



Lawyers' guide to appointing RBC Royal Trust as attorney, executor and trustee



Wealth Management
Royal Trust

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Introduction

The choice of attorney, executor¹ and trustee is one of the most important decisions made when preparing a Will and estate plan. RBC Royal Trust* has been providing professional, personalized attorney, executor and trustee services to Canadians for over a century. We are pleased to work in partnership with a client's legal and other professional advisors to ensure the success of their estate plan.

This guide provides you, the client's lawyer, with the clauses and documentation we require when RBC Royal Trust is appointed as executor and/or trustee. For clients wishing to appoint us as their attorney for property, additional information and documents are included. For your convenience, a brief explanation of the clauses is included to assist you when discussing our requirements with clients.

We ask that we be given the opportunity to review drafts of all new or updated Wills and power of attorney documents that name RBC Royal Trust as sole, co- or cross-contingent executor, trustee and/or attorney for property. Our review helps to identify administrative issues and ensure all powers and authorities necessary to ensure an efficient and effective administration are included. We ask that a copy of any client information document prepared during your discovery process be provided along with the draft documents. All links to the required clauses and documents are located in the [Appendix](#). **Required clauses and fee agreements may change over time and, as such, we request that you access all documents via the Appendix rather than any saved versions you may have.**

*Corporate name

Please note that in all provinces outside of Quebec, RBC Royal Trust's legal entity name is **"Royal Trust Corporation of Canada"**. Please use this legal entity name when naming RBC Royal Trust in the Will and/or the power of attorney for property.

Our brand name, RBC Royal Trust, will be referenced throughout the balance of this guide.

¹ In Ontario, Estate Trustee with a Will

General overview

In order to effectively administer the estate/trust, RBC Royal Trust requires that certain powers and authorities be included in all Wills and that additional powers be provided where a testamentary trust(s) is created, a co-executor/trustee is appointed and/or the estate assets may include a private company.

The sample clauses contained in this document are provided for your convenience. **RBC Royal Trust assumes no responsibility for any reliance placed on, or use made of, the sample provisions.** With the exception of the “Incorporation of fee agreement” provision, which should not be amended by you other than to include the applicable date, you may of course provide your own wording and/or adapt the clauses to the particular situation. That being said, we request that all Wills provide RBC Royal Trust with the powers and authorities provided by the clauses set out herein.

Clauses required in all Wills:

- Incorporation of fee agreement
 - Note: A separate fee agreement is required for each client/document.
- Deposit of assets
- Environmental protection
- Power to administer digital assets

Additional clauses required where the Will creates a testamentary trust(s):

- Power to invest in RBC Royal Trust's own and related party securities and investment offerings
- Power to delegate and sub-delegate
- Power to terminate trusts

Additional clauses required in a Will based upon client circumstances:

- Burden of administration (*if there is a co-executor/trustee*)
- Non-resident trustees and investment decisions (*if there is a co-executor/trustee*)
- Power to deal with business and corporate interests (*if the client owns a business*)

Note: Multiple Wills—Probate planning (Ontario and British Columbia)

If the estate plan involves using multiple Wills, as part of a strategy to minimize probate taxes with the idea that one of the Wills will not have to be probated, please note that we cannot guarantee an application for probate will not occur. **Please be assured that RBC Royal Trust will endeavor to comply with our client's wishes, but the decision to apply or not will be made after due consideration of the factors in existence at the time of client's death.** Factors to be considered include the law or legislation in effect at that time, changes in the estate assets or circumstances, whether there is any requirement at law to obtain probate so as to defend or prosecute a claim, or any other factors that might necessitate an application for probate so as to adequately protect the executor.

Brief explanation of clauses and powers

Incorporation of fee agreement: This clause incorporates our fee agreement by reference into the Will. The relevant fee agreement must be signed and dated prior to the execution of the Will into which the fee agreement is intended to be incorporated by reference.

The fee agreement enclosed is for fiduciary services only and does not include any investment management fees; these will be applied separately and based on the investment management firm's fees.

For RBC employees/retirees, please contact RBC Royal Trust for applicable discounts/employee fee agreement.

If the client is an existing RBC Wealth Management client and wishes RBC Royal Trust to maintain this investment relationship when called upon to act, a *Letter of intent* is required to be signed by the client. A link to this document is available in the [Appendix](#).

Deposit of assets: This clause authorizes us to deposit estate and trust assets in our company or that of an affiliate. This clause is designed to preclude conflict of interest or breach of trust arguments, to the extent that they may still be applicable, from being raised where assets are deposited in interest bearing accounts with RBC Royal Trust or any related company such as Royal Bank of Canada. This clause also specifies that where a trustee benefits from such deposits, the trustee is not required to account for the benefit, nor will the trustee be required to give up any such benefit.

Environmental protection: This clause enables RBC Royal Trust to adequately address existing and potential environmental issues and concerns that may arise during its administration. Lack of such a clause may mean that the executor/trustee is not as free to address certain environmental matters related to the estate/trust. This could cause hardship for the executor/trustee as well as affect the value of the estate/trust. Also, where there is no indemnification, the executor/trustee may be exposed to personal liability for environmental claims simply as a result of being in or having been in control of the estate/trust property. This may result in the executor/trustee potentially refusing an appointment of executorship/trusteeship in cases where no environmental liability currently exists, but real potential may exist in the future.

Power to administer digital assets: This power is intended to enable us to manage and administer digital assets.

Power to invest in RBC Royal Trust and related party securities and investment offerings: This power enables us to invest in securities issued by us or an affiliated company. For the same reasons set out above regarding deposit of assets, if the trustees invest trust property in their own securities or securities issued by a related company, the trustees (or external investment managers) might be considered to be benefitting from the trust property and/or could be considered to be in a conflict of interest. This clause specifically permits trustees (or external investment managers) to invest in securities, shares, obligations, etc., issued by a trustee or a company related to a trustee without being required to account for or give up any benefit.

