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## Using Transfer on Death Designations for Estate Planning

An older client, when asked why she did not have a will, replied that if she wrote one, she would die. And as it turns out, she isn't the only one reluctant to deal with the idea. It's amazing how many people leave considerable estates to the whim of the courts.

The good news is you don't have to have a will to make certain major assets go to the individuals you would like to see have them. Financial accounts, and even homes and motor vehicles (depending upon where you live) can be passed on through an ownership form known as "Transfer on Death" should you encounter a very unfortunate event.

Transfer-on-Death (or its alternative for bank accounts, Payable-on-Death) is a means of designating beneficiaries to inherit your bank accounts, retirement accounts, securities, vehicles, and real estate (caution...not all states allow real estate TOD deeds) automatically, without probate.

### Advantages of Transfer-on-Death designations

- At your death, ownership passes immediately—and automatically—to the beneficiary you named.
- No will is required (in fact, transfer on death takes precedence over any terms of the will), there is no probate, and no public disclosure.
- You can typically name an alternate beneficiary if your first choice isn't alive at your death. (If you don't name an alternate, and your first choice doesn't survive you, state law determines who will inherit the property.)
- As owner(s), you retain full title and absolute control over the account or property, its use, and its distribution until death.
- Beneficiaries have no rights to or interest in the property during your lifetime.
- The Transfer-on-Death designation is revocable. Beneficiaries can be changed at any time at the owner's directive. There is no obligation for you to even provide notice to an individual that they are the designated beneficiary (although that can save confusion later).
- The account or property is transferred with all restrictions, easements, and debts in place, including mortgages.

To establish a payable-on-death bank account, all you need to do is complete a form provided by the financial institution, naming the person you want to inherit the money. Typically, if you have a joint account and the first account holder dies, the account becomes the property of the survivor. The POD or TOD designation takes effect only when the second account holder dies (check with your financial institution to make certain this is the way their TOD designation is structured).

Retirement accounts generally require you to designate a beneficiary when you first open the account. If you are married, your spouse has to sign off on beneficiaries other than themselves.

Brokerage accounts are governed by the Uniform Transfer-on-Death Securities Registration Act that lets you name someone to inherit your stocks, bonds or brokerage accounts without probate. You register your account ownership in what is called "beneficiary form," and the name of your beneficiary is part of your ownership registration.

In Arizona, Arkansas, California, Connecticut, Delaware, Illinois, Indiana, Kansas, Missouri, Nebraska, Nevada, Ohio, Vermont, and Virginia, car owners can name a beneficiary to inherit a vehicle. The state's motor vehicle department typically issues the forms to record beneficiary ownership right on the certificate of registration.

To designate a transfer-on-death (TOD) beneficiary for real estate, a TOD deed or beneficiary deed is recorded that doesn't take effect until your death. If you own real estate in any of the states listed below, you can use a TOD deed for the property. States have different requirements, so make certain your TOD deed complies with state law.

Alaska	Missouri	Virginia
Arizona	Montana	Washington
Arkansas	Nebraska	West Virginia
California	Nevada	Wisconsin
Colorado	New Mexico	Wyoming
District of Columbia	North Dakota	
Hawaii	Ohio	
Illinois	Oklahoma	
Indiana	Oregon	
Kansas	South Dakota	
Minnesota	Texas	

Much like wills, executing transfer-on-death instructions requires that the individual be mentally competent and not under duress. The individual must also have the power to revoke the designation.

Collecting property transferred at death generally requires the beneficiary to provide an official copy of the owner's death certificate and proof of identification. Some states include a specific affidavit form for real estate transactions.

While the original account owner is under no obligation to let anyone know that they are a designated beneficiary, it is helpful to leave a list of accounts and beneficiaries behind to make the process of claiming an inheritance a bit easier. Make certain to keep your beneficiaries up to date.

Transfer-on-death designations DO NOT eliminate estate taxes on the assets. The assets' value will still be counted among the overall estate assets to determine whether or not estate taxes apply. Beneficiaries may be required to pay estate taxes on their portion of the estate.

*This is a very limited overview of transfer-on-death applications. Transfer-on-death designations are not necessarily appropriate for everyone. Make certain you understand how the transfer will work and consult an attorney for answers to specific questions or complex situations.*

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