

# 2016 GUIDE TO COMPLEX ISSUES IN ESTATE & TAX PLANNING



A multi-disciplinary faculty of senior practitioners will provide in-depth and practical guidance on key issues, including:

- *Income Tax Act* changes: the need to know implications for spousal, alter ego and joint partner trusts
- Impact of the new tax rules on charitable donations
- How the SCC's decision in *Carter* may affect your clients' advance care plan
- Using mutual wills and domestic contracts as an estate planning tool under subs. 104(13.4)
- Problems and pitfalls when advising a client with dual citizenship in the U.S. and Canada
- RRSP spousal trust rollovers- tips and tricks when the rollover has been lost
- Planning strategies for gifts of private company shares or real estate under the new tax provisions

**THE MUCH ANTICIPATED  
INCOME TAX ACT  
CHANGES ARE HERE  
ARE YOU READY?**

**Plus!** Take part in our interactive audience polling, where *you* choose the topics for our end-of-day panel discussion

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## Chairs

**Howard M. Carr**

*Fasken Martineau DuMoulin LLP*

**Martin Rochweg**

*Miller Thomson LLP*

## Date and Time

**March 29, 2016**

9:00 a.m. - 4:00 p.m. EDT

*Online Replay: April 25, 2016*

## Location

Osgoode Professional Development  
1 Dundas St. W., 26th Floor  
Toronto, ON

**Webcast Available**

## 2016 GUIDE TO COMPLEX ISSUES IN ESTATE AND TAX PLANNING

Estate and tax planning is already a complex area, fraught with technical and professional responsibility issues. With the recent implementation of extensive *Income Tax Act* changes, it is even more critical for legal professionals to ensure they are up-to-date and knowledgeable on the latest issues. Whether dealing with spousal, alter ego or joint partner trusts, charitable donations, RRSP rollovers, private company share gifts or clients with assets in different countries, a current and solid understanding of key areas in estate and tax planning is of critical importance for anyone practicing in this field.

This *OsgoodePD* program, designed and delivered by the leading experts, will provide you with a comprehensive overview of some of the more challenging aspects of estate and tax planning. Benefit from the experience and insight of senior practitioners who will share thoughtful analysis and provide important practice tips and strategies.

Topics include:

- Addressing nuances and avoiding potential traps when dealing with subs. 104(13.4) of the *Income Tax Act*
- Strategies for using cross border trusts to achieve your clients' goals, whether it's tax savings, effectively passing wealth to the next generation, or simply protecting assets
- Spousal trusts: Tips for reconciling the disconnect between tax liabilities and tax credits
- Planning techniques for incapacity and end of life care
- POA - should we be using U.S. citizens and residents as executors or trustees?
- Recognizing and avoiding conflicts of interest when taking instructions from both spouses

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### Chairs

**Howard M. Carr**  
*Fasken Martineau  
DuMoulin LLP*

**Martin Rochweg**  
*Miller Thomson LLP*

### Faculty

**Jordan Atin,**  
*Atin Professional Corporation*

**Susan M. Manwaring**  
*Miller Thomson LLP*

**Karon C. Bales**  
*Bales Beall LLP*

**Jane E. Meadus**  
*Institutional Advocate &  
Staff Lawyer, Advocacy  
Centre for the Elderly*

**Leonard Bosschart**  
*Fogler, Rubinoff LLP*

**Howard M. Carr**  
*Fasken Martineau  
DuMoulin LLP*

**Kathy M. Munro**  
*PricewaterhouseCoopers LLP*

**Veronika Chang**  
*Morris Kepes Winters LLP*

**Patricia A. Robinson**  
*Robinsons Law, formerly of  
Goodmans LLP*

**Bernadette Dietrich**  
*McCarthy Tétrault LLP*

**Corina S. Weigl**  
*Fasken Martineau  
DuMoulin LLP*

**Hilary E. Laidlaw**  
*McCarthy Tétrault LLP*

## WHO SHOULD ATTEND

- Lawyers whose practice includes wills and estates planning
- In-house counsel dealing with wills and estates planning, administration and wealth management
- Family law lawyers
- Financial planners
- Estate planners
- Accountants who assist clients with estate planning

An essential update  
where top experts will  
discuss the latest  
planning strategies



## AGENDA

**8:30**

### Registration and Continental Breakfast

**9:00**

### Welcome and Introduction from the Chairs

**9:10**

### **Income Tax Act Update: Implications on Spousal, Alter Ego & Joint Partner Trusts**

HOWARD M. CARR, *Fasken Martineau DuMoulin LLP*

KATHY M. MUNRO, *PricewaterhouseCoopers LLP*

CORINA S. WEIGL, *Fasken Martineau DuMoulin LLP*

- Review of subs. 104(13.4) of the *Income Tax Act*
- Addressing nuances and avoiding potential traps when dealing with subs. 104(13.4)
  - How to avoid inadvertently tainting a GRE
- Advanced planning strategies
  - Shifting tax burdens and how to deal with them
  - Avoiding "orphaned" tax losses- techniques to create income to deduct losses; circumventing double taxation
  - Techniques to mitigate potential contentious proceedings when estate of second to die refuses to pay
- Balancing tax minimization and personal planning goals

