

WeirFoulds LLP



U.S.-Canada cross-border estate issues

Jane and Julie are a same-sex couple married in the province of Ontario in 2010. Jane is a dual citizen in Canada and the United States. Julie is a Canadian citizen. Their primary residence is in the state of Florida but Jane owns a cottage in Canada. The majority of their assets are in the U.S. Jane's family has never accepted her marriage.

- 1** Assuming Jane died without a will: Julie would like to claim against Jane's Florida estate for support. Knowing that may be difficult, she decides to bring an application for dependent's relief in Ontario. Can she do this?
Yes or No
- 2** Although Jane had no will, she made her wishes known that she wanted to be cremated and have her ashes sprinkled at the cottage property. Can this be done?
Yes or No
- 3** Assuming Jane did leave a will: Jane prepared a will in Florida naming her friend in Canada as estate trustee directing the cottage be held in trust for the benefit of Julie during Julie's lifetime. Will this trust be governed by U.S. laws?
Yes or No
- 4** Jane had a collection of firearms she maintained in Florida. In her will, she directs the firearms are to be sent to and maintained at her cottage property in Canada. What is the best way of fulfilling this direction:
 - (a) Send the firearms by United Parcel Service to the cottage property but send the ammunition by regular mail;
 - (b) Advise the executors of the estate to place the firearms in the trunk of their car and drive it to Canada choosing the least busy border crossing that they can find; or
 - (c) Contact the local police department, border services, and the Ontario Firearms Office to receive directions as to the correct method of transport and licensing and determine what permits must be acquired by the new owner.

QUIZ ANSWERS

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1 YES Given assets were owned by Jane in Ontario, Julie may bring an application for dependent's relief in Ontario. If Jane died without a will, Julie may be entitled to take as a spouse on intestacy and receive the preferential share of \$200,000 plus the balance of the Canadian estate. This might mean that Julie will have rights to the cottage in Canada.

2 YES The province of Ontario allows cremated remains to be scattered on Crown land and Crown land covered by water. This includes provincial parks, conservation reserves, and the Great Lakes. Individuals wishing to scatter cremated ashes on private land or private land covered by water may do so with the owner's consent. (For additional details, see the Ministry of Consumer Services web site www.sse.gov.on.ca.)

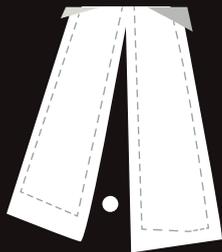
3 NO This will be a Canadian trust. It will be subject to Canadian tax laws, including the 21-year disposition rule.

4 (C) Transporting firearms and ammunition over state and other borders requires careful compliance. Seek clear direction from local authorities in jurisdictions to which the guns are to be transported. To transport firearms into Canada, you must declare them at the Canada Border Services Agency. You must produce documents to prove that you are entitled to possess a firearm. You must also ensure that they are not prohibited weapons. Also, ensure that the recipients have the proper licences and registration in place when the arms arrive. To do this, contact the chief firearms office of the applicable province.



YOUR RANKING?

- **One or less correct:** *might be time to brush up*
- **Two correct:** *not bad, but some further work needed*
- **Three correct:** *very well done, but not perfect*
- **Four correct:** *impressive*



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