# 20TH NATIONAL CONFERENCE

STEP Canada
ADVISING FAMILIES ACROSS GENERATIONS

**MAY 28-29, 2018**
METRO TORONTO CONVENTION CENTRE

**Release date: January 25, 2018**

# Preliminary Program

## MONDAY, MAY 28

### PLENARY SESSIONS: MONDAY AM

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| 7:15 – 8:00 | **Registration, Continental Breakfast and Exhibits** |
| 8:00 – 8:15 | **Opening Remarks** |
| 8:15 – 9:00<br>Session 1 | **International News**<br>The speaker addresses international news and its significance to STEP:<br>• What is happening around the world that is affecting the families served by STEP members: more than just tax transparency and compliance nightmares?<br>• Who is to blame?<br>• What can STEP members do to help their clients, their communities, and other STEP members in this challenging time?<br>• What role should STEP Canada play, and what responsibility should it bear in the years to come?<br>***Philip Marcovici**, TEP, Hong Kong: Offices of Philip Marcovici* |
| 9:00 – 9:30<br>Session 2 | **Practitioners' Update: US Tax Law**<br>The speaker summarizes the new US tax reform legislation (enacted in December 2017), particularly the provisions that affect private client Canada-US cross-border taxation and planning. He also summarizes the extent to which his previous planning recommendations should be modified. Primary focus is placed on the changes to US gift and estate taxes, the taxation of controlled foreign corporations in which US citizens own shares of private Canadian companies directly or through trusts, and the changes affecting the taxation of Canadian companies and partnerships that own US real estate investments.<br>***Ed Northwood**, JD, TEP, Buffalo: Ed Northwood and Associates* |
| 9:30 – 10:00 | **Health Break and Exhibits** |
| 10:00 – 11:00<br>Session 3 | **Practitioners' Update: Canadian Tax Law Update**<br>Pamela Cross and Paule Gauthier will review recent legislative changes, case law, Canada Revenue Agency (CRA) interpretations and other recent developments that are relevant for estate and trust practitioners. The session includes a discussion of the 2018 Federal Budget announcements.<br>***Pamela Cross**, LLB, TEP, Ottawa: Borden Ladner Gervais LLP; Deputy Chair, STEP Canada*<br>***Paule Gauthier**, CPA, CA, LLM (fisc), TEP, High Net Worth Planning Services, RBC Wealth Management Services* |
| 11:00 – 11:30<br>Session 4 | **Practitioners' Update: Trust and Estate Law**<br>The speakers discuss the most interesting recent cases from both common- and civil-law jurisdictions.<br>***Richard Niedermayer**, LLB, TEP, Halifax: Stewart McKelvey; Director at Large, STEP Canada*<br>***Elisabeth Evans-Olders**, LLB, TEP, Montreal: RBC Wealth Management, Estate & Trust Services* |

### LUNCHEON

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| 11:45 – 1:45 | **Luncheon Keynote Address TBA** |

