

# 3 Secrets to Estate Planning

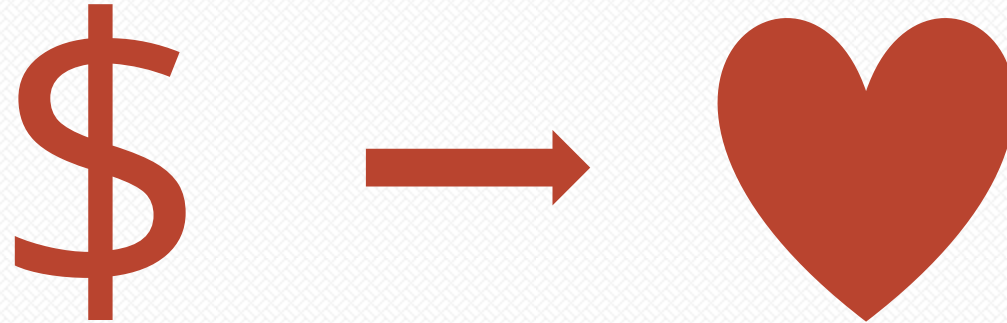


**Edward Olkovich Law**

Certified Specialist, Estates and Trust Law

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Money goes straight to loved ones

- ✓ Without delay
- ✓ Without extra costs

**SECRET 1**

**GET  
STARTED**

**SECRET 2**

**MAKE  
WILLS**

**SECRET 3**

**PROTECT  
YOURSELF**

# Definitions

## Will

Testamentary documents signed by persons to take effect only on death subject to court review. Wills name executors/[estate](#) trustees to manage estates, pay bills and distribute [assets](#) under wills.

## Probate

The process of having courts certify wills are valid. Probate establishes who administers estates and receive [will](#) benefits. Court application to probate wills are done in jurisdictions where the [deceased](#) resided. [Probate](#) also refers to the process of administering estates.

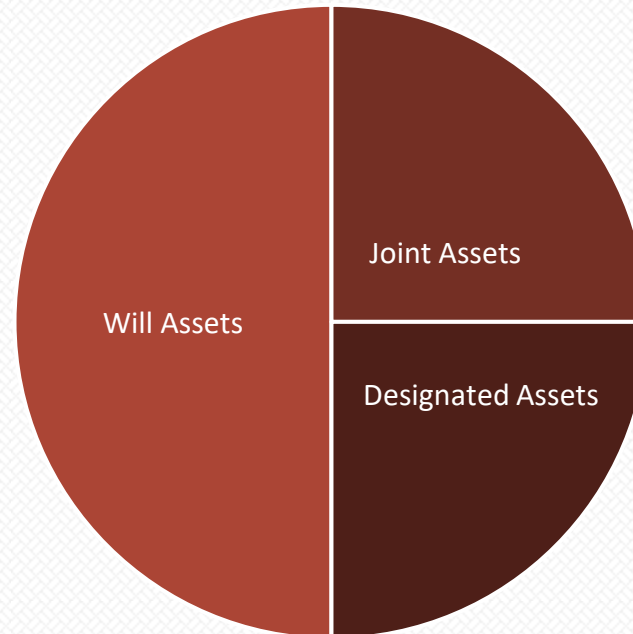
## Testamentary Trust

Trusts created by [will](#) terms on specific terms. [Executor](#) or a separate [trustee](#) can be appointed to manage [assets](#) on trust terms. [Discretionary trusts](#) may allow executors or trustees [discretion](#) in how [income](#) or capital is distributed from the trust.

