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ESTATE ADMINISTRATION and SETTLEMENT (Post Death)

Transfer on Death Plan

Are there probate issues that I should consider when choosing this plan?

If you happen to miss assigning a beneficiary to an asset, or, you are the victim of some types of personal injury cases, then there is going to be a probate estate. Some will choose to take that risk and not have a will. Others choose to have a will.

Do I need a will with this plan?

You are not required to have a will. Although in most cases, a will is recommended to cover any assets or property not designated with transfer on death or beneficiaries. The assets in a will do not avoid the probate process, but it does allow the beneficiaries named in the will to ultimately receive those assets.

Who handles final financial arrangements?

A family that is highly committed to a successful transfer on death plan chooses some trusted family members to manage a small account to wrap up their financial affairs. They do this verbally or in a personal note or request. This might involve creating an account that names this limited number of persons as beneficiaries with your personal instructions to use the funds to pay outstanding debts and to wrap up your personal affairs.

Probate Process with a Will

Does a will avoid probate in Missouri?

No. A common misconception is that having a will allows you to skip probate. A will is your personal instructions to the probate court. It gives instructions such as who you would like as your personal representative in Missouri, who receives money or property,

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when they receive the money or property, and who is named as a guardian for minor children.

How long do you have to file the will?

A will must be presented to the probate court within one year of the date of death. If the will is not filed within this timeframe, it may be ignored, and the estate may be treated as if the person died without a will (intestate), meaning the state's default laws will decide who inherits.

What are the duties of the executor?

In Missouri, the person named in the will is called the personal representative rather than an executor. Their primary tasks include:

- Collecting and inventorying all assets.
- Paying off valid debts and taxes (including the decedent's final income tax return).
- Notifying creditors and beneficiaries.
- Distributing the remaining assets according to the will's instructions.

How long does the entire probate process take?

For a full probate administration in Missouri, the process can take months to years to complete. The law requires a minimum six-month period for creditors to file claims against the estate after the first notice is published. Legal fees and court costs can be expensive.

Probate Process Without a Will

What happens if someone dies without a Will?

If you die and do not have a plan in place, anything that you own in your name only that does not have a beneficiary designated, must go through the probate court. The court will decide who will receive the assets based upon the state's intestate statutes.

Who will be in charge of the estate if there is no will?

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Since no executor was named in a will, the court must appoint a personal representative for the estate. The surviving spouse has the first right to serve in this role. If they can't or won't, the other heirs are next in line.

Missouri often requires the personal representative to post a bond to protect the heirs from potential mismanagement of funds.

What happens to minor children?

This is often the most difficult part of dying without a will in place.

Because there is no will to name a guardian, the court decides who will raise any minor children based on the "best interests of the child."

Children cannot legally own significant property. The court will appoint a conservator to manage their inheritance under strict supervision until they turn 18, at which point the child receives the full amount in a lump sum.

Trust Administration

Does a Trust avoid probate?

Yes, assets properly titled in the name of the trust avoid probate, which is a key advantage.

What are the roles of a trustee/trust administrator?

Their duties include identifying and managing trust property, collecting income, paying debts and taxes, and distributing assets to beneficiaries as specified in the trust document.

How long does the administration process take?

Trust administration is usually faster than probate. Standard trust administration can often be completed within a year, but more complex estates and tax filing requirements may extend the process.

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