



Practical Considerations When You Lose a Spouse

Topics:

- Estate Administration
- Special Allowances for Surviving Spouses
- Estate Tax
- Your Will and Beneficiary Designations
- Income Tax
- Investments



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In our experience working with many surviving spouses, we realize how grievous it is to lose one's husband or wife. With this loss comes the need for administration of your spouse's estate, as well as sound decision making about your own estate plans.

In this short pamphlet we address some of the major issues that will confront you, including legal, financial, and tax matters. This information is meant to provide you with general knowledge to guide you during this difficult time.

Estate Administration

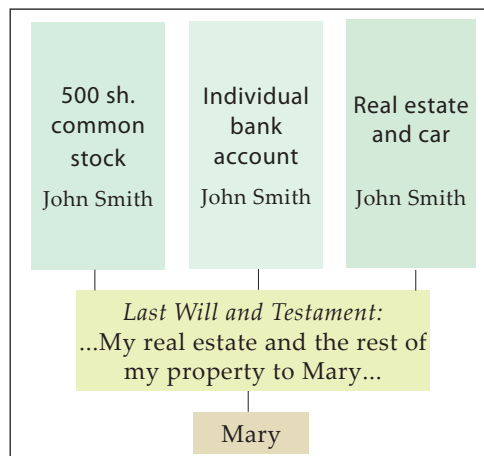
In the coming months, your spouse's name and social security number will need to be removed from all assets. These account registration changes are handled as part of the legal process of estate administration. How an asset title is changed depends upon whether it is a "probate" or "non-probate" asset.

Your spouse's probate assets are those assets that were held in his or her name only, with no beneficiary designation. Probate assets are transferred through the Probate Court according to your spouse's Will, and if there is no Will, according to state statute. Examples of probate assets include real estate, stock, and bank accounts titled in your spouse's individual name only.

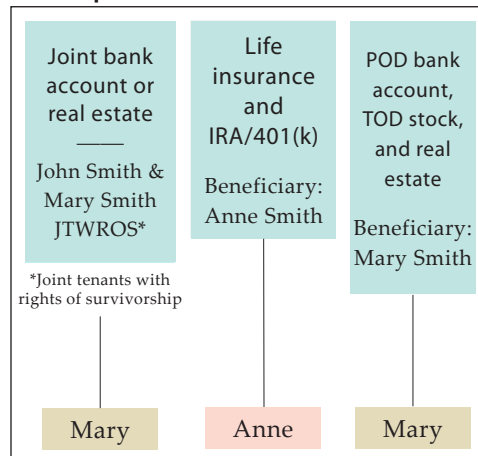
Accounts and property that you held jointly with your spouse are generally non-probate assets. A non-probate asset either has a beneficiary designation or is held as joint tenants with rights of survivorship. Non-probate assets are transferred by use of a death certificate and sometimes an affidavit or claim form. For example, a joint checking account can be transferred by the bank and does not require the involvement of the Probate Court. Assets with beneficiary designations can include life insurance, company pension plans, 401(k)s, IRAs, annuities, pay-on-death (POD) accounts, and transfer-on-death (TOD) accounts. With the proper paperwork,

these assets will pass directly to the named beneficiaries without Probate Court involvement.

Probate Assets



Non-probate Assets



Special Allowances For Surviving Spouses

Certain assets, such as vehicles, are an exception to the rules above. Even if a car was titled in your spouse's name alone, it can be transferred directly to you by filing an affidavit with the auto title office. Two vehicles (worth less than \$40,000 total) can be transferred this way.

Ohio rules also provide for smaller estates (up to \$100,000 in probate assets) to use a streamlined administration process called a "Relief from Administration" if all assets are left to the surviving spouse.

Estate Tax

The unlimited marital deduction for federal and Ohio estate tax is available to you as a surviving spouse. Thus there will be no estate tax on assets passing to you due to your spouse's death. At your death, however, there may be estate tax due.

Federal Estate Tax: For 2011-2012, the estate tax only affects estates with more than \$5 million in assets (\$10 million for a couple).

Ohio Estate Tax: For 2011-2012, the first \$338,333 passes without estate tax. The tax rate for assets above \$338,333 is 6% up to \$500,000 and then 7% above \$500,000. The Ohio estate tax has been repealed, and after December 31, 2012, no estates will be subject to this tax.

Your Will and Beneficiary Designations

Your own Last Will and Testament and beneficiary designations should be reviewed to be certain that dispositions at your death will be consistent with your wishes and that you have named as executor the person you want to handle your estate. It is common for a surviving spouse to want to delay making any changes to his or her Will, Power of Attorney, or Living Will and Health Care Power of Attorney until after the deceased spouse's estate is finished. However, it is usually best to change these documents promptly and to check beneficiary designations on insurance, IRAs,

pay-on-death accounts, and transfer-on-death assets as soon as possible.

Income Tax

Your income tax situation will change because your filing status will be "single" instead of "married," beginning with the year following your spouse's death. If your total income remains the same, the tax paid by a single individual (versus a married couple) may be substantially higher for three reasons: 1) tax rates increase at lower thresholds, 2) the exemption and standard deduction amounts are lower, and 3) Social Security becomes taxable sooner. A tax projection is helpful, so you will not be surprised when you file the year-after-death tax return.

Income tax ramifications may also affect how you invest your money. Even though you have no control over pension and social security income, you do have control over interest and dividend income, and you may be able to take steps to reduce your income tax liability.

Investments

Quick decisions regarding investments are usually not necessary or recommended. Before changing your investments, clearly define your financial goals. For most people, these goals are to take care of themselves and pass money to their heirs. Projections can help you determine how much you can afford to spend and how long your money will last. An important consideration is how much you will need from your investments on an annual basis. An investment review is beneficial in order to properly position assets to accomplish your goals.

We hope this informational pamphlet has been helpful. It provides a general review of considerations when you lose a spouse. It is not to be considered legal advice since every situation is unique and more complex than this pamphlet can address.

At Niehaus Law Office, we have served thousands of clients since 1978. For prospective clients with estate matters, we meet, identify the work required to administer the estate, and provide a quote of the total fee that we would charge for our services. If you would like to schedule a meeting, please contact our office.



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