>1.4.2 Application of the law with regard to joint administration and delegation.</p> <p>1.4.3 The duties and restrictions imposed upon an executor in dealing with a business asset.</p> <p>1.4.4 Issue that may arise where trust assets or beneficiaries reside in a foreign jurisdiction.</p> <p>1.4.5 Issues related to foreign Wills and multiple Wills.</p> <p>1.4.6 Content, use and legal considerations of a memorandum or letter attached to a Will.</p>	
	<p>1.5 Assemble, value, inventory, maintain and safeguard estate and trust assets.</p>	<p>1.5.1 How to prepare an inventory of estate assets.</p> <p>1.5.2 The valuation procedures for various types of estate assets.</p> <p>1.5.3 The advantages and disadvantages of each type of business ownership.</p> <p>1.5.4 The methods used to gather information about active companies and to evaluate their worth.</p> <p>1.5.5 The responsibilities of a trustee acting as a director or officer of an incorporated company.</p> <p>1.5.6 How to ensure proper valuation, retention and sale of farm assets.</p>	



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	<p>1.6 Administer accounts in accordance with the governing documents.</p>	<p>1.6.1 Documentation for new estate and trust accounts and open new accounts.</p> <p>1.6.2 Reasons for which an administration may be ended and explain how this is accomplished.</p> <p>1.6.3 When and how to apply for the various grants of the court.</p> <p>1.6.4 Who may and may not apply and/or be granted Letters Probate and/or Letters of Administration.</p> <p>1.6.5 Asset distribution, management of residual trusts and dealing with encroachment requests.</p> <p>1.6.6 Procedures to be followed to transfer ownership of assets of the deceased to the named beneficiary.</p> <p>1.6.7 Follow the appropriate procedures for contacting beneficiaries, creditors and notifying government offices upon the death of a client.</p> <p>1.6.8 Working collaboratively with co-executors and co-trustees.</p> <p>1.6.9 The obligations and liabilities of the administrator towards the beneficiary and the administrator and the beneficiary toward third persons.</p>	
	<p>1.7 Review investments, invest funds and liquidate assets.</p>	<p>1.7.1 Presumed sound investments and unauthorized investments.</p> <p>1.7.2 Types of investments including alternative investments.</p> <p>1.7.3 The investment principles to be followed by an administrator or trustee.</p>	



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		<p>1.7.4 Calculating the current yield and rate of return on an investment.</p> <p>1.7.5 Concepts of risk and return.</p> <p>1.7.6 Relation of principles of investment to the work of a trustee.</p> <p>1.7.7 The wind up, sale or continued operation of the business, valuation process and tax consequences upon the death of an owner for each type of proprietorship.</p> <p>1.7.8 Investment guidelines and investment responsibilities.</p>	
	<p>1.8 Carry out accounting transactions.</p>	<p>1.8.1 Capital or revenue charges, receipts, fees and adjustments for estates and trusts accounts.</p> <p>1.8.2 Income and expense allocation to capital or revenue accounts.</p>	
	<p>1.9 Identify key issues in providing an accounting to the beneficiaries and securing approval of the trustee's accounts and administration.</p>	<p>1.9.1 Preparation of statements with regards to:</p> <ul style="list-style-type: none"> a. inventory of assets and liabilities; b. estimates of revenue; c. schemes of distribution; d. income paid and accrued. <p>1.9.2 Details on the payment of funeral expenses, advertising for creditors and payment of creditors and dependant's claims from both solvent and insolvent estates.</p>	
	<p>1.10 Provide instructions to solicitors and other specialists.</p>	<p>1.10.1 Business correspondence related to the administration of an estate.</p>	