**Audience Polling: Choose from a list of some of the most critical and emerging issues affecting estate and tax planning and vote on which 4 you would like our final panel to address.**

**10:30**

### Refreshment Break

**10:45**

### **Critical Update on the Landscape of Charitable Donations in 2016**

SUSAN M. MANWARING, *Miller Thomson LLP*

- What you need to know about the new tax rules and their impact on charitable donations
- Graduated rate estates
  - Addressing potential challenges when perfecting a donation in the 3 year window
  - What to do if assets are trapped in a corporation
  - How to use private foundations to protect executors and trustees from personal liability

- Key elements of the new tax provisions dealing with gifts to charities
  - Planning strategies for gifts of private company shares or real estate

**11:30**

### **Planning for Incapacity and End of Life Care**

HILARY E. LAIDLAW, *McCarthy Tétrault LLP*

JANE E. MEADUS, *Institutional Advocate & Staff Lawyer, Advocacy Centre for the Elderly*

- How to plan for incapacity
- What documentation do you need?
- Drafting and interpretation challenges with POA for personal care and advance wishes
- Why coordination is necessary between POA for property and personal care
- Implications of *Carter* on advance care planning

**12:15**

### Luncheon

**1:15**

### **Mutual Wills and Domestic Contracts as an Estate Planning Tool**

KARON C. BALES, *Bales Beall LLP*

LEONARD BOSSCHART, *Fogler, Rubinoff LLP*

- Using mutual wills and domestic contracts as an estate planning tool under subs. 104(13.4)
  - How to use domestic contracts to match charitable gifting with tax credits
  - Preserving the integrity of the GRE
- Tips for using domestic contracts as an estate planning tool vs. a separation agreement
- Practice management issues
  - Estate lawyers drafting domestic contracts - when is this appropriate? When you should call a family law lawyer
- Key drafting pointers and precedents for mutual wills and domestic contracts

**2:00**

### **Hot Button Issues in Cross Border Taxation and Estate Planning**

VERONIKA CHANG, *Morris Kepes Winters LLP*

- U.S. income and estate tax
  - Who is a "United States person" under Internal Revenue Code 7701(a)(30)?

## AGENDA (Cont'd)

- U.S. tax on Canadian residents vs. U.S. tax on U.S. citizens/residents: Planning tactics to employ in each situation
- Different types of cross border trusts and how to use them
  - Structuring trusts for Canadian parents with U.S. beneficiaries or vice versa
- How the *Foreign Account Tax Compliance Act (FATCA)* affects Canadians
- Planning strategies when your client has assets in different countries

**2:45**

### Refreshment Break

**3:00**

### Critical and Emerging Issues Wrap-up

JORDAN ATIN, *Atin Professional Corporation*

BERNADETTE DIETRICH, *McCarthy Tétrault LLP*

PATRICIA A. ROBINSON, *Robinsons Law, formerly of Goodmans LLP*

Our expert panel will discuss topics selected by the audience in the morning polling session. Topic options include:

- Update on *Henson* trusts and how to use them
- Case law update: treatment of jointly held assets on death of the first joint owner- where are we now?
- Update on Registered Disability Savings Plans (RDSP's)
- Estate planning for digital assets- what you need to know now
- Case law update: Application of the rule of mistake when a trustee relies on inaccurate advice

Additional topics will be added on program day- stay tuned!

**4:00**

### Program Concludes



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC.



#### Eligible CPD/MCLE hours:

LSUC (ON): 6.0 CPD hours (1.0 professionalism; 5.0 substantive)

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## REGISTRATION

Please complete all registrant information.

### 2016 Guide to Complex Issues in Estate and Tax Planning

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### Fee Per Delegate

\$695 plus HST

Register for this program and for *Managing, Mediating and Litigating Estate Disputes (March 30, 2016)* and take advantage of special package pricing of \$1195 plus HST. For more information, visit [www.osgoodepd.ca/ETP](http://www.osgoodepd.ca/ETP)

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca](http://www.osgoodepd.ca) for details. Please inquire about financial assistance.

### Date & Time

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Please arrive a half hour early for sign-in and material pick-up.

Dress is business casual.

### Location

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Downtown Toronto Conference Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON M5G 1Z3

### Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

### Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 5 days prior to the program date. No other refund is available.



## 4 Convenient Ways to Register

1. **MAIL** your registration form to:  
Osgoode Professional Development  
Downtown Toronto Conference Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON M5G 1Z3
2. **ONLINE** at  
[www.osgoodepd.ca/ETP](http://www.osgoodepd.ca/ETP)
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