

# OPTIONS FOR AVOIDING PROBATE

<b>Tool</b>	<b>How does it work?</b>	<b>What can be transferred this way?</b>	<b>What are the benefits?</b>	<b>What are the risks?</b>
<b>Outright lifetime gift</b>	One person gives money or property to another person without receiving anything in return.	Almost any account or property	The giver no longer owns the money, account, or property, so it will not go through probate at the giver's death.	The giver loses control of the account or property, and it is immediately susceptible to any creditors, lawsuits, or other claims against the recipient.  There could be gift tax consequences and a loss of certain tax benefits.
<b>Beneficiary designation</b>	The owner names an individual or entity, on the proper form, to receive the account or proceeds upon their death.	Most commonly, life insurance policies and retirement accounts	Completing the form is a simple process. The owner retains ownership for their lifetime and can change their mind at any time.	The life insurance proceeds or retirement account becomes the sole property of the beneficiary at the owner's death, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient.
<b>Pay-on-death designation</b>	The owner names an individual to receive the cash value of an account upon the owner's death.	Certain financial accounts, such as checking and other cash accounts	Completing the form is a simple process. The owner retains control of the account for their lifetime and can change their mind at any time.	The cash value of the account becomes the sole property of the beneficiary at the owner's death, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient.
<b>Transfer-on-death designation</b>	The owner names an individual who will receive the account in kind upon the owner's death.	Certain financial accounts, such as investment accounts and mutual funds	Completing the form is a simple process. The owner retains control of the account for their lifetime and can change their mind at any time.	The account becomes the sole property of the beneficiary at the owner's death, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient.
<b>Life estate deed</b>	The owner gives themselves the ability to continue enjoyment of the real property during their lifetime while naming an individual who will receive the property at their death.	Real property	Preparing and recording a deed is a simple process. The owner retains the right to enjoy and use the property for their lifetime.	The real property becomes the sole property of the named recipient at the owner's death, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient.  Additional paperwork and involvement by the future recipient will be needed if the owner changes their mind.
<b>Enhanced life estate deed (lady bird deed)</b>	The owner gives themselves the ability to continue enjoying and using the property with additional rights (e.g., right to mortgage, right to dispose of the property) for their lifetime while naming an individual who will receive the property at their death, if they still own it.	Real property	Completing the appropriate deed and recording it is a simple process. The owner retains control of the property for their lifetime and can even sell it if they want. It is also easy for the owner to change their mind.	The real property becomes the sole property of the beneficiary at the owner's death, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient.  This option is not available in all states.
<b>Beneficiary deed</b>	The owner names an individual who will receive the real property at their death.	Real property	Completing and recording the deed is a simple process. The owner retains the right to enjoy and use the property for their lifetime.	The real property becomes the sole property of the beneficiary at the owner's death, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient.  Additional paperwork and possible involvement by the beneficiary will be needed if the owner changes their mind.  This option is not available in all states.

(continued next page)

# OPTIONS FOR AVOIDING PROBATE

Tool	How does it work?	What can be transferred this way?	What are the benefits?	What are the risks?
<b>Joint tenancy with right of survivorship</b>	The owner adds a joint owner to the title of the account or property, and the survivor receives 100 percent ownership upon the other owner's death.	Real property and some accounts	The owner has an undivided interest and can use and enjoy the property according to their interest. Ownership transfers by operation of law. (With real estate, it may be necessary to record something, such as a death certificate, at the death of an owner.)	The joint owner becomes an owner immediately, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient.  The account or property could be seized during the original owner's lifetime.  There could be gift tax consequences.
<b>Community property with right of survivorship</b>	This option is used when spouses in a community property state own property jointly. The survivor automatically receives full ownership.	Real property in community property states	The owner has an undivided interest and can use and enjoy the property according to their interest. Ownership transfers by operation of law. (With real estate, it may be necessary to record something, such as a death certificate or affidavit of continuous marriage, at the death of an owner.)	The real property becomes the sole property of the surviving spouse, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient. It can also be given to a new companion.  This option is only available in community property states.
<b>Tenancy by the entirety</b>	Joint ownership between spouses with additional asset protection against a creditor of one spouse. Upon the death of one spouse, the survivor automatically receives 100 percent ownership.	Real property, typically, but some states may use it for other things such as stock certificates	This option protects against creditors of one spouse only. Ownership transferring to the surviving spouse is usually in line with the couple's wishes.	The property becomes the sole property of the surviving spouse, leaving it susceptible to any creditors, lawsuits, or other claims against the recipient. It can also be given to a new companion.  This option is not available in all states.
<b>Revocable living trust (RLT)</b>	An entity is created that owns or is named the beneficiary of a person's accounts and property. The entity is managed for the benefit of the original account or property owner and their loved ones.	An RLT can be used for most accounts or property. For some types of accounts and property, ownership can be changed to the trust; other types of accounts and property require that the trust be the beneficiary at the owner's death.	The owner continues to enjoy and use the property and has access to the money as trustee and beneficiary. There is a built-in plan if the owner becomes unable to manage their own affairs, as well as instructions for after the owner's death.	There may be a higher cost to set up an RLT than other options (but it typically avoids higher costs later on).  An RLT provides asset protection for the beneficiaries only, not the original owner.