

PROBATE AVOIDANCE TECHNIQUES: These override provisions of a Will!

- i. Payable on Death (POD) Cash Accounts (Signature card at your bank(s) requiring on file information to whom payable)
- ii. Transfer on Death (TOD) Investment Accounts (ie: Edward Jones, Van Kampen, Merrill Lynch, etc. Documentation on account (on file with broker/investment advisor). If no agent, contact home office.
- iii. Transfer on Death (TOD) Quit Claim Deed for Home (usu. assisted by attorney; must have special language on the face of the Deed; transfers home only upon death so no present gift during lifetime; protects from probate but **does not** protect from long term care or nursing home)
- iv. Beneficiary Designations (on life insurance, annuities, IRAs, etc.). Important to list one or more contingent beneficiaries, and if you have children and intend grandchildren to inherit a deceased child's share of the proceeds, use the following language: "*in equal shares to my issue per stirpes.*"
- v. Jointly Owned Assets (husband and wife or adult owning accounts with one or more adult children—but then adult children do not have any legal obligation [but may have a moral obligation] to divide the money with other siblings, your children or beneficiaries after your death).
- vi. Giving away ("divesting") assets can create an ineligibility period during which time you will be denied Medical Assistance ("Title 19" or "Medicaid", which pays for long term care costs when certain conditions are met). An Elder Law attorney should be consulted **before** making any gifts.
- vii. Funded Revocable Living Trust ("Trust") protects assets from probate after death but **does not** protect assets being available for long term care costs.
- viii. Irrevocable Trust contains special restrictions, and certain assets are not recommended to be placed in the Trust (Ex: retirement assets). This Trust **does** protect assets from long term care costs and Estate Recovery after death. Once the asset is placed into the Trust, you cannot later transfer the asset back into your name and in some cases you pay "rent" to the Trust if your home is transferred to the Trust because you no longer own it. In some cases, this Trust requires filing an annual income tax return.

Provided Courtesy of:

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