

Management of Jointly Held Assets

This fact sheet provides information about what to expect when the Public Guardian and Trustee (PGT) is managing the financial affairs of an adult who has joint assets. The PGT makes an effort to keep joint owners included in decision making regarding joint assets, while considering the adult's financial and legal situation.

What is joint ownership?

Joint ownership is where two or more people own an asset (for example, a bank account, real property or a vehicle). There are two kinds of joint ownership in British Columbia:

- 1. Joint tenancy:** The joint owners hold an equal, undivided interest in the asset. When one owner dies, the title passes outside the deceased's estate to the survivor(s) by "right of Survivorship";
- 2. Tenancy in common:** Each owner has a separate interest in the asset which may be equal or unequal. When one owner dies, that owner's share forms part of their estate and does not pass to the surviving owner(s).

However, sometimes joint ownership is more complicated than this. The person who is named as

the joint owner of the asset may actually be holding it for somebody else (the "beneficial owner"). This depends on the intention of the original owner when the joint ownership was established. For example, an adult may add one of their children as a joint owner of an investment with the intention that the child not benefit from the investment. In this case, during the adult's lifetime the child is a joint owner "in name only" and the only "true owner" is the adult.

The three most common reasons for assets to be held in joint tenancy are discussed below. In every case, it is assumed that the joint ownership was established by the adult while capable and not subject to duress or undue influence. If this is not the case, it may be necessary to challenge the joint ownership and have the ownership of the asset returned to the sole name of the adult.

1. Ease of administration

The adult may have added the others as joint owners of an asset only to enable the joint owners to assist in the management of the asset for the adult. The adult did not intend that the asset would pass to the Surviving owners on the adult's death. In this situation, the PGT considers the adult to be the beneficial owner of 100%

of the asset. Now that the PGT has been appointed committee, joint ownership is no longer needed for ease of administration of the asset and the adult should return to being the sole owner of the asset.

2. Shared ownership and use

All owners contributed to and used the asset in the past. In this case, the PGT considers the adult's beneficial interest to be as shown on title. For example, if there are four joint owners, the adult has one quarter ownership. If any of the joint owners (including the adult) dies, their share is divided among the shares of the remaining owners. Now that the PGT has been appointed committee, the PGT will agree to the asset continuing to be managed in the same way it was managed when the adult was capable, unless this is no longer in the adult's best interest. In that case, the PGT will discuss alternate options with the joint owners.

3. Estate planning

The adult may have added a joint owner to an asset they owned with the intention that the asset will transfer to the joint owner upon the adult's death, but not intending that anyone other than the adult would benefit from the asset during the adult's life. In this situation, the PGT considers the adult to be the beneficial owner of 100% of the asset, but will usually allow the joint ownership to continue as it was created as part of an estate plan. The PGT will review the history of the management of the asset and determine if it is appropriate for the arrangement to continue. If the adult's circumstances change and the current management is no longer in the adult's interests or the joint ownership puts the asset at risk, the PGT will discuss alternate options with the joint owners. The PGT will consider the adult's current wishes and the views of involved family and friends, as appropriate.

Bank accounts and investments

Some financial institutions require written confirmation from all joint owners of the agreement between the joint owners on how the funds will be used or distributed. The PGT case manager will obtain this written confirmation from all joint owners. If the joint owners cannot

agree on the ownership of the funds, the financial institution may restrict access to the account and a court order may be required to resolve the dispute.

If a joint bank account or investment is allowed to continue to preserve the adult's estate planning and it is intended that the adult is the beneficial owner of 100% of that account during their lifetime, any income or capital receipts will be deposited and managed in the adult's PGT trust account.

Real property and personal effects

The PGT ensures the adult's real property is insured. Personal effects may be appraised and insured. Insurance arranged by a joint owner which is adequate to protect the adult's interest in the asset may be maintained; however, generally the PGT will arrange for insurance. PGT staff or contractors will visit real property owned by the adult periodically to determine its condition for insurance and property management purposes.

If the adult is living with their spouse in the real property, the PGT will generally continue any existing arrangements for property related costs and maintain jointly owned personal effects located at the property, subject to the adult's financial needs and legal responsibilities.

If the adult is not living in the real property, the PGT will consider the adult's ability to contribute to property maintenance costs, again subject to prior arrangements made when the adult was capable, and the adult's financial needs and legal responsibilities. Jointly owned personal effects will often be maintained in the property. The PGT will consult with the joint owner if the PGT considers it more appropriate to move, sell, give away, or dispose of the effects.

If the real property is to be sold, the PGT will work with the joint owner in all aspects of the process, although the PGT usually arranges and manages the sale. The PGT will work with the joint owner in determining whether to move, sell, give away, or dispose of any jointly owned personal effects.

Vehicles

The PGT determines if an adult's vehicle is being operated by the adult and is appropriately insured. The PGT will work with the joint owner(s) to determine whether to maintain or transfer the adult's interest in the vehicle.

Joint liabilities

The PGT reviews the adult's liabilities to determine if the adult is responsible for them and will discuss how to manage payments with any joint debtors.

PGT fees on jointly owned assets

The PGT charges fees on the adult's beneficial interest in a jointly owned asset.

Taxes and information sharing

The PGT is responsible for filing the adult's income tax returns. The PGT takes many things into consideration when filing the tax returns, including the impact on the adult's future care costs. Reporting in respect to jointly owned assets is coordinated with the joint owner(s).

Often the adult jointly owns assets with their spouse. The PGT will contact the adult's spouse to share information needed for filing tax returns, including social insurance numbers, birthdates and net income. The PGT will also consider income splitting and/or transferring of tax credits between spouses, based on the couple's needs and best interests.

Contact the Public Guardian and Trustee

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Toll free calling

Toll free calling is available through Service BC. After dialing the appropriate number for your area (see below) request to be transferred to the Public Guardian and Trustee.

VANCOUVER	604 660 2421
VICTORIA	250 387 6121
OTHER AREAS IN BC	1 800 663 7867
EMAIL	mail@trustee.bc.ca
WEBSITE	www.trustee.bc.ca

PGT Hours of operation Monday to Friday 8:30am to 4:30pm

More information

This fact sheet is intended as general advice and direction, to help you work effectively and successfully with the PGT. It is not legal advice about your specific situation. If you have any questions, please contact the adult's PGT Case Manager.