



# FP-BoK Topic 10: Law

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## TOPIC 10 OVERVIEW: LAW

Both CFP professionals and QAFP professionals are expected to possess knowledge related to Wills and Powers of Attorney that will ensure they can understand if such documents align with the individual's wishes and where appropriate, advise the individual to seek professional legal advice to update those documents. Their knowledge will also allow them to explain the implications associated with sole and joint ownership of personal property (both while the owners are living and upon their deaths) and the characteristics, advantages and disadvantages of business ownership structures.

While QAFP professionals are expected to have knowledge that can be used in planning to avoid estate tax (probate), CFP professionals are expected to have a broader knowledge of estate succession related to advanced strategies for probate planning, creditor proofing an estate and preferential share under intestacy. CFP professionals are also expected to possess knowledge related to the division of property and support and maintenance upon relationship breakdown; trusts, domestic contracts, partnership and shareholder agreements; and the factors to consider in determining the optimal business structures for a business owner.

Sub-Topic	Knowledge Topics Common to Both QAFP Professionals and CFP Professionals	Knowledge Topics For Which CFP Professionals Are Expected to Have Deeper Knowledge
10.1 Foundations of Law	☑	☑
10.2 Personal Property Ownership	☑	☑
10.3 Foundations of Family Law	☑	☑
10.4 Impacts of Relationship Breakdown		☑

Sub-Topic	Knowledge Topics Common to Both QAFP Professionals and CFP Professionals	Knowledge Topics For Which CFP Professionals Are Expected to Have Deeper Knowledge
10.5 Foundations of Estate Law	☑	☑
10.6 Estate Succession	☑	☑
10.7 Powers of Attorney	☑	☑
10.8 Trust Law	☑	☑
10.9 Foundations of Business Ownership Structures	☑	☑
10.10 Business Ownership Structures		☑
10.11 Contracts		☑

## Taxonomy of the FP-BoK

The **verbs** used in the FP-BoK articulate the depth of knowledge expected of QAFP professionals and CFP professionals. The verbs are grouped into four **knowledge levels** which set out the depth or level of knowledge required for each knowledge topic.

### KNOWLEDGE LEVELS

Knowledge Level	Associated Verbs Used in the BoK
Awareness	Define, Identify
Understanding	Explain
Application	Determine, Compare, Estimate, Calculate, Convert
Evaluation	Evaluate, Interpret

### GLOSSARY OF VERBS USED IN THE FP-BOK

Verb	Description
Define	To state exactly the meaning of
Identify	To be aware of / to recognize and correctly name / to locate an appropriate resource
Explain	To make clear the meaning of / to describe something in more detail or reveal relevant facts or ideas related to it
Determine	To ascertain / to come to a decision, such as by investigation or reasoning
Compare	To note the similarities and differences between two or more things
Estimate	To determine an approximate value for
Calculate	To find the value using mathematics
Convert	To change from one form or purpose to another
Evaluate	To reach a conclusion or make a through careful study
Interpret	To give the meaning of / to construe or understand / to translate orally

## TOPIC 10 KNOWLEDGE REQUIREMENTS

### 10.1 FOUNDATIONS OF LAW

#### 10.1.1 FOUNDATIONS OF LAW

##### Knowledge Common to Both QAFP Professionals and CFP Professionals

- Identify the purpose of laws.
- Identify the purpose of each branch of the Canadian government.
  - Executive
  - Legislative
  - Judiciary
- Identify types of law in Canada.
  - Public law
  - Private law
- Identify areas of public law<sup>2</sup> relevant to financial planning, such as:
  - Constitutional law
  - Administrative law
- Identify areas under the Constitution Act, 1867 for which the Federal Government has jurisdiction.
- Identify areas under the Constitution Act, 1867 for which the provincial governments have jurisdiction.
- Identify areas of private law relevant to financial planning, such as:
  - Commercial law
  - Property law
  - Tort law
  - Family law
  - Estate and trust law
- Define the two systems of law in Canada.
  - Common law
  - Civil law
- Identify which system of law is used in each Canadian jurisdiction.

## 10.2 PERSONAL PROPERTY OWNERSHIP

### 10.2.1 PERSONAL PROPERTY OWNERSHIP

#### Knowledge Common to Both QAFP Professionals and CFP Professionals

- Define types of property.
  - Real
  - Personal
  - Intellectual
- Define fee simple.
- Define types of personal property.
  - Tangible
  - Intangible
- Define ownership types.
  - Legal
  - Beneficial
- Define categories of property ownership.
  - Sole ownership
  - Joint ownership
  - Beneficial ownership
- Identify rights that accompany ownership of property, such as:
  - The right to possession, management and control of the property
  - The right to income and capital from the property
  - The right to dispose of property during the owner's lifetime
  - The right to dispose of property at the time of the owner's death
  - The right to protection of property under law
- Explain how each right is impacted by the form of ownership.
- Define joint tenancy.
- Define tenants in common.
- Explain the unities that are required for a joint tenancy to exist.
  - Unity of interest
  - Unity of title
  - Unity of possession
  - Unity of time
- Explain benefits and risks of holding property with joint ownership.
- Explain the potential impact of transferring property from sole ownership into joint ownership.
  - Taxation
  - Control and access to asset
  - Estate planning

- Potential creditor protection impact
- Potential family law impact
- Define the presumption of resulting trust.
- Explain the importance of a person's intention at the time of transfer when transferring property into joint ownership.
- Explain evidence that the court will consider in establishing the intention of a person when transferring property into joint ownership.
- Identify the potential ownership of property upon death.
  - For property owned as joint tenant between a parent and a minor child
  - For property owned as joint tenants other than between a parent and a minor child
  - For property owned as tenants in common

### **Additional Knowledge Expected of CFP Professionals**

- Define types of intellectual property.
  - Patents
  - Trademarks
  - Copyrights
- Explain the impact on property ownership when an individual transfers their undivided interest in property held in joint tenancy.
  - On the new owner
  - On the remaining owners, if applicable
- Explain the impact on property ownership when an individual transfers a share of property held as tenants in common.
  - On the new owner
  - On the remaining owners, if applicable
- Explain the impact on property ownership upon death.
  - For property owned as joint tenants between a parent and a minor child
  - For property owned as joint tenants other than between a parent and a minor child
  - For property owned as tenants in common

## 10.3 FOUNDATIONS OF FAMILY LAW

### 10.3.1 JURISDICTIONAL RESPONSIBILITY FOR FAMILY LAW

#### Knowledge Common to Both QAFP Professionals and CFP Professionals

- Identify areas of family law for which the federal government has jurisdiction, such as:
  - Legislative responsibility for marriage
  - Legislative responsibility for divorce
  - Legislative responsibility for child and spousal support under the circumstances of divorce
- Identify areas of family law for which the provincial/territorial governments have jurisdiction, such as:
  - Solemnization of marriage
  - Administration of divorce through the courts
  - Division of property
  - Separation
  - Child and spousal support under the circumstances of non-married individuals or married couples where no application for divorce has been commenced

### 10.3.2 MARITAL STATUS

#### Knowledge Common to Both QAFP Professionals and CFP Professionals

##### Marriage

- Define marriage for family law purposes.
- Identify when a marriage ceases.