Power to delegate and sub-delegate: This power enables us to delegate our investment management and custodian duties to another including an affiliated company. It may be prudent in some circumstances to delegate (and sub-delegate) responsibility for trustee investments. While legislation in many provinces already permits trustee investment delegation, issues concerning sub-delegation as well as delegation to affiliated or related parties may still persist. We therefore require the power to delegate (and sub-delegate) investment management powers to others, including parties affiliated or related to RBC Royal Trust. The clause further permits custodianship of assets to be given to the hired investment counsel, and authorizes the trustees to pay the fees of such investment counsel in addition to the fees that will be taken by the trustees, unless the trustees and the testator have stated otherwise in any written agreement regarding such compensation.

Power to terminate trusts: This power enables trusts to be terminated or transferred to beneficiaries or others in trust for the beneficiaries where there is no longer a benefit to having RBC Royal Trust act as trustee. It is not uncommon for a Will to establish multiple trusts for various beneficiaries. Initially, the trust fund may be substantial enough to continue and/or be administered by a corporate trustee. However, if the initial amount is small, or over time the value of the trust fund is reduced due to permitted distributions, payment of expenses, or any other reason, it may no longer be a benefit for the funds to be continued to be held in the trust. Therefore, where the trustee is of the view that continued administration of a trust would no longer be a benefit, this clause allows the trustee to terminate the trust and pay or transfer the remainder of the trust pursuant to the instructions that are provided in the clause.

Burden of administration: This clause explains that where appointed as co-executor or co-trustee RBC Royal Trust, or any financial institution affiliated or related to RBC Royal Trust, will control custody of the assets of the estate and of any trust created in the Will, and that RBC Royal Trust will also have charge of all accounts, and assume the burden and responsibility for the routine activities related to the administration of the estate and of any trust created in the Will.

Non-resident executors and trustees and investment decisions: This clause is required because various foreign securities laws generally do not permit Canadian investment managers to provide investment management or advice to an executor/trustee where a non-resident co-executor/co-trustee will be involved with investment matters. As such, this clause is required to ensure that investment decisions can be made by a Canadian investment management firm in accordance with applicable securities legislation.

Power to deal with business and corporate interests: This power enables RBC Royal Trust to adequately address business and corporate interests that may arise during our administration.

Power of attorney appointments

In order to effectively discharge the role of attorney for property, RBC Royal Trust requires that certain terms, conditions, directions and powers be incorporated into the power of attorney document. These are found in “Schedule A—Terms for the appointment of RBC Royal Trust as attorney”. A link to this document is available in the [Appendix](#).

Terms and powers

Among the terms and powers included in Schedule A (I. Direction to RBC Royal Trust) are the following:

- Power to place assets or gather in client's assets and deposit same into an account with RBC Royal Trust or its affiliates.
- Power to manage the client's investments and/or to open or continue to operate a RBC Royal Trust or other RBC member company account in client's name and pay the usual fees.
- Power to delegate and sub-delegate investment management and to hire agents, including related parties, and to pay fees to such agents which will be in addition to RBC Royal Trust's fee.
- Power to deal with digital assets.
- Permission to invest in RBC member company products, and invest in securities issued by related parties (stocks, bonds).
- Provision to make the power of attorney continuing or enduring.

Schedule A also includes directions regarding joint accounts, existing business interests, real property, and other situations as applicable.

Note: Gifts and donations

Where the client wishes to permit or request RBC Royal Trust as Attorney to make gifts or donations on behalf of the client, please include the necessary powers to do so in the power of attorney document.

Fees

The fees section of Schedule A incorporates RBC Royal Trust's power of attorney for property fee agreement. The fee agreement provided is for fiduciary services only and does not include any investment management fees; these will be applied separately and based on the investment

management firm's fees. **Please note that clients are required to sign both Schedule A and the fee agreement.**

For RBC employees/retirees, please contact RBC Royal Trust for applicable discounts/fee agreement.

If the client is an existing RBC Wealth Management client and wishes RBC Royal Trust to maintain this investment relationship when called upon to act, a *Letter of intent* is required to be signed by the client.

A link to this document is available in the [Appendix](#).

Appendix

Required clauses and powers

Personal and property information document—Individual

Personal and property information document—Spouse/Partner

Personal and property information document—Appendix A—Private business/company (holding and operating) information and initial checklist

To be signed by client

Estate and testamentary trust fee agreement

Power of attorney fee agreement

Schedule A—Terms for the appointment of Royal Trust Corporation of Canada as attorney

Letter of intent

RBC Royal Trust refers to Royal Trust Corporation of Canada and The Royal Trust Company. This document has been prepared by RBC Royal Trust for use by Royal Bank of Canada, Royal Mutual Funds Inc. ("RMFI"), RBC Phillips, Hager & North Investment Counsel Inc. ("RBC PHNIC"), RBC Global Asset Management Inc. ("RBC GAM"), RBC Dominion Securities Inc. ("RBC DS")*, RBC Wealth Management Financial Services Inc. ("RBC WMFS"), Royal Trust Corporation of Canada and The Royal Trust Company, which are separate corporate entities that are affiliated. * Member—Canadian Investor Protection Fund. In Quebec, financial planning services are provided by RMFI or RBC WMFS and each is licensed as a financial services firm in that province. In the rest of Canada, financial planning services are available through RMFI or RBC DS. RBC PHNIC, RBC GAM, RBC DS, RBC WMFS, Royal Trust Corporation of Canada and The Royal Trust Company are member companies of RBC Wealth Management, a business segment of Royal Bank of Canada.

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