

What Happens to What we Have When we go?

You've heard the joke:
"You know it's really cold outside when a lawyer has his hands in his own pockets."

The joke is funny as long as you're not a lawyer!

What isn't a joke is that while our governments continue to wrestle with their huge debts, they are continuously looking for ways to get their hands deeper into our pockets. Five years ago probate fees on a \$500,000.00 estate amounted to \$2,500.00. Today, those same fees total \$7,000.00. An astounding 280% increase!

When you add the value of your house, your RRSP's, money in the bank, insurance proceeds and other incidentals, a \$500,000.00 estate is no longer science fiction.

Because of that, a good deal of our practice is helping people to either lessen or avoid these fees completely.

Probate means *prove*. So, to obtain *probate* is to obtain *proof* from the Ontario Court, that a person's Will is their last Will and Testament and that the person named as *Executor* is the person who has the authority to administer the estate. The *proofs*, of course, required to be produced to a purchaser of a major estate asset, such as a house, to a Bank before they release funds, or to a government agency before they re-register an asset. People will not pay any money to a person who is not authorized to receive that money. Therefore, a last Will and Testament needs to be proved to be so.

Incidentally, the words *probate* and *executor* have recently been retired and replaced with the term *Certificate of Appointment of Estate Trustee with a Will*.

Why use one word when nine are available!

The terms are the same and mean that the Court certifies that the Will is the last Will of the deceased and authorizes the Executor, or Estate Trustee, named therein to act on behalf of the estate.

It's during this process that these offensive fees are collected!

You can see, therefore, that if there is a way to avoid having to *prove* or *certify* a Will this will also avoid the payment of fees.

How is this done?

- **JOINT OWNERSHIP** Registering assets in joint names (not only you and your spouse, but your children as well) will permit that asset to flow to the continuing survivor without any provincial fees being triggered.
- **NAMED BENEFICIARY** By designating someone as the beneficiary of your RRSP, RRIF, and life insurance policies, these assets will likely pass to the people named without attracting provincial fees.
- **LIVING TRUSTS** By creating a formal trust during your lifetime, assets can be transferred to it. Since the trust now owns these assets, they do not attract provincial fees because they are not owned by you at your death. A trust always seems like a formidable concept but, in reality, is something quite uncomplicated and, in difficulty, is akin to incorporating a company.
- **REDUCING YOUR ESTATE SIZE** You can reduce the size of your estate through the making of gifts to children or charities. A charitable gift can offer tax advantages and still permit you to enjoy your gift or lifestyle while you are alive.

This can be an exciting time. New and inventive ways can be looked at to structure your asset ownership, and the transfer of that ownership to beneficiaries at the time of your death, *without spending a whole lot of money*. That is why we are here.

Trivial Pursuit

- 1) *The Law Society of Upper Canada, the governing body to which all lawyers in Ontario belong, was formed in what year?*
1971
- 2) *How many lawyers are there in Ontario today?*
27,000
- 3) *If I've named an executor in my Will do I need a Power of Attorney?*
Yes, definitely
- 4) *Who are these two people?*



- 5) *Can a deserting spouse still make a claim for support?*
Yes
- 6) *Can a spouse who has assumed his/her spouse's name at the time of marriage unilaterally revert to the use of his/her birth name?*
Yes
- 7) *Can a surviving spouse who has not been named as a beneficiary in the deceased spouse's Will assert a claim against the assets of the deceased?*
Yes
- 8) *What is a copyright?*
The right to copy. An owner is the only person who may copy his or her work or permit others to do so.
- 9) *What is black and brown and looks good on a lawyer?*
A doberman.

