

## **AVOIDING PROBATE**

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After the last article on probate, you are probably asking yourself, “Well, how do I avoid probate?” Here is your answer:

### **Joint Tenancy.**

Joint tenancy is a way to own property with another person so that when one passes away, the remaining joint tenant automatically inherits the entire property (without having to go through probate). But don’t get too excited about this form of ownership just yet. Adding another owner to property you already own, can create problems. The new co-owner can sell or borrow against his or her share, and that can have huge consequences on you. Also, there are negative tax consequences of giving appreciated property to a joint tenant shortly before death.

Joint property is not only for real estate – If you own a bank account with one other person, you probably own it in joint tenancy with that person. It is important to know that this other person has full access to the account – they can take out all of the money from the account and take a trip to Hawaii without your blessing. This may not be the outcome you are looking to have!

So think twice before you take on a joint tenant just to avoid probate.

### **Living trust.**

A revocable living trust is a popular probate-avoidance device. You create the trust by preparing and signing a trust document. Once the trust is created, you can transfer property to the trust (called “funding the trust”) without giving up any control over the trust property. When you die, the trust property can be distributed directly to the beneficiaries you named in the trust document without having to go through probate.

### **Beneficiary Designations.**

Assets such as life insurance and retirement accounts allow you to name beneficiaries who are to receive the proceeds upon your death. The proceeds of the policy won't go through probate unless you name your own estate as the beneficiary.

It is very important to make sure that the named beneficiaries on these accounts are current.

*The best way to make sure that your estate will not have to go through probate is to speak to an estate planning attorney to make sure that you have the appropriate vehicles set up for your various accounts. Don’t leave something like this up to chance.*