##### Common-Law

- Identify that the definition of common-law partnership for family law purposes varies across jurisdictions.
- Identify that courts may rely on a variety of factors to determine common-law status for family law purposes.
- Identify the areas of legislation that may differ for married and common-law couples, such as:
  - Family law
    - Family obligations / support payments
    - Matrimonial property
    - Division of property
    - Wills and powers of attorney
    - Intestacy rules
  - Pensions

##### Separation

- Identify when a separation is deemed to have occurred between individuals.



## **Divorce**

- Define divorce for family law purposes.
- Identify areas that should be reviewed upon divorce.
  - Entitlements under a will
  - Entitlements in tax
  - Entitlements of property
  - Pension entitlements
  - Powers of attorney
  - Beneficiary designations
- Identify claims that may be made under a petition for divorce, such as
  - Child support
  - Spousal support
  - Custody
- Identify the sources from which spousal support payments may be verified, such as:
  - Separation agreement
  - Divorce agreement
  - Bank statements

## **Additional Knowledge Expected of CFP Professionals**

### **Marriage**

- Explain when a marriage may be voidable.
- Explain when a marriage is void.

### **Common-Law**

- Explain variables that courts may look at to determine if partners are living common-law, such as:
  - Shelter – Living arrangements
  - Behaviour – Sexual and personal
  - Support – Support of partner
  - Social – Presentation of partnership to society
  - Societal – Community view of the relationship
  - Economic support – Combined finances, supporting the partner financially
  - Children – Attitudes and conduct concerning children

### **Separation**

- Explain the risks associated with remaining separated indefinitely.

### **Divorce**

- Define the types of divorce.
  - Uncontested

- Contested
- Explain types of support that may be required by law.
  - Child support
  - Spousal support
  - Parental support
- Explain the sources from which child support payments may be verified, such as:
  - Separation agreement
  - Divorce agreement
  - Bank statements

## 10.4 IMPACTS OF RELATIONSHIP BREAKDOWN

### 10.4.1 SUPPORT AND MAINTENANCE

#### Additional Knowledge Expected of CFP Professionals

##### Child Support

- Identify that parents have a responsibility to support their children regardless of the parents' marital status.
- Identify that generally, evidence of financial arrangements for children must be made before a divorce is granted.
- Identify child support guidelines that may be used in determining the support required by a parent for a child, such as:
  - Federal child support guidelines
  - Provincial child support guidelines
  - Agreement between parents
- Explain variables that may affect the calculation of child support, such as:
  - Number of children
  - Custody arrangement
  - Residence of the payer
  - Income of the payer
  - Special or extraordinary expenses
- Explain how the number of children requiring support may be determined under child support guidelines for family law purposes.

##### Spousal Support

- Identify that spousal support guidelines exist.
- Explain outcomes that may occur if support payments are not made.
- Explain the methods that may be used by government agencies with the authority to collect support payments, such as:
  - Through garnishment
  - Through direct debit
  - Withholding tax refunds and benefits

### 10.4.2 DIVISION OF PROPERTY UPON RELATIONSHIP BREAKDOWN

#### Additional Knowledge Expected of CFP Professionals

- Identify that division of property falls under provincial/territorial legislation.
- Identify circumstances in which a division of property may occur, such as:
  - Separation
  - Divorce
  - Under the terms of a domestic contract
- Define net family property.

- Identify that in some jurisdictions, a net family property calculation is made to determine the division of property among spouses.
- Identify assets and liabilities that may be included in the calculation of net family property.
- Identify assets that may be excluded from the calculation of net family property.
- Identify that in multiple jurisdictions, legislation protects the matrimonial home to ensure that it may not be disposed of unless both spouses agree in writing.
- Define equalization payment.
- Identify that in multiple jurisdictions, a spouse may receive an equalization payment as part of a division of assets.
- Identify methods for dividing pension assets.
- Define unjust enrichment.
- Define a constructive trust.
- Identify that while in some jurisdictions common-law partners may not have property rights under family law, they may have property rights pursuant to a claim of unjust enrichment.
- Explain the requirements to prove unjust enrichment.

## 10.5 FOUNDATIONS OF ESTATE LAW

### 10.5.1 FOUNDATIONS OF ESTATES

#### Knowledge Common to Both QAFP Professionals and CFP Professionals

- Identify key trends currently affecting estate advice, such as:
  - Changing family circumstances
  - Increase in size and complexity of estates
  - Increase in number of individuals with assets across multiple jurisdictions
  - Cross-border considerations
- Identify roadblocks to seeking out estate advice, such as:
  - Fear of mortality
  - Procrastination
  - Cost
  - Personal
  - Cultural attitudes
  - Choices
- Identify the level of government that is responsible for estate administration, estate succession, and laws related to wills and powers of attorney.
- Define an estate.
- Define time horizons associated with planning for an estate, such as:
  - Time until death
  - Time from death until assets are distributed and a clearance certificate from the Canada Revenue Agency (CRA) has been received
- Identify objectives of estate advice, such as:
  - Management of current income taxes
  - Management of taxes at death
  - Efficient transition of assets and income to heirs
  - Providing for obligations to dependents
  - Payment of liabilities and final expenses at death
  - Minimizing disputes between heirs
- Identify factors that may affect an estate, such as:
  - Value of assets at death
  - Value of liabilities at death
  - Liquidity of assets
  - Ownership of assets
  - Location of assets (within province of residency, external to Canada)
  - Testator's wishes
  - Existence of heirs
  - Needs / circumstances of heirs

