

# A general introduction to private wealth and private client law in Canada

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Canada | August 5 2026

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### Introduction

The current Canadian wealth situation

Canada showed its resilience over the last year in dealing with the tariffs imposed by US President Trump, but it was not alone as most of the world has been in a similar situation in contending with the economic uncertainty they have engendered.

Canada, however, is unique as the United States is its largest trading partner. The post-war era saw Canada move away from its UK orientation to expanding its economic interdependence and integration with the United States based on friendship and good neighbourliness.

The risk of not having sufficiently diversified its relationships has been a wake-up call for Canada, and ultimately the Trump tariffs may prove to be the catalyst Canada needed to put itself on a different path and to push forward post haste to forge new trade and strategic relationships beyond those hitherto with the United States. Over the last year, the current government has spent tremendous energy in pursuing such new relationships as it looks to Europe instead of the United States. Prime Minister Mark Carney symbolically made his first trip as Prime Minister to France and the United Kingdom, and in describing the Canadian identity, said Canada is: "The most European of non-European countries."

Canada has set a course to engage in major nation-building capital projects to strengthen the country, remove internal trade barriers, improve transportation, and to protect its sovereignty by a huge increase in spending on defence. The government appears to be following-up its new strategy with the recent announcement at the time of writing, and after months of political wrangling, that it will build a largely government-backed new oil pipeline from Alberta to the Pacific coast, beginning as early as September 2027. The new pipeline will strengthen exports to Asia, decrease reliance on exports to the United States, and could make Canada a major global energy supplier. The cost is estimated at between C\$35.2 billion and C\$43.7 billion, and it looks like taxpayers will foot most of the bill, with little private investment.



New

These proposals all have one thing in common: they will require a mammoth increase in government spending that will put huge pressure on tax rates. The government has a delicate balancing act to deal with. It must help to grow the economy and incentivise entrepreneurs and the corporate sector that points to lower tax rates, and at up to an almost 55% top personal tax rate, there is little room to increase personal tax rates.

While these nation-building projects and initiatives to ensure Canada's economic and political sovereignty are imperative, private clients in Canada face a very uncertain future as they must factor-in Canada's struggling economy, a brain drain and its long-term prospects in their wealth-planning calculations. This uncertainty is destabilising, and many high-net-worth persons may choose to decamp entirely and become non-residents for tax purposes, resulting in a flight of capital.

Whenever there is uncertainty, professional advisers usually only become busier, and such is the case in private client practice, which in the Canadian context, also takes into account demographic changes and an ageing population, so has never been busier or more challenging.

Key factors in respect of private clients

Canada's constitutional system is a federal one, with a clear division of powers between different levels of government. Its primary legal heritage for all provinces and territories, with the exception of Quebec, is based on English common law; Quebec's is based on civil law.

From the private client perspective, Canada offers the stability of a highly developed legal and court system and charter-based human rights protections. Property law, including succession, is a matter of provincial and territorial jurisdiction. Many modern and innovative concepts affecting private clients have been pioneered or progressed ahead of other jurisdictions in Canadian law at both the federal and provincial and territorial level, including equalisation of property between spouses on marital breakdown and death, with several Canadian provinces and territories recognising marriage as an equal economic partnership, recognition of common law spouses' and same-sex spouses' property and support rights, same-sex marriage, medical assistance in dying and expanding legal definitions of who is considered a "parent", "child", "issues" and "spouse" to recognise modern family units.

Many Canadian jurisdictions have modern laws governing incapacity and substitute and supported decision-making to take into account the need for a modern infrastructure to deal with an increasingly ageing population. Canada's multiculturalism and relatively open-door immigration policy, which are required to maintain positive population growth, expand the Canadian economy and are increasingly geared to attracting more entrepreneurs and skilled workers, have together created and contributed to a dynamic, sophisticated, diverse and innovative Canadian culture. Post-covid-19 pandemic, Canada was set to bring in almost 1.5 million new permanent residents by 2026 to boost Canada's post-pandemic economic recovery; however, to address the current housing crisis and inflation this number has been scaled back as Canada faces a "population trap".

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