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<p>2. Identify relevant executor and trustee issues and responsibilities with regard to the creation, administration and ongoing management of estates and trusts and other fiduciary accounts.</p>	<p>2.1 Read and interpret a Will, common trust deed or other governing document.</p>	<p>2.1.1 The purpose of types of legacies and their order of abatement.</p>	
		<p>2.1.2 Per capita and per stirpes.</p>	
		<p>2.1.3 Vested and contingent interests.</p>	
		<p>2.1.4 Requirements for capacity to make a Will.</p>	
		<p>2.1.5 Forms of Common Law Wills.</p>	
		<p>2.1.6 Forms of Quebec Civil Code Wills.</p>	
		<p>2.1.7 The legal requirements for a valid Will.</p>	
		<p>2.1.8 The processes and rules for revising or revoking a Will and ascertain whether or not a Will has been changed or revoked and whether or not it can or has been subsequently revived.</p>	
		<p>2.1.9 The rules of lapse and explain the effect of anti-lapse legislation.</p>	
		<p>2.1.10 The usual order and contents of a Will.</p>	
		<p>2.1.11 The rules for Will interpretation.</p>	
		<p>2.1.12 Will clauses.</p>	
		<p>2.1.13 Potential problems with Will administration.</p>	
		<p>2.1.14 The even-hand principle (common law) or duty to act with impartiality (civil law) in the context of a trust which has successive interests.</p>	



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	<p>2.2 Identify the various types of trusts and apply the concepts of trust law to client situations.</p>	<p>2.2.1 The ever-hard principle (common law) or duty to act with impartiality (civil code).</p> <p>2.2.2 The methods by which a trust may be terminated or varied.</p> <p>2.2.3 The three certainties required to create a trust.</p> <p>2.2.4 The process to set up a trust.</p> <p>2.2.5 Agency relationships and trustee's custody service as an agency.</p> <p>2.2.6 Differences between trusts and agencies.</p> <p>2.2.7 Inter vivos and testamentary gifts.</p> <p>2.2.8 How assets can be gifted at death without the use of a Will.</p> <p>2.2.9 The established variation of trusts principles.</p> <p>2.2.10 Variation of Trusts Law – Saunders vs. Vautier.</p>	
	<p>2.3 Distinguish between the powers and duties of a trustee/executor and identify potential liabilities.</p>	<p>2.3.1 The fiduciary capacities in which a trust company may act.</p> <p>2.3.2 The advantages of appointing a trust company as executor (liquidator in Quebec)/trustee.</p> <p>2.3.3 The duties of a trustee.</p>	
<p>3. Maintain an overall current knowledge of estates and trusts.</p>	<p>3.1 Explain how tax is calculated for individuals, estates, trusts and corporations.</p>	<p>3.1.1 Rights or things return.</p> <p>3.1.2 Trust income return (T3).</p> <p>3.1.3 Partnership or proprietorship return.</p> <p>3.1.4 The different types of income reported on the T1.</p>	



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	3.2 Outline the tax rules for computing the income of estates and trusts and allocating income to beneficiaries.	3.1.5 The consequences of not filing a return or filing an incorrect return.	
		3.2.1 Information on the transfer and reporting options available upon the death of an RRSP or RRIF annuitant.	
		3.2.2 Where to find information required for the preparation of the various returns.	
		3.2.3 The types of income subject to tax.	
		3.2.4 Taxation of individuals, trusts and corporations.	
		3.2.5 Available personal deductions and credits.	
		3.2.6 The rules regarding filing or returns for the year of death and ongoing trusts.	
		3.2.7 The differences between taxation of testamentary trusts and <i>inter vivos</i> trusts.	
	3.2.8 Distribution of income or capital to beneficiaries.		
	3.3 Recognize special taxation issues facing the executor/trustee including jurisdictional and foreign claims.	3.3.1 Obtaining clearance certificates.	
		3.3.2 Deemed realization regarding treatment of capital gains accrued on trust property.	
		3.3.3 The use of the preferred beneficiary election.	
		3.3.4 Terminating a trust.	
		3.3.5 Withholding tax obligations when making payments to non-resident beneficiaries.	
3.3.6 The issues arising in meeting foreign or jurisdictional taxation claims from the perspective of the executor/trustee.			