- Location of assets and heirs
- Exposure of assets to creditors
- Marginal tax rates of testators, heirs and trusts
- Family dynamics
- Life expectancy
- Personal attitudes

### **Additional Knowledge Expected of CFP Professionals**

- Explain factors that may affect an estate, such as:
  - Business interests
  - Estate freeze

## **10.5.2 ESTATE ADMINISTRATION**

### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify possible organizations to be notified upon the death of an individual, such as:
  - The deceased's financial institutions
  - The deceased's employer
  - Organizations from which the deceased was receiving payments
  - Organizations to which the deceased was making payments
  - Government agencies with which the deceased had relationships or was issued identification
- Identify documents that may be required by organizations upon the death of an individual, such as:
  - Death certificate
  - Will
  - Documentation appointing / validating estate administrator
- Identify the benefits / receipts that should be discontinued upon death.
- Identify final expenses that may occur upon the death of an individual, such as:
  - Funeral expenses
  - Probate fees
  - Executor fees
  - Trust fees
  - Legal fees
  - Tax preparation fees
  - Tax liabilities due to deemed disposition of assets
- Define digital assets
- Identify those various procedures that exist for addressing the digital assets of a deceased owner

- Identify the importance of planning for access to digital assets by an executor or legal representative

### **10.5.3 ESTATE OBLIGATIONS**

#### **Additional Knowledge Expected of CFP Professionals**

- Identify those obligations that may retain the highest priority of payment from an estate, such as:
  - Funeral expenses
  - Income taxes
  - Estate taxes / probate fees
  - Solicitor's costs
  - Personal representative / estate administrator costs
  - Payments of debts
  - Property taxes
  - Utility payments
- Identify that the order of priority for payments from an estate may vary according to provincial/territorial legislation.
- Explain methods for creditor-proofing assets from claims against the estate, such as:
  - Naming beneficiaries on segregated funds, insurance policies and registered assets
  - Using insurance products with named beneficiaries
  - Setting up a holding company or inter vivos trust
  - Plan for a testamentary trust in a will
  - Setting up an Individual Pension Plan
  - Incorporation of business interests
- Explain the probate process for administering an estate.
  - When the deceased died with a valid will
  - When the deceased died without a valid will (intestacy)

## 10.6 ESTATE SUCCESSION

### 10.6.1 WILLS

#### Knowledge Common to Both QAFP Professionals and CFP Professionals

- Define a will.
- Identify the purpose for which a will may be used.
- Identify that a will may only be valid in the jurisdiction in which it is created.
- Identify that the creation of a new will may revoke a past will, unless explicitly stated otherwise in the new document.
- Identify types of wills.
  - Formal
  - Notarial
  - Holograph
- Identify requirements for each type of will, such as:
  - Need for document to be written
  - Need for signature of testator
  - Witness requirements
- Explain the importance of maintaining an up-to-date, valid will.
- Explain risks associated with failing to have a current will.
- Identify advantages and risks of the following approaches to drafting a will.
  - Self-drafting
  - Drafting by a competent legal professional
- Define parties to a will.
  - Testator / Testatrix
  - Personal representative
  - Witness
  - Guardian
  - Beneficiary
- Define testamentary capacity.
- Identify the importance of testamentary capacity.
- Identify what the testator must understand in order to have testamentary capacity.
  - The nature of the act of making a will and its effects
  - The extent of the property which they are disposing
  - The claims of persons who would normally expect to benefit under the will
- Identify the minimum age for creating a will.
  - When the testator is the age of majority
  - When the testator is married and younger than the age of majority
  - When the testator has a child and is younger than the age of majority
  - When a testator is a member of the military



- Define a personal representative.
- Explain the importance of naming a personal representative(s).
- Identify titles used for personal representatives, such as:
  - Executor
  - Executrix
  - Estate trustee
  - Liquidator
- Identify who may be a personal representative.
- Explain qualities that a personal representative should possess, such as:
  - Trustworthiness
  - Availability
  - Reliability
  - Willingness
- Explain factors to consider when contemplating the appointment of a personal representative, such as:
  - Location of estate and beneficiaries
  - Complexity of estate
  - Time required to manage estate
  - Expertise
  - Need for objectivity or opportunity for disputes regarding estate
- Explain the impact of naming multiple personal representatives (co-representatives).
  - Benefits
  - Risks
- Identify how many personal representatives must agree on a decision.
  - When a designation within the will states that they may act jointly and severally
  - Where no designation within the will has been made
- Explain the importance of naming an alternate personal representative(s).
- Identify duties of a personal representative, such as:
  - Locate the will and obtain a death certificate
  - Locate all the assets of the deceased and determine their value
  - Secure and protect assets
  - Pay funeral expenses
  - Obtain probate, if required
  - Notify the appropriate organizations of the testator's death
  - File claims for life insurance, pension plan and death benefits
  - Notify appropriate government organization if deceased leaves dependent children or adults
  - Advertise for creditors
  - Collect and liquidate estate, if required

- Pay the bills of the deceased and the estate
- File the income tax returns for the deceased and the estate and obtain a clearance certificate from Canada Revenue Agency
- Provide an accounting to any of the beneficiaries, if required
- Distribute the estate according to the will or intestacy legislation
- Identify advantages and disadvantages of using a corporate personal representative.
- Identify factors to consider when contemplating the appointment of a corporate personal representative, such as:
  - Location of trust and beneficiaries
  - Complexity of estate
  - Time required to manage estate
  - Expertise
  - Need for objectivity or opportunity for disputes regarding estate
- Identify that a personal representative is entitled to a fee for administering an estate, subject to guidelines set out in legislation in the province where the estate resides.
- Identify individuals who are generally prohibited from acting as a witness to a will.
  - Spouse
  - Child
  - Parent
  - Individual named as a beneficiary in the will
- Explain the importance of identifying a guardian for dependents.
  - Results from failure to identify a guardian for dependents
  - Results from failing to inform guardians of their potential appointment
- Identify circumstances that may cause a will to be partially or fully revoked such as:
  - Voluntarily revoked by testator
  - Drafting a new will
  - Destruction of a will
  - Marriage
  - Divorce
- Identify life events that may precipitate a will review, such as:
  - Birth or adoption of a child
  - Marriage
  - Entering a marriage or common-law relationship
  - Separation from a spouse or common-law partner
  - Divorce
  - Death of a family member
  - Death of a beneficiary
  - Change of residence
  - Starting a business

