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Transfer of Assets at Death

The provisions of a person's Will may not dictate how all of that person's assets will be transferred upon his or her death. Rather, an asset may be transferred at the owner's death as a result of how it was titled/owned or pursuant to a beneficiary designation. Such assets are referred to as non-probate assets. For example:

- Assets titled Joint with Right of Survivorship ("JTWROS") – at the first owner's death the asset passes to the surviving owner(s)
- Assets titled Tenants by the Entireties ("TBE") – available only to spouses, where one party's interest cannot be transferred to a third party without the other's consent, and at the first spouse's death the asset passes to the surviving spouse
- Assets titled Transfer on Death ("TOD"), Pay on Death ("POD") or In Trust For ("ITF") - typically bank or securities accounts or US government bonds, which pass to the TOD, POD or ITF beneficiary in accordance with the registered designation
- Assets subject to Beneficiary Designations – typically life insurance policies, retirement accounts (i.e., pension, profit sharing, 401(k), 403(b) and IRA accounts) or annuities, which pass to the last designated beneficiary on file with the account holder
- Assets held in trust, whether the trust is created by the owner for his/her own benefit (typically a revocable living trust ("RLT")) or by someone for the benefit of another – these assets pass pursuant to the terms of a trust document or pursuant to the exercise of a power of appointment (if one is granted in the trust document)

The provisions of a person's Will are relevant only to the transfer of assets titled/owned in that person's sole name and not subject to a beneficiary designation (unless the estate is the designated or default beneficiary). Assets that pass pursuant to the provisions of someone's Will are referred to as probate assets. Only if titled in the owner's sole name and bearing no beneficiary designation (except a designation of the owner's estate), such assets may include:

- Real estate
- Bank accounts
- Broker or Investment accounts
- Tangible personal property
- Business interests
- Amounts due but not received prior to death (insurance reimbursements, salary, dividends, vested inheritance, etc.)
- Beneficiary designation accounts payable to the owner's estate
- Tenancy in common ("TIC") interests