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<p>4. Review the structure and key provision of the governing document to assess its effectiveness in carrying out its terms, and to ensure that the trustee's or legal representative's potential legal liability for non-compliance or breach of obligations is minimized.</p>	<p>4.1 Identify potential problems posed by the terms of the Will, trust agreement or other governing document.</p>	<p>4.1.1 How to ensure validity of the appointment as trustee.</p>		
		<p>4.1.2 The basis upon which trustee receive compensation.</p>		
		<p>4.1.3 Mental capacity as used for testamentary purposes.</p>		
		<p>4.1.4 The concepts of testamentary capacity and challenging a Will.</p>		
		<p>4.1.5 The impact of family law on illegitimacy and adoption.</p>		
		<p>4.1.6 The following issues as they relate to gifts and legacies:</p> <ul style="list-style-type: none"> • Ademption by conversion. • The doctrine of satisfaction. • Classes. • Trustee compensation. • Conditions. • Deficiency of assets. 		
	<p>4.2 Minimize exposure to liability as a result of the prior administration by another executor/trustee.</p>	<p>4.2.1 The protection and indemnity of trustees.</p>		
		<p>4.2.2 The principles of trustee liability as it relates to breach of trust.</p>		
		<p>4.2.3 The implication of and procedures followed when applying to the courts for legal action on behalf of an estate or beneficiary.</p>		
<p>4.3 Apply the rules with regard to perpetuities, vesting and accumulations to client situations.</p>	<p>4.3.1 Provincial laws with regard to perpetuities, vesting and accumulations.</p>			



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<p>5. Identify when and why specialists are required during an administration in order to ensure the best service and advise is obtained at a reasonable cost to the estate or trust.</p>	<p>5.1 Identify:</p> <ul style="list-style-type: none"> when specialists should be consulted by the executor/trustee; the reason for the nature of the involvement; any issues and criteria to be considered when selecting and supervising the specialist. 	<p>5.1.1 Selecting and managing specialists (legal counsel, valutors and appraisers, insurers, property managers, investment bankers, accountants, real estate professionals, art & cultural property experts, jewellery specialists, auctioneers and delegation of powers.</p>		
	<p>5.2 Identify the key areas of concern in the management of securities held by the estate or trust when hiring an investment specialist.</p>	<p>5.1.2 Government Agencies (e.g. charities, unclaimed property).</p>		
		<p>5.2.1 Inventory, Valuation, Safekeeping and Realization of Assets.</p>		
		<p>5.2.2 Handling securities.</p>		



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<p>6. Build and manage client relationships that result in a successful partnership ensuring that the intentions of the testator or settler are carried out for the beneficiaries.</p>	<p>6.1 Exercise an appropriate duty of care through professional ethical, legal and moral conduct.</p>	<p>6.1.1 Legislative and legal changes that impact the administration of estates and trusts (e.g. Compliance, AML, Privacy; Provincial Statue).</p>	
	<p>6.2 Communicate effectively with clients, co-executors and beneficiaries using a level and style of communication that is clear and direct providing interested parties with ample opportunity to ask questions and indicate full understanding of all discussions and material presented.</p>	<p>6.1.2 Ethical, legal and moral responsibilities.</p>	
		<p>6.2.1 Initial interview with co-executors and beneficiaries.</p>	
		<p>6.2.2 The role that emotion plays in a client relationship.</p>	
		<p>6.2.3 Conversational client engagement techniques.</p>	
		<p>6.2.4 Communication styles.</p>	
		<p>6.2.5 Barriers to communication.</p>	
		<p>6.2.6 Verbal and non-verbal behaviours.</p>	
		<p>6.2.7 Relationship building, credibility and trust.</p>	
	<p>6.2.8 Compliance issues (e.g. AML, Privacy).</p>		