- Changing ownership structure of a business
- Change in financial position (e.g., inheritance)
- Change in personal circumstances of a personal representative or trustee

### **Additional Knowledge Expected of CFP Professionals**

- Explain requirements for each type of will, such as:
  - Need for document to be written
  - Need for signature of testator
  - Witness requirements
- Explain advantages and risks of the following approaches to drafting a will.
  - Self-drafting
  - Drafting by a competent legal professional
- Explain the importance of testamentary capacity.
- Explain what the testator must understand in order to have testamentary capacity.
  - The nature of the act of making a will and its effects
  - The extent of the property which they are disposing
  - The claims of persons who would normally expect to benefit under the will
- Explain how many personal representatives must agree on a decision.
  - When a designation within the will states that they may act jointly and severally
  - Where no designation within the will has been made
- Identify the options that may be available when a personal representative is unavailable to act (voluntarily or due to incapacitation or death).
- Explain clauses in a will, such as:
  - Identification of the testator
  - Revocation of previous wills
  - Appointment of personal representative
  - Powers provided to personal representative
  - Payment of debts
  - Instructions for testamentary dispositions (beneficiaries, assets, timing of distribution to beneficiary)
  - Common disaster / survivorship clause
  - Instructions for testamentary appointments of guardianship for dependents (i.e., minor children)
  - Terms of trust
  - Appointment of trustees
  - Powers provided to trustees
  - Beneficiary designations
  - Investment discretion clause
  - Discretionary encroachment clause

- Life interest / capital interest clause
- Tax election clause
- Memorandum clause (for personal effects)
- Explain types of testamentary dispositions that may be included in a will, such as:
  - Specific
  - Demonstrative
  - General
  - Residual
- Explain advantages and disadvantages of using a corporate personal representative.
- Explain factors to consider when contemplating the appointment of a corporate personal representative, such as:
  - Location of trust and beneficiaries
  - Complexity of estate
  - Time required to manage estate
  - Expertise
  - Need for objectivity or opportunity for disputes regarding estate
- Identify that in jurisdictions in which a marriage revokes a previous will, a will that contains a statement of contemplation of marriage to a specified person may not result in revocation of the will upon the marriage to that person.
- Identify the purpose for which a codicil may be used.
- Explain requirements for a codicil to be valid, such as:
  - Need for document to be written
  - Need for signature of testator
  - Acceptable parties who may draft the document
  - Witness requirements
  - Requirement to refer to the will

### **10.6.2 DYING WITH A WILL**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify documents used to confirm validity of a will and the court's approval of the appointment of an estate administrator, such as:
  - Certificate of Appointment
  - Grant of Letters Probate
  - Letters of Administration

#### **Additional Knowledge Expected of CFP Professionals**

- Explain the methods for distributing the assets of a testator.
  - Per stirpes
  - Per capita

- Identify that based on the jurisdiction, a claim may be made for dependants' relief against the estate if the deceased did not adequately provide for their dependants.
- Identify dependents of the deceased who may make a claim against the estate from which they were not adequately provided, such as:
  - Spouse
  - Common-law partner
  - Child
  - Parent
  - Sibling
- Explain how an asset will be distributed to a beneficiary of an estate.
  - When a debt against the asset is exonerated
  - When a debt against the asset is not exonerated
- Define changes to testamentary dispositions that may be made after the death of a testator.
  - Abatement
  - Ademption
  - Lapse
- Explain how abatement, ademption and lapse affect testamentary dispositions.
- Explain the distribution that each party may receive from an estate when the deceased died with a will.

### **10.6.3 DYING WITHOUT A WILL (INTESTATE)**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Define dying intestate.
- Identify circumstances when the deceased may die intestate, such as:
  - No valid will exists
  - Will is deemed to be invalid
  - Will fails to appoint a personal representative
- Explain consequences of dying intestate.
  - Guardianship of children
  - Disbursement of assets
  - Process for settling estate
- Identify that an application to the court must be made to appoint an estate administrator when an individual dies intestate.
- Identify documents used to confirm validity of a will and the court's approval of the appointment of an estate administrator, such as:
  - Certificate of Appointment
  - Grant of Letters Probate
  - Letters of Administration

### **Additional Knowledge Expected of CFP Professionals**

- Define partial intestacy.
- Explain risks of partial intestacy.
- Define preferential share when an individual dies intestate.
- Identify jurisdictions that have legislation recognizing preferential share.
- Identify the value of a preferential share for a jurisdiction that recognizes it.
- Identify whether a spouse or common-law partner may be entitled to a preferential share of an estate.
- Identify the prescribed distribution schedule for an estate in the jurisdiction where the deceased died intestate.
- Explain the distribution that each party may receive from an estate when the deceased died intestate.

#### **10.6.4 PROBATE**

##### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Define probate.
- Identify that the process for probate may differ across jurisdictions.
- Identify variables that may be used to determine the jurisdiction where probate is required.
  - Based on residency of the deceased
  - Based on residency of the asset
- Identify characteristics of assets that may be subject to probate, such as:
  - Owned wholly by the deceased individual
  - Owned as a tenant in common by the deceased individual
  - Do not have a beneficiary named
  - Have the estate named as beneficiary
  - Form part of deceased's estate
- Identify the treatment of an asset for which there is no named beneficiary.
- Explain the impact of naming the estate of the deceased individual as the beneficiary of an asset.
- Identify characteristics of assets that may not be subject to probate, such as:
  - Owned joint with right of survivorship
  - Have a named beneficiary
  - Do not form part of the deceased's estate
  - Life interest in property
- Identify assets for which a beneficiary may be named, such as:
  - Registered Retirement Savings Plan (RRSP)
  - Registered Retirement Income Fund (RRIF)
  - Tax-Free Savings Account (TFSA)

- Locked-In Retirement Savings Vehicles
- Locked-In Retirement Income Vehicles
- Segregated Fund
- Life Insurance Policy
- Annuity
- Pension Plan
- Explain the importance of naming a beneficiary for assets that are permitted to have a named beneficiary.
- Identify assets that may not be subject to probate, such as:
  - Registered Plans (excluding an RDSP and RESP) with a named beneficiary
  - Segregated funds with a named beneficiary
  - Insurance policies with a named beneficiary
  - Assets owned jointly with right of survivorship
- Identify methods that may be used to reduce probate fees, such as:
  - Name beneficiaries for registered plans
  - Name beneficiaries for insurance policies
  - Own assets jointly with right of survivorship
  - Gift property to intended beneficiaries before death