| CONCURRENT SESSIONS: GROUP 1 MONDAY PM | |
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| 2:00 – 3:15<br>Session 5 | **Where Is Your Wealth? Structures for Cross-Border Investing and the Tax and Reporting Implications That You Are Not Thinking About**<br>The panel discusses a variety of tax issues that arise for Canadian residents who have assets and interests outside the country and for US citizens, whether resident in Canada or not, who have assets and investments in Canada. Using a series of hypothetical facts, the panelists focus on the Canadian and US tax rules and touch on issues arising in relation to investments in other countries. Topics related to Canadian residents include the following:<br>• the tax implications and reporting obligations of offshore investment structures (in the Cayman Islands, Ireland, and other jurisdictions);<br>• the tax implications of investing in US structures (limited partnerships, limited liability companies, and C corporations);<br>• the *Foreign Account Tax Compliance Act* and common reporting standard;<br>• US real estate investments; and<br>• US trusts that are deemed resident in Canada.<br>• Topics related to US citizens and residents include the following:<br>• reporting obligations and the taxation of interests in Canadian trusts;<br>• the tax implications and reporting obligations of offshore investment structures (in the Cayman Islands, Ireland, and other jurisdictions);<br>• the reporting of gifts made and received; and<br>• the tax implications and reporting obligations of Canadian corporate interests, including unlimited liability companies.<br>***Carol Fitzsimmons**, JD, TEP, Buffalo: Hodgson Russ LLP*<br>***Angela Ross**, LLB, TEP, Toronto: PwC LLP* |
| 2:00 – 3:15<br>Session 6 | **Insurance in Action in the Current Tax-Planning and Estate-Planning Environment**<br>Moderator: ***Glenn Stephens**, LLB, TEP, Toronto: PPI Advisory*<br>The 2017 and 2018 legislative amendments relating to the taxation of private company shares have significantly affected tax, estate, and post mortem planning for our clients. The panel considers how insurance can assist practitioners when dealing with this new reality. The panelists discuss transfers of life insurance in and out of corporations and provide an update on recent legislative changes affecting life insurance.<br>***Florence Marino**, TEP, Kitchener: Manulife Financial*<br>***Bryan McNulty**, LLB, TEP, Toronto: Equitable Life of Canada* |
| 2:00 – 3:15<br>Session 7 | **Administering and Accounting for Private Companies in Trusts and Estates**<br>Moderator/Speaker: ***Eric Hoffstein**, LLB, TEP, Toronto: Minden Gross LLP*<br>Increasingly, private companies form part of our clients' estates. These companies provide unique challenges for professional advisers who help clients plan for the succession of their corporate interests. The panel addresses questions such as who should serve as both a corporate director/officer and a trustee, how is it possible to deal with conflicts between the corporate duties and the fiduciary obligations of trustees, what are the options for removing cash from a company and redeeming shares, and how can beneficiaries' rights to information about the company best be managed. This panel is of particular interest to professionals who engage in planning with clients who own a family business.<br>***Rosanne Rocchi**, LLB, TEP, Toronto: Miller Thomson LLP*<br>***Fiona Hunter**, LLB, TEP, Victoria: Horne Coupar LLP* |
| 2:00 – 3:15<br>Session 8 | **Veiled Threats: Attacks on Trusts and Lifting the Trust Veil**<br>Moderator: ***Nathalie Marchand**, LLB, TEP, Montreal: Miller Thomson LLP*<br>Because trusts are a popular estate-planning, tax-planning, and asset-protection tool, they typically hold significant assets. It is becoming increasingly common for creditors and others to find ways to gain access to property held in trust. The panel reviews the common forms of attack on trusts, such as challenging their validity, setting them aside, alleging fraudulent conveyance, making family law claims, and lifting the trust veil. Three case studies are presented in which a trust is attacked by a creditor, a spouse, and a dependant. Panelists review recent case law throughout Canada and the world in both civil- and common-law jurisdictions and provide practical guidance for protecting a trust from a successful attack.<br>***Troy McEachren**, LLB, TEP, Montreal: Miller Thomson LLP*<br>***Clare Burns**, LLM, TEP, Toronto: WeirFoulds LLP*<br>***Tanya Butler**, LLB, PhD, TEP, Halifax: Cox & Palmer* |
| 3:15 – 3:45 | **Health Break and Exhibits** |