# Secret 1

## Get Started Today

Identify your joint, designated or will assets:



# Estate Pie

**Joint assets:** surviving joint owners can inherit to save probate taxes

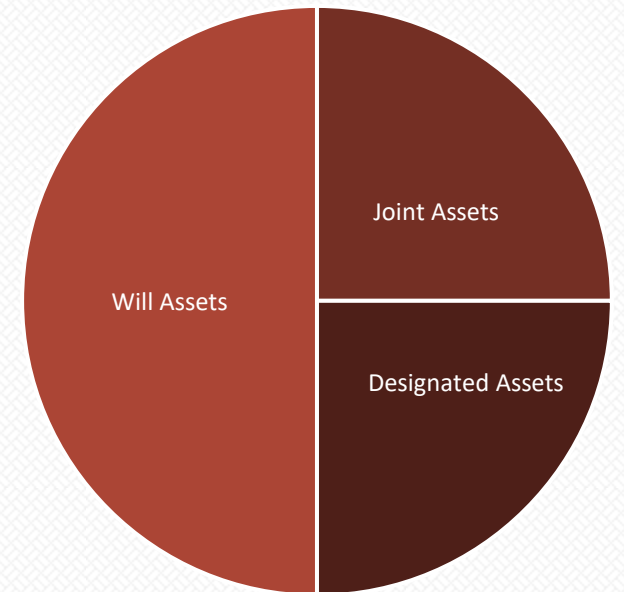
- identify

**Designated assets:** can bypass wills by contract or statute

- identify

**Will assets:** what is not joint or designated

- identify



# Dangers of Joint Assets with Children

The Six “D” Dangers:

1. **Disposition** - deemed disposition for *ITA*
2. **Debts** - creditor claims
3. **Divorce** - children’s spousal claims
4. **Disputes** - lack of control to sell
5. **Disaster** - child dies first, you have no plan
6. **Dumb** - lead to court challenges

# Secret ②

## Make Wills

Wills are essential for everyone. Invest in professionally-prepared wills.

Know three things to make a will:

- 1. Who is in charge?** (executor)
- 2. Who gets everything?** (beneficiary)
- 3. Who are your back-ups?** (executor/beneficiary)



# Gifts to Charity

**Not just for the wealthy...**

- Charities need support after you're gone
- Use the charity's legal name

# A. Reduce Tax Bites

- Capital gains, deemed disposition, rollovers
- EAT is only 1.5%
- Pay EAT to control your money
- Gifts to charity save money

# B. Choose Executors Correctly

- Trustworthy family comes first — may not charge fees
- Professional / Trust Company will charge 5%+
- Assess your long and short term estate needs
- Avoid conflicts of interest with blended families

# Executors Dangers

## Executor Dangers

- Executors have personal liability and are difficult to remove
- Compensation needs approval and is taxable income
- Liability and risk for unreasonable costs and mistakes

# C. Beware Beneficiary Dangers

- Legal claims include promises, spouses and dependants
- Married spouses have property rights to inherit
- Common law spouses have claims for:  
joint family ventures, unjust enrichment & constructive trust

# Secret ③

## Protect Yourself

- Expensive court guardianships are alternatives
- Plan for your needs today before it is too late
- Use separate powers of attorney for property and care
- Remember loaded guns and spare tires

# Continuing Power of Attorney for Property

- POA forms are subject to legal interpretation
- Avoid real estate fraud - have lawyer-prepared documents
- Institutions require legal opinions on POA
- Specify attorneys to obtain legal advice

# Power of Attorney for Personal Care

- Must designate agent to decide when you can't
- Discuss treatment options with your doctor
- Attorney is not a paid personal care worker



# Capacity Issues and POA

- Sign papers before you lose capacity
- Capacity is a legal term and task-specific
- Declining health can affect capacity
- Courts impose fiduciary duties

# Summary

- It pays to plan
- Estate planning is easy as pie but age-related
- Good advice is not cheap
- Business owners have more to lose

**SECRET 1**

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**SECRET 2**

**MAKE WILLS**

**SECRET 3**

**PROTECT YOURSELF**

# About Edward Olkovich

- ✓ Ed is a west-end Toronto estate lawyer and Certified Specialist in Estates and Trusts Law.
- ✓ He edits *Compensation & Duties of Estate Trustees, Guardians & Attorneys*. Ed has resolved estate disputes and probate problems since 1978.
- ✓ The founding chair of the original Ontario Make-A-Will campaign, Ed has toured Canada speaking about estate planning to public and professional audiences.
- ✓ See Ed's valuable glossary of terms , *Ontario Executors Glossary*, at [MrWills.com](http://MrWills.com).

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