### **Additional Knowledge Expected of CFP Professionals**

- Identify the probate fee schedule for a jurisdiction.
- Estimate the probate fees payable for an estate.
- Identify other costs that may apply when probating a will.
- Identify methods that may be used to reduce probate fees, such as:
  - Name beneficiaries for registered plans
  - Name beneficiaries for insurance policies
  - Own assets jointly with right of survivorship
  - Gift property to intended beneficiaries before death
  - Hold assets in a trust
  - Hold assets in a holding company
  - Issue a donation mortis causa
  - Use multiple wills for different jurisdictions
  - Use multiple wills for certain assets
- Explain the factors to consider in assessing methods to reduce probate fees, such as:
  - Immediate income tax consequences
  - Future income tax liability
  - Impact on probate
  - Costs
  - Potential claims by creditors

- Potential claim under family law
- Loss of control of property
- Impact on family / heirs
- Impact of death of heirs prior to testator



## 10.7 POWERS OF ATTORNEY

### 10.7.1 FOUNDATIONS OF POWERS OF ATTORNEY

#### Knowledge Common to Both QAFP Professionals and CFP Professionals

- Define a power of attorney.
- Define types of powers of attorney.
- Identify rights and limitations associated with each type of power of attorney.
- Identify that power of attorney legislation may differ by jurisdiction.
- Identify that a power of attorney may only be valid in the jurisdiction in which it is created.
- Identify that the creation of a new power of attorney document may revoke a past power of attorney document, unless explicitly stated otherwise in the new document.
- Explain risks associated with failing to have current powers of attorney in place.
- Identify benefits and risks of the following approaches to drafting a power of attorney document.
  - Self-drafting
  - Drafting by a competent legal professional
- Define parties to a power of attorney.
  - Donor / grantor
  - Donnee / agent / proxy / attorney
- Identify requirements for the grantor to give power to an attorney, such as:
  - Age of majority
  - Mentally competent
- Define types of attorneys that may exist.
  - Sole attorney
  - Co-attorney
  - Alternate / subsequent attorney
- Identify requirements for an individual to act as an attorney, such as:
  - Age of majority
  - Mentally competent
- Identify that in some jurisdictions an undischarged bankrupt cannot be appointed as, or carry on as, an attorney.
- Explain benefits and risks of naming multiple attorneys.
- Identify how many attorneys must agree on a decision.
  - When a designation within a power of attorney document states that they may act jointly and severally
  - Where no designation within a power of attorney document has been made
- Identify individuals who are generally prohibited from acting as a witness to a power of attorney document, such as:
  - Spouse

- Child
- Parent
- Individual named as the attorney in the power of attorney document
- Employee of the donor
- Agent of the grantor
- Define types of decision-making powers that may be given to an attorney.
  - Property
  - Personal and/or health care

### **Additional Knowledge Expected of CFP Professionals**

- Explain rights and limitations associated with each type of power of attorney.
- Explain benefits and risks of the following approaches to drafting a power of attorney document.
  - Self-drafting
  - Drafting by a competent legal professional
- Explain how many attorneys must agree on a decision.
  - When a designation within a power of attorney document states that they may act jointly and severally
  - Where no designation within a power of attorney document has been made

## **10.7.2 POWER OF ATTORNEY FOR PROPERTY**

### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify the purpose for which a power of attorney for property may be used.†
- Explain risks associated with failing to appoint a power of attorney for property.
- Identify names of documents used to denote that an individual or entity has decision-making power for property of another individual, such as:
  - Power of attorney
  - Power of attorney for property
  - Mandate
- Identify the factors to consider in choosing an attorney for property.
- Identify types of powers of attorney for property.
  - Limited
  - General
  - Continuing/enduring
  - Contingent/springing
- Explain when the attorney's power under a power of attorney for property becomes effective.
  - Limited
  - General
  - Continuing/enduring

- Contingent/springing
- Explain when the attorney's power under a power of attorney for property ceases to be effective.
  - Limited
  - General
  - Continuing/enduring
  - Contingent/springing
- Explain responsibilities of an attorney under a power of attorney for property, such as:
  - To act in the best interest of the donor
  - To keep accurate records of dealings/transactions undertaken on the donor's behalf
  - To act for the donor with the utmost good faith and to avoid situations where there is a conflict of interest
  - To keep the property and money of the donor separate from their own
- Identify actions that an attorney for property may engage in on behalf of the grantor, such as:
  - Open, operate, and close financial accounts
  - Purchase investments according to the statutory rules for investing
  - Apply for benefits to which the grantor is entitled
  - Buy goods and services
  - Lend, sell, store or dispose of personal property
  - Purchase, maintain or sell real property
  - Start or defend lawsuits
  - Receive information and documentation that the grantor is entitled to receive
- Identify actions that an attorney for property may undertake on behalf of the grantor when specifically provided for in the power of attorney document or by the courts, such as:
  - Making charitable donations
  - Making gifts or loans to family
- Identify actions that an attorney for property is prohibited from undertaking on behalf of a grantor, such as:
  - Creating, changing, or revoking a will for the grantor
  - Naming or changing a beneficiary on a life insurance plan or registered plan owned by the grantor
- Establishing a new attorney to act on behalf of the grantor
- Identify potential activities for which an attorney may require permission from the court, such as:
  - Making themselves a joint owner of the grantor's property
  - Taking fees
  - Providing gifts to family and friends from the grantor's property