| CONCURRENT SESSIONS: GROUP 2 MONDAY PM | |
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| 3:45 – 5:00<br>Session 9 | **Individual Pension Plans**<br>Moderator: ***Robin MacKnight**, LLM, TEP, Markham: Wilson Vukelich LLP*<br>The panel reviews individual pension plans (IPPs) and the legislation that governs them, providing a numerical analysis of when IPPs may be advantageous for clients. Panelists also review a number of case studies, including situations involving owner-managers, incorporated professionals, and farmers.<br>***Lea Koiv**, CPA, CA, CMA, CFP, TEP, Toronto: Lea Koiv & Associates Inc.*<br>***Peter Merrick**, FMA, CFP, TEP, FCSI, Toronto: TheIceSolution.com*<br>***Trevor Parry**, LLM (Tax), CLU, TEP, Burlington: TRP Consulting Group* |
| 3:45 – 5:00<br>Session 10 | **Planning and Administering a Discretionary Trust: Absolute Freedom?**<br>Moderator: ***Paul Taylor**, LLB, TEP, Ottawa: Borden Ladner Gervais LLP*<br>The panel discusses key issues in administering a discretionary trust from a legal and practical perspective. The panelists address drafting considerations, including limiting benefits to capital or income beneficiaries or favouring these beneficiaries, providing flexibility, and allowing for 21-year planning. The panelists also discuss jurisdictional issues, such as the application of civil law, drafting to deal with accumulations and perpetuities issues, and the rights of beneficiaries. An additional discussion involves the administration of discretionary trusts, including encroachment; tax planning (particularly, 21-year planning, attribution, and using the capital gains exemption); the fiduciary duties of trustees when exercising their discretion; and determining the intention of the testator or settlor.<br>***Debra Thomas**, CIM, TEP, Vancouver: DLA Piper (Canada) LLP*<br>***Susan Stamm**, LLB, Toronto: Office of the Children's Lawyer* |
| 3:45 – 5:00<br>Session 11 | **Unique Estate-Planning and Administration Issues**<br>Moderator/Speaker: ***Richard Niedermayer**, LLB, TEP, Halifax: Stewart McKelvey; Director at Large, STEP Canada*<br>The panel addresses a number of issues in estate and trust planning and administration that are becoming increasingly common in Canada. Topics include the following:<br>• *Trust protectors.* What are they, where do they come from, and how are they used in Canada for domestic trusts, wills, powers of attorney, guardianships, and committeeships?<br>• *Dynastic/perpetual trusts.* Can they be helpful, and what are the drafting and administration challenges?<br>• *Powers of appointment.* What are they, when and how should they be used, and what are the planning and implementation pitfalls?<br>• *Pour-over wills.* Do they work in Canada, why use them, and what is needed to implement them properly?<br>• *Digital assets.* What planning and administration issues arise in this increasingly complicated and prevalent field?<br>***Kathleen Cunningham**, LLB, TEP, Vancouver: Executive Director, British Columbia Law Institute – Canadian Centre for Elder Law*<br>***Sarah Dykema**, LLB, TEP, Halifax: McInnes Cooper; Chair, STEP Atlantic*<br>***Kirsten Jenkins**, LLB, TEP, Vancouver: Norton Rose Fulbright Canada LLP* |
| 3:45 – 5:00<br>Session 12 | **UFOs: Unfamiliar Foreign Objects from Civil-Law Jurisdictions Landing in Common-Law Territory**<br>Moderator/Speaker: ***Marilyn Piccini Roy**, Ad.E., PhD, LLB, BCL, TEP, Montreal: Robinson Sheppard Shapiro, SENCRL/LLP*<br>The panel addresses the problematic issues of recognition, enforceability, and tax treatment that are encountered when institutions or devices, such as civil-law trusts, usufructs, substitutions, and foundations, are transported from a civil-law jurisdiction, where they are primary estate-planning tools, into a common-law environment. These institutions or devices may cause headaches, even when they are imported from a jurisdiction such as France into Quebec, because of different federal and provincial tax treatment. The panelists also expose certain private international law dilemmas created by matrimonial regimes and forced heirship rules.<br>***Margaret O'Sullivan**, LLB, TEP, Toronto: O'Sullivan Estate Lawyers LLP*<br>***Jeffrey Talpis**, LLD, LLM, Montreal: Université de Montréal* |
| **BLACK TIE GALA EVENT** | |
| 7:00 | Celebrate STEP Canada's 20th anniversary at REBEL, Toronto's premier waterfront entertainment complex. Enjoy the company of friends and colleagues in a state-of-the-art concert hall, inspired by opulence and avant-garde design. The evening features a networking reception with beverages and hor d'oeuvres, followed by a three-course meal with wine, entertainment, special remarks, and Canada's very own Jonny Harris as our emcee for the evening.<br>For convenience, coach buses have been arranged to transport guests from the host hotel, the Delta, to the venue, and return guests to the Delta at the end of the evening. Please note that gala tickets are not included in the price of conference registration and must be purchased at an additional cost. Tickets can be purchased online during conference registration or separately at a later date. Menus must be selected when tickets are purchased. |
| **TUESDAY, MAY 29** | |

