



Estate Planning Documents and Techniques

Community Property Agreement (CPA)

Contract between spouses or Registered Domestic Partners that makes all assets Community Property. Typically directs that when first spouse/D.P. dies, survivor inherits all assets.

Joint Tenants With Rights of Survivorship (JTWROS)

Financial accounts, real property and titled personal property (cars, boats, mobile homes, etc. . .) can be titled as JTWROS. Titling must specifically state “rights of survivorship” (financial accounts often have this detail in the “fine print”). When an asset is JTWROS, the survivor(s) of deceased owner(s) take all interest.

CPA overrules JTWROS which, in turn overrules beneficiary/POD/TOD which, in turn overrules a will, trust or intestate succession

Beneficiary/Payable on Death (POD)/ Transfer on Death (TOD)

Applicable to financial accounts (including retirement accounts), stocks, bonds, life insurance and real property. Can list both primary and contingent beneficiaries.

Will, Trust or Intestate Succession

If none of above situations apply, asset will likely be controlled by a will, trust or through a priority of inheritance dictated by state law (intestate succession).



**These descriptions involve generalizations. Each estate is unique and individual circumstances may result in variance from the above descriptions.*



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Examples

THREE PRIORITY OF CONTROL AT DEATH SCENARIOS

1 A married couple executes a Community Property Agreement. One spouse dies with a will that gives \$50,000 to their child from a previous relationship. The deceased spouse has Washington real property and a bank account titled in their name alone. When the spouse dies, the Community Property Agreement immediately vests the surviving spouse with sole ownership of all of the deceased spouse's separate and community property. The Community Property Agreement "trumps" the will and the will's \$50,000 bequest is not fulfilled.

2 A single person dies with a will that leaves all assets to their child and nominates the child as the executor. The decedent's assets consist of a house, a car, and individually held bank and brokerage accounts. The brokerage account has a beneficiary/payable on death designation that names the decedent's sibling. The will controls all of the assets except the brokerage account.

3 A married couple who each have one child from a prior relationship both have wills that nominate each other as executor and leave \$10,000 to their respective children and the remainder to the surviving spouse. They do not have a Community Property Agreement. The couple kept separate finances throughout their marriage and each have multiple financial accounts in their separate names. One spouse has an account with an inheritance from their father that is titled as JTWROS with their child. The spouse with the inheritance dies. The surviving spouse opens a probate and transfers all assets except \$10,000 to their sole ownership. The executor also transfers \$10,000 to the deceased spouse's child under the dictates of the will.