- Using property owned by the grantor for the benefit of an individual other than the grantor
- Identify that an attorney for property may be held financially liable by the grantor (or the beneficiaries of a grantor's estate) should they contravene their duties.
- Identify events that may terminate limited and general powers of attorney for property, such as:
  - Revocation of power of attorney by grantor
  - Death or incapacitation of grantor
  - Death, incapacitation, or resignation in writing of attorney
  - Attorney and grantor end their spousal relationship
  - Attorney is convicted of an offence under the respective power of attorney act in the jurisdiction or an offence for which the donor was a victim
  - Court appoints a power of attorney for property
  - Creation of a new continuing/enduring power of attorney
  - Corporation acting as an attorney dissolves, winds up or ceases to carry on business
- Identify events that may terminate a continuing/enduring power of attorney for property, such as:
  - Revocation of power of attorney by grantor
  - Death of grantor
  - Death, incapacitation, or resignation in writing of attorney
  - Attorney and grantor end their spousal relationship
  - Attorney is convicted of an offence under the power of attorney act in the jurisdiction, or an offence of which the donor was a victim
  - Court appoints a power of attorney for property
  - Creation of a new continuing/enduring power of attorney
  - Corporation acting as an attorney dissolves, winds up or ceases to carry on business
- Identify events that may terminate a contingent/springing power of attorney for property, such as:
  - Revocation of power of attorney by grantor
  - Death of grantor
  - Death, incapacitation, or resignation in writing of attorney
  - Attorney and grantor end their spousal relationship
  - Attorney is convicted of an offence under the power of attorney act in the jurisdiction, or an offence of which the donor was a victim
  - Court appoints a power of attorney for property
  - Creation of a new continuing/enduring power of attorney
  - Corporation acting as an attorney dissolves, winds up or ceases to carry on business
- Identify that an attorney for property may be entitled to compensation for their services.

† Power of attorney for property is being used generically to denote any document that an individual may use to grant decision-making ability, and/or the ability to act on their behalf with respect to their property, to another individual.

### **Additional Knowledge Expected of CFP Professionals**

- Explain factors to consider in choosing an attorney for property.
- Explain advantages and disadvantages of using a corporate attorney for property.
- Identify that there may be risks associated with a business owner naming another business owner as an attorney for property.

## **10.7.3 POWERS OF ATTORNEY FOR PERSONAL CARE AND HEALTH CARE DIRECTIVES**

### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify the purpose for which a personal and/or health care directive may be used.
- Explain risks to an individual associated with failing to appoint a representative<sup>51</sup> to make personal or health care-related decisions.
- Identify factors to consider in choosing a representative to make personal or health care-related decisions, such as:
  - Trustworthiness
  - Reliability
  - Accessibility
- Identify names of documents used to denote that an individual has substitute decision-making power for the personal or health care of another individual, such as:
  - Power of attorney for personal care
  - Personal directive
  - Health care proxy
  - Advance directive
  - Representation agreement
  - Living will
  - Durable power of attorney for medical care
- Explain when a representative's power under a personal and/or health-care directive becomes effective.
- Explain when a representative's power under a personal and/or health-care directive ceases.
- Explain areas of decision-making that a representative named in a personal and/or health-care directive may engage in on behalf of the grantor, such as:
  - Housing
  - Nutrition
  - Health
  - Safety

- Hygiene
  - Clothing
- Identify whose responsibility it is to advise medical practitioners of the existence of a personal and/or health-care directive.
  - When the grantor is able to advise medical practitioners
  - When the grantor is unable to advise medical practitioners (i.e., incapacitated)
- Identify events that terminate a personal and/or health-care directive, such as:
  - Revocation of personal and/or health-care directive by grantor, while mentally capable
  - Death of grantor
  - Death, incapacitation, or resignation of representative and no other (substitute or joint) representative is named
  - Court appoints a representative for personal care
  - Creation of a new personal and/or health-care directive where no clause has been added to maintain the previous personal and/or health-care directive
- Identify that a representative named in a personal and/or health-care directive may be entitled to compensation for their services.
- Identify that a supported decision-making agreement exists in some jurisdictions.
- Identify the permissible activities that a supporter named under a supported decision-making agreement may engage in on behalf of the donor.

### **Additional Knowledge Expected of CFP Professionals**

- Explain factors to consider in choosing a representative to make personal or health care-related decisions, such as:
  - Trustworthiness
  - Reliability
  - Accessibility
- Explain whose responsibility it is to advise medical practitioners of the existence of a personal and/or health-care directive.
  - When the grantor is able to advise medical practitioners
  - When the grantor is unable to advise medical practitioners (i.e., incapacitated)
- Explain events that terminate a personal and/or health-care directive, such as:
  - Revocation of personal and/or health-care directive by grantor, while mentally capable
  - Death of grantor
  - Death, incapacitation, or resignation of representative and no other (substitute or joint) representative is named
  - Court appoints a representative for personal care

- Creation of a new personal and/or health-care directive where no clause has been added to maintain the previous personal and/or health-care directive

#### **10.7.4 TRUSTED CONTACT PERSON (TCP)**

##### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Define a trusted contact person.
- Explain the purpose for which a trusted contact person may be used.
- Identify how to select an appropriate trusted contact person.
- Explain the differences between a trusted contact person and other legal authority, such as:
  - An attorney for property (POA)
  - An attorney for personal care or healthcare (POA, HCPA, representative, agent or mandatee)
  - Other legal representative

## 10.8 TRUST LAW

### 10.8.1 FOUNDATIONS OF TRUSTS

#### Knowledge Common to Both QAFP Professionals and CFP Professionals

- Define a trust.
- Define parties to a trust.
  - Settlor
  - Trustee
  - Beneficiary
- Identify how a trust is viewed in relation to the parties of the trust for legal purposes.
- Identify purposes for which a trust may be used, such as:
  - Establish conditions for inheritance or access to testator's assets
  - Alternative to a will for estate planning purposes
  - Management of property in the event of incapacity
  - Protection of property from the creditors of the settlor
  - Protection of property from the creditors of beneficiaries of the trust
  - Protection of property against claims by disappointed heirs
  - Protection of the beneficiary from themselves (spendthrifts)
  - Potential deferral of tax on disposition of property
  - Providing for subsequent generations
  - Privacy/confidentiality
- Identify risks in establishing a trust, such as:
  - Potential loss of control of property
  - Cost
  - Complexity
  - Potential tax on deemed dispositions of assets
  - Potential for higher taxes
  - Difficulties in amending a trust, compared to a will
- Define the status of a trust.
  - Revocable
  - Irrevocable
- Identify who may be a trustee.