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| 7:15 – 8:00 | **Registration, Continental Breakfast and Exhibits** |
| 8:00 – 8:15 | **Opening Remarks** |
| **PLENARY SESSION: TUESDAY AM** | |
| 8:15 – 10:00<br>Session 13 | **STEP Canada / Canada Revenue Agency Round Table**<br>Moderator: ***Christine Van Cauwenberghe***, *LLB, CFP, RRC, TEP, Winnipeg: Investors Group; Treasurer, STEP Canada*<br>Senior representatives from the Canada Revenue Agency answer questions prepared by trust and estate practitioners about cases and issues of concern to both practitioners and their clients.<br>***Michael Cadesky***, *FCPA, FCA, FTIHK, CTA, TEP, Toronto: Cadesky Tax*<br>***Kim G.C. Moody***, *FCA, TEP, Calgary: Moodys Gartner Tax Law LLP*<br>***Steve Fron***, *CPA, CA, TEP, Oshawa: Manager, Trusts Section, Income Tax Rulings Directorate, Canada Revenue Agency*<br>***Phil Kohnen***, *CPA, CMA, TEP, Ottawa: Manager, Trusts Section, Income Tax Rulings Directorate, Canada Revenue Agency* |
| 10:00 – 10:30 | **Health Break and Exhibits** |
| **CONCURRENT SESSIONS: GROUP 3 TUESDAY AM** | |
| 10:30 – 12:00<br>Session 14 | **A Deeper Dive into the New World of Private Company Taxation**<br>Moderator: ***Chris Ireland***, *CPA, CA, TEP, Vancouver: PPI Advisory; Deputy Chair, STEP Canada*<br>Since July 18, 2017, the taxation of private companies and their shareholders has been subjected to significant proposals in many key areas, the retraction of certain of these proposals, and legislation dramatically revamping, in particular, the income attribution and income-splitting rules. The panelists expand on the comments made in the conference's plenary tax update session on the proposals, and review the latest version of the rules in detail, providing a number of examples that illustrate the pervasive impact (intended and otherwise) of all of the changes.<br>***Maureen Berry***, *LLM, TEP, Toronto: Goodmans LLP*<br>***Kay Gray***, *CPA, CGA, TEP, Vancouver: Grant Thornton LLP*<br>***David Stevens***, *LLB, TEP, Toronto: Gowling WLG* |
| 10:30 – 12:00<br>Session 15 | **Charitable Foundations Today: Their Creative Establishment and Use**<br>Moderator: ***Susan St. Amand***, *CLU, FEA, ICDD, TEP, Ottawa: Sirius Financial Services*<br>This panel examines how to technically and creatively establish and use charitable foundations under the *Income Tax Act* and corporate legislation, including as regards control by the founders, operating in Canada and internationally, establishing the foundation before death or post-mortem through the graduated rate estate, new estate donation credit rules, and emerging and less conventional foundation activities and investments such as real estate and social enterprise, and will include comparisons with donor-advised funds. Also discussed will be the family dynamics involved, in a multi-generational and multi-jurisdictional context, in establishing philanthropy as a worthwhile sustainable endeavour.<br>***Daniel Frajman***, *BCL, LLB, TEP, Montreal: Spiegel Sohmer Attorneys; Chair, STEP Montreal*<br>***Florence Carey***, *LLB, TEP, Winnipeg: MLT Aikins LLP*<br>***Karen Cooper***, *LLL, LLB, TEP, Ottawa: Drache Aptowitzer LLP* |
| 10:30 – 12:00<br>Session 16 | **Medical-Legal Issues Involving Capacity, Estate and Trust Planning, and Litigation**<br>Moderator/Speaker: ***Kimberly Whaley***, *LLM, CS, TEP, Toronto: WEL Partners*<br>Dr. Adrian Owen, a British neuroscientist and author who currently holds the Canada excellence research chair in cognitive neuroscience and imaging at the Brain and Mind Institute, Western University, addresses the subject of executive functioning in the brain and tools indicative of capacity as they relate to executive functioning. Dr. Owen also conducts an audience interactive demonstration of a capacity assessment tool supported by clinical trials.<br>Dr. Kenneth Shulman, a psychiatrist at Sunnybrook Health Sciences Centre and a professor of psychiatry at the University of Toronto, examines capacity issues that are relevant to decisional capacity, the assessment process from a clinical perspective, and the role of the medical professional as an expert witness in trials involving decisional capacity.<br>Kim Whaley and Ed Esposto discuss the obligations of lawyers when capacity, vulnerability, and undue influence are at issue.<br>***Dr. Kenneth Shulman***, *Toronto: Affiliate Scientist, Evaluative Clinical Sciences, Hurvitz Brain Sciences Research Program, Sunnybrook Research Institute; Professor, Department of Psychiatry, University of Toronto*<br>***Dr. Adrian M. Owen***, *London, Canada Excellence Research Chair in Cognitive Neuroscience and Imaging, Brain and Mind Institute, Natural Sciences Building, Western University*<br>***Ed Esposto***, *LLB, TEP, Toronto: Aird & Berlis* |

