

STRATEGIES FOR AVOIDING PROBATE

When an individual passes away, their assets are often subject to the probate process — a legal proceeding where a court formally authenticates the last will and testament, the appointment of an executor, and the distribution of assets to intended beneficiaries. In the absence of a will, the court will rely on their state's probate laws. This process can be both time consuming and costly. Additionally, the details of the process, including the transfer of wealth, become public record.

Fortunately, with some strategic planning, it is possible to avoid or expedite the probate process, ensuring your heirs won't have to endure these legal proceedings while grieving. Below are a few options that may minimize or prevent the need for probate.

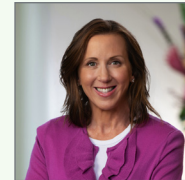
1. Estate Planning

Having a last will and testament is important, and a great way to direct the disposition of your assets at your death. However, on its own, it is not enough to avoid probate. A court will still need to supervise the probate process, which often involves lawyers and estate administrators. More importantly, a will may not include terms to govern the ongoing management of your estate.

Creating a trust in addition to your will is the simplest way to minimize the need for extensive probate and facilitate a smooth transition after your death. The type of trust and the governing provisions will depend on your circumstances, but it will involve a transfer of money, real estate, and/or property to the trust. At your death, assets in the trust will be governed by the terms of the trust and will not be subject to probate.

2. Joint Ownership

Depending on how it is titled, jointly owned property can be structured so that it automatically transfers upon the death of one of the owners to the survivor(s) without the need for court intervention. Various types of property can be held jointly, including real estate, vehicles, and financial accounts. There are several ways property can be titled, and each has different implications that should be considered, including the ability to sell or transfer your interest during your life or at your death. For more information on this, please see my article on [Titling Assets](#).



MELISSA JACOBY

Vice President, Wealth Strategist

STRATEGIES FOR AVOIDING PROBATE *continued*

3. Pay-on-Death/Transfer-on-Death/Beneficiary Designations

Many financial institutions allow account owners to complete pay-on-death forms that provide for the automatic transfer of the contents of an account to a designated person upon death. This form can be completed by the account owner and changed at any time. Upon the death of the owner the designated recipient would provide a death certificate and obtain immediate access to the account. It is important to note that the simplicity of this arrangement means that the assets in the account become the property of the recipient and have no limitations on their use.

Beneficiary designation forms allow for assets in retirement accounts, funds in pensions, and proceeds from life insurance to bypass probate and automatically transfer to the beneficiary upon death. Beneficiary designations are legally binding documents that may supersede terms of a will or trust. Therefore, these designations can and should be reviewed, updated, and modified after significant life changes, including marriage, divorce, the birth of a child, or changes in financial circumstances.

Key Takeaways

Before utilizing any combination of the options above, it is important to consider the nature and amount of your assets, your intentions, and the needs and circumstances of your beneficiaries.

While the idea of identifying and working with a reputable attorney might seem onerous, most often the investment made in basic estate planning will save surviving family members time, frustration, and expenses associated with the estate settlement process.

GW&K'S PRIVATE WEALTH MANAGEMENT TEAM

Our team of private wealth advisors can help you manage your assets and plan for the future. Our Private Wealth services include guidance on wealth transfer planning, lifestyle, and overall asset allocation. We encourage you to get in touch with us for more information about how we can help. Please visit our website.

DISCLOSURES:

GW&K is not authorized to provide tax, legal, or accounting advice. The information provided is for general informational purposes only and is not written or intended as an individualized recommendation or substitute for specific legal or tax advice, within the meaning of IRS Circular 230 or otherwise. Tax laws and regulations are complex and subject to change, which can materially impact investment results. The information contained herein is obtained from sources believed to be reliable, but its accuracy or completeness is not guaranteed. Individuals are encouraged to consult with a professional tax, legal or accounting advisor regarding their specific legal or tax situation.