#### Additional Knowledge Expected of CFP Professionals

- Explain the role of each party to a trust.
- Identify purposes for which a trust may be used, such as:
  - Potential reduction in probate costs/fees
- Define types of trusts that may be established through the operation of law, such as:
  - Resulting trust



- Constructive trust
- Explain how the types of trusts established under the operation of law may come into existence.
- Explain the impact of establishing a trust.
  - Revocable
  - Irrevocable
- Explain entitlements that a beneficiary may have with respect to assets held in trust, such as:
  - Absolute income interest
  - Contingent income interest
  - Capital interest
  - Life interest
  - Remainder interest
  - Fixed interest
  - Discretionary interest
  - Vested and contingent interest
- Explain the certainties that must be present for a trust to be created.
  - Certainty of intention
  - Certainty of subject matter
  - Certainty of objects
- Identify the methods in which a trust may be established, such as:
  - Expressly
  - By statute
  - Through a will
  - Through the operation of law
  - Through a legal judgment
- Explain advantages and disadvantages of using a corporate trustee.
- Explain factors to consider when contemplating the appointment of a corporate trustee, such as:
  - Location of trust and beneficiaries
  - Complexity of trust
  - Time required to manage trust
  - Expertise
  - Need for objectivity or opportunity for disputes regarding trust

### **10.8.2 INTER VIVOS TRUST**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Define an inter vivos trust.
- Identify that the terms of an inter vivos trust may be established through a trust document.

- Identify the purpose for which these types of inter vivos trusts may be used.
  - Spousal or common-law partner trust
  - Joint spousal or common-law partner trust
  - Alter ego trust
  - Family trust
  - Asset protection trust
  - Charitable remainder trust
  - Secret trust

### **Additional Knowledge Expected of CFP Professionals**

- Identify the purpose for which a cross-border inter vivos trust may be used.
- Identify the Canada Revenue Agency's requirements for an inter vivos trust to qualify as a spousal or common-law partner trust.
- Identify the Canada Revenue Agency's requirements for an inter vivos trust to qualify as a joint spousal or common-law partner trust.
- Identify the Canada Revenue Agency's requirements for an inter vivos trust to qualify as an alter ego trust.
- Identify for whom an inter vivos trust may be suitable.
- Determine how each of these factors may impact the suitability of establishing or maintaining an inter vivos trust:
  - Tax impact
  - Bypassing of probate
  - Privacy
  - Protection from creditors
  - Needs of beneficiaries and/or dependents
  - Control of assets
  - Time horizon
  - Costs
  - Administration

### **10.8.3 TESTAMENTARY TRUST**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Define a testamentary trust.
- Identify methods to establish the terms of a testamentary trust, such as:
  - In the will of a deceased testator
  - By court order when an individual dies intestate
  - Through a stand-alone life insurance trust
- Identify the purpose for which types of testamentary trusts may be used.
  - Spousal or common-law partner

- Non-spousal or common-law partner
- Life insurance

### **Additional Knowledge Expected of CFP Professionals**

- Identify the Canada Revenue Agency’s requirements for a testamentary trust to qualify as a spousal or common-law partner trust.
- Identify for whom a testamentary trust may be suitable.
- Identify circumstances that may lead to a change in status of a testamentary trust.
  - To become an inter vivos trust
  - To become a non-spousal trust
- Determine how each of these factors may impact the suitability of establishing or maintaining a testamentary trust:
  - Tax impact
  - Bypassing of probate
  - Privacy
  - Protection from creditors
  - Needs of beneficiaries and/or dependents
  - Control of assets
  - Time horizon
  - Costs
  - Administration

#### **10.8.4 ABSOLUTE DISCRETIONARY TRUST**

##### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify the purposes for which an absolute discretionary trust may be used, such as:
  - To protect spendthrifts
  - To protect minors
  - To protect persons with disabilities
- Identify that an absolute discretionary trust may be an inter vivos or testamentary trust.

##### **Additional Knowledge Expected of CFP Professionals**

- Explain the purpose of an absolute discretionary trust that protects the benefits available to persons with disabilities (“Henson” trust).
- Identify that an absolute discretionary trust may not protect the benefits available to persons with disabilities in all jurisdictions within Canada.
- Identify that an absolute discretionary trust that protects the benefits available to persons with disabilities requires that the beneficiary has no vested interest in the trust and that the trustees have the absolute and unfettered discretion to operate the trust.
- Explain factors to consider when considering setting up an absolute discretionary trust (“Henson” trust), such as:

- Payments that can be made from the trust
- Amount of benefits that the beneficiary will receive from disability related programs

### **10.8.5 INBOUND TRUST**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Define an inbound trust.
- Identify the purpose for which an inbound trust may be used.

## **10.9 FOUNDATIONS OF BUSINESS OWNERSHIP STRUCTURES**

### **10.9.1 CO-OPERATIVE**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify the characteristics of a co-operative.
- Identify the level of government with which a co-operative may register.

#### **Additional Knowledge Expected of CFP Professionals**

- Explain advantages and disadvantages of a co-operative.

### **10.9.2 CORPORATION**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify the characteristics of a corporation.
- Identify the level of government with which a corporation may register.
- Identify the different corporate identifiers (English and French) that signify that a business is incorporated.
- Explain the advantages and disadvantages of incorporation.

### **10.9.3 NON-PROFIT ORGANIZATION**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify the characteristics of a non-profit organization.
- Identify that a non-profit organization must register with the Canada Revenue Agency.

### **10.9.4 PARTNERSHIP**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify characteristics of a partnership.
- Identify the level of government with which a partnership must register.
- Explain advantages and disadvantages of a partnership.

### **10.9.5 REGISTERED CHARITY**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify the characteristics of a registered charity.
- Identify that a registered charity must register with the Canada Revenue Agency (CRA).

### **10.9.6 SOLE PROPRIETORSHIP**

#### **Knowledge Common to Both QAFP Professionals and CFP Professionals**

- Identify characteristics of a sole proprietorship.
- Identify the level of government with which a sole proprietor may be required to register.
- Explain advantages and disadvantages associated with a sole proprietorship.