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| **LUNCHEON** | |
| 12:15 – 2:15 | **Acknowledging Participation in STEP Canada** |
| **CONCURRENT SESSIONS: GROUP 4 TUESDAY PM** | |
| 2:30 – 4:00<br>Session 17 | **Cross-Border Planning After the 2017 US Tax Cuts and Jobs Act**<br>Moderator/Speaker: ***Leslie Kellogg**, JD, TEP, Buffalo: Hodgson Russ LLP*<br>The 2017 US *Tax Cuts and Jobs Act* ushers in the most sweeping US tax changes since 1986, necessitating a re-examination of many cross-border planning situations, such as US persons with interests in Canadian companies and trusts, Canadians with US business and investment activities, US real property ownership, and cross-border estate planning. The panel discusses the new normal in US tax planning and strategies for these and other common cross-border situations.<br>***Christa Walkden**, CPA, CA, TEP, Winnipeg: Grant Thornton LLP*<br>***Beth Webel**, CPA, CA, TEP, Oakville: PwC LLP* |
| 2:30 – 4:00<br>Session 18 | **High Net Worth Clients Investing in Canadian Real Estate**<br>Moderator: ***Aileen La Borie**, LLB, TEP, Vancouver: RBC Wealth Management Services*<br>The panel examines the various structures used across Canada for Canadians and non-Canadian residents investing in commercial and residential Canadian real estate, including holding corporations, partnerships, bare trusts, and individual ownership. Panelists review the structures best suited for developers and those renting residential and commercial real estate (including the purchase of placeholder homes for children). The panel also evaluates the income tax implications (including the audit risk), the land transfer tax implications (including the new foreign buyers and empty home taxes), and the estate-planning implications of the various structures.<br>***Susannah Roth**, LLB, TEP, Toronto: O'Sullivan Estate Lawyers*<br>***Susan Farina**, CPA, CA, TEP, Toronto: PwC LLP*<br>***Joyce Lee**, LLB, TEP, Vancouver: Deloitte LLP* |
| 2:30 – 4:00<br>Session 19 | **Winding Up a Complex Estate**<br>Moderator: ***Jody Hatto**, CPA, CA, TEP, Vancouver: Wild Hare CPA Inc.*<br>The panel discusses the process and timing of an estate wind-up as well as matters that can complicate it, such as the existence of non-resident beneficiaries and operating companies, and the need to hold security after clearance is received from the Canada Revenue Agency. The panel also comments on the importance of managing client expectations and addresses the challenges that arise as a result of the competing beneficial interests of beneficiaries and executors.<br>***Rachel Blumenfeld**, LLB, TEP, Toronto: Aird & Berlis LLP; Secretary, STEP Canada*<br>***Diane Tsonos**, LLB, TEP, Montreal: Richter LLP* |
| 2:30 – 4:00<br>Session 20 | **Powers of Attorney for Property and Personal Care: The Good, the Bad, and the Ugly**<br>Moderator: ***Corina Weigl**, LLB, TEP, Toronto: Fasken LLP*<br>The panel provides a comprehensive exploration of powers of attorney, including an update concerning the limitations imposed on powers of attorney for property and personal care. Panelists also examine predatory marriages: defining these unions, updating the status of the law as it relates to them, and discussing equitable remedies and public policy issues. In addition, the panel discusses whether and in what circumstances an attorney should stop or remedy a predatory marriage; separation, divorce, and capacity; scope of the powers bestowed on attorneys, particularly addressing religious restriction issues; preventive planning; and remedies in the event of abuse.<br>***John Poyser**, LLB, TEP, Winnipeg: Traditions Law LLP*<br>***Nancy Golding**, QC, ACIArb, TEP, Calgary: Borden Ladner Gervais LLP; STEP Worldwide Board Member*<br>***Albert Oosterhoff**, JD, LLM, Burlington: Professor Emeritus, Faculty of Law, Western University; Counsel, WEL Partners LLP*<br>***Charles Wagner**, LLB, Toronto: Wagner Sidlofsky LLP* |
| 4:00 | **20th NATIONAL CONFERENCE ADJOURNS** |

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**Janis Armstrong**
STEP Canada

**SAVE-THE-DATE FOR THE**
**21th STEP CANADA NATIONAL CONFERENCE**
**Thursday, June 6 – Friday, June 7, 2019**
**Metro Toronto Convention Centre**

# www.step.ca

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