## 10.10 BUSINESS OWNERSHIP STRUCTURES

### 10.10.1 ADVANCED DECISION-MAKING FOR CORPORATIONS

#### Additional Knowledge Expected of CFP Professionals

- Determine how each of these factors may impact the suitability of operating a business as a corporation:
  - Cost and time commitment of regulatory requirements to maintain business registration
  - Desire for control
  - Working capital required and available
  - Business's probability of liability
  - Income expectations
  - Tax impact
  - Need to obtain financing
  - Expectations for growth of business
  - Expectations for business after death or disposition by owner
  - Number of employees

### 10.10.2 ADVANCED DECISION-MAKING FOR PARTNERSHIPS

#### Additional Knowledge Expected of CFP Professionals

- Explain types of partnerships.
  - General
  - Limited
  - Limited liability
- Define types of partners with respect to their participation in a partnership.
  - General
  - Limited
- Explain responsibilities that a general partner has with the partnership.
  - As a principal of the partnership
  - As an agent of the partnership
- Explain risks from participation in a general partnership.
  - To a general partner from participation in a general partnership
  - To a general partner in a limited partnership
- Explain risks to a limited partner from participation in a limited partnership.
- Explain risks to a limited liability partner from participation in a limited liability partnership.
- Explain circumstances that may cause a partnership to be terminated, such as:
  - Death of a partner

- Incapacitation of a partner
- Withdrawal of partner
- Bankruptcy of partner
- Determine how each of these factors may impact the suitability of operating a business as a partnership:
  - Dynamic of personal relationships
  - Cost and time commitment of regulatory requirements to maintain business registration
  - Desire for control
  - Working capital required and available
  - Business's probability of liability
  - Income expectations
  - Tax impact
  - Need to obtain financing
  - Expectations for growth of business
  - Expectations for business after death or disposition by owner
  - Number of employees

### **10.10.3 ADVANCED DECISION-MAKING FOR SOLE PROPRIETORSHIPS**

#### **Additional Knowledge Expected of CFP Professionals**

- Explain circumstances that may cause a sole proprietorship to be terminated, such as:
  - Death of the sole proprietor
  - Incapacitation of the sole proprietor
  - Withdrawal of the sole proprietor
  - Bankruptcy of the sole proprietor
- Determine how each of these factors may impact the suitability of operating a business as a sole proprietorship:
  - Cost and time commitment of regulatory requirements to maintain business registration, where required
  - Desire for control
  - Working capital required and available
  - Business's probability of liability
  - Income expectations
  - Tax impact
  - Need to obtain financing
  - Expectations for growth of business
  - Expectations for business after death or disposition by owner
  - Number of employees

## 10.11 CONTRACTS

### 10.11.1 FOUNDATIONS OF CONTRACTS

#### Additional Knowledge Expected of CFP Professionals

- Define parties to a contract.
  - The offeror
  - The acceptor
- Define elements required for a contract to be valid and enforceable.
  - A valid offer
  - A valid acceptance
  - The intention to create a legal contract
  - Mutual consideration
  - Capacity to contract
- Explain when a verbal and/or written contract is in place between an offeror and an acceptor.
- Explain circumstances that may cause an offer to be terminated.
  - Revocation by offeror
  - Lapse
  - Rejection by the acceptor
  - Counteroffer by acceptor
  - Death or incapacitation of offeror or acceptor
- Define a minor for the purposes of law.
- Identify the age of majority for the different jurisdictions in Canada.
- Explain circumstances when a contract may be voidable, such as:
  - Contracts involving a minor
  - Contracts entered into under duress (including economic duress)
  - Contracts entered into under undue influence (actual or presumed pressure)
  - Contracts containing a misrepresentation
- Explain circumstances when a contract may be void, such as:
  - Contract that is contrary to a specific statute (illegal)
  - Contract that violates a public policy
- Explain benefits and risks of the approaches to drafting a contract.
  - Self-drafting
  - Drafting by a competent legal professional
- Explain how a contract may be terminated.

### 10.11.2 DOMESTIC CONTRACTS

#### Additional Knowledge Expected of CFP Professionals

- Define a domestic contract.



- Define independent legal advice.
- Explain the importance of each spouse having independent legal advice regarding a domestic contract.
- Explain how a domestic contract may be agreed upon.
- Identify that the format of an enforceable domestic contract varies across jurisdictions.
- Identify types of domestic contracts, such as:
  - Cohabitation agreements
  - Marriage contracts
  - Separation/divorce agreements
- Explain the purpose of each type of domestic contract.
- Explain that cohabitation and marriage contracts may contain covenants related to any part of the relationship.
- Identify covenants contained within a separation agreement, such as:
  - Promise to live separate and apart
  - Promise not to interfere in the life of the other party
  - Spousal support
  - Child support
  - Custody and access to children
  - Division of property
  - Duration of agreement
  - Terms for termination of agreement

### **10.11.3 PARTNERSHIP / SHAREHOLDER AGREEMENTS**

#### **Additional Knowledge Expected of CFP Professionals**

- Explain the purpose of a partnership or shareholder agreement.
- Explain risks associated with failing to have a current partnership or shareholder agreement.
- Explain advantages and disadvantages of the approaches to drafting a partnership or shareholder agreement.
  - Self-drafted
  - Drafted by a competent legal professional
- Explain areas that a partnership or shareholder agreement may address, such as:
  - Nature of the business
  - Methods of financing the business
  - Ownership structure of the business
  - Methods for transfer of shares (pre-emption rights)
  - Control and management of the business
  - Key roles and responsibilities of parties to the business
  - Dispute resolution mechanisms
  - Deadlock mechanisms

- Mechanisms for death, disability, divorce, default (insolvency), departure of a partner or shareholder
  - Business valuation mechanisms
- Explain strategies that may be facilitated through the structuring of a corporation's shares, such as:
  - Income splitting
  - Estate freeze
- Explain the purpose of a buy-sell agreement.
- Identify circumstances in which a buy-sell agreement may be suitable, such as:
  - Death of a business owner/key person
  - Disability of a business owner/key person
  - Departure of a business owner/key person
  - Dispute between business owners/key persons
- Explain clauses that a buy-sell agreement may contain, such as:
  - Eligible individuals who may purchase a partner's or shareholder's interest in the business
  - Triggers that will enact a buyout of a partner's or shareholder's interest in the business
  - The price or mechanism that will be used to value a partner's or shareholder's interest in the business
- Identify parties who may be included in a buy-sell agreement, such as:
  - Shareholder of a corporation
  - Partner in a partnership
  - Key employee
  - Sole proprietor
  - Family of a deceased business owner
- Explain benefits and risks that the parties to a buy-sell agreement may experience.
- Explain types of buy-sell agreements that may be used in a business, such as:
  - Cross purchase
  - Entity purchase or redemption
- Identify sources of funds that may fund a buy-sell agreement, such as:
  - Life insurance
  - Accumulated savings or personal funds
  - Financing options (promissory note, installment payments)
  - Installment payments
  - Sinking fund
- Explain benefits and risks to using each source of funds for a buy-sell agreement.
- Explain the tax treatment under each structure of a buy-sell agreement.
  - To the estate of the deceased

- To the individual shareholder
- To the corporation