

ASSETS OF A DECEDENT

- If decedent died in WV without a Will or the Will is not valid in WV, the assets in the decedent's name ALONE will pass to the closest living relatives under WV's laws of Intestate Succession (see website form FAMILY TREE for information of bloodline relatives). If the Will is valid in WV, the assets pass to the beneficiaries.
- Assets in the decedent's name ALONE are called PROBATE assets.
- BEFORE PROBATE BEGINS, NO assets in the decedent's name ALONE should be removed, sold, given out, etc. The law requires that the assets should only be kept safe and in good order until 1) probate has begun, 2) a Personal Representative has been appointed through the County Commission & 3) the proper documentation has been given to the Personal Representative as proof of authority over those assets.
- Per WV law, PROBATE assets should be used to pay the debts of the decedent during probate BEFORE distribution of remaining assets to the beneficiaries/heirs-at-law.
- **Using the information on page 2 and chart on page 3, you should take "inventory" of the decedent's assets. You are required to provide a fair market value of the asset using tools such as realtors, real estate appraisers (not mandatory), website real property valuations, Kelley Blue Book or NADA values, decedent's bank or other account statements, insurance policy paperwork, etc. ALL assets must be valued even if an estimate is necessary to begin the estate.** THIS INFORMATION IS REQUIRED so we can help the Personal Representative be properly appointed AND help them complete the required probate documents per WV Code.
- Many valuable assets of a decedent DON'T go through the terms of a valid Will OR to the heirs-at-law. These assets will pass to the surviving joint owner or to the Payable-on-death or Transfer-on-death beneficiary that was named on the deed, title, or account---whether or not the decedent had a Will. These assets are called NONPROBATE assets.
- **Here are some examples of NONPROBATE assets (probate not required to transfer the asset):**
 - a. Any **real estate property** (such as vacant land, land with dwellings, oil/gas/mineral rights) *with deed recorded prior to decedent's death*, **titled personal property** such as vehicles, **tangible personal property, banking &/or investment accounts, corporate stocks, savings bonds, that were transferred into a Living Trust prior to the decedent's death**
 - b. Any **real estate property** (such as vacant land, land with dwellings, oil/gas/mineral rights) *with deed recorded prior to decedent's death*, **titled personal property** such as vehicles (title or registration card lists 2 or more names with the word "or" between the names), **tangible personal property, banking &/or investment accounts, corporate stocks, savings bonds that were owned jointly with another living person (JOINT TENANCY/SURVIVORSHIP) * Deeds would say "joint tenants with rights of survivorship & not as tenants-in-common"***
 - c. Any **real estate property** (such as vacant land, land with dwellings, oil/gas/mineral rights) *recorded prior to decedent's death* **THAT IS UNDER A LAND SALES CONTRACT (LAND/HOME STILL OWNED BY DECEDENT BUT BUYER IS PAYING FOR THE LAND/HOME BEFORE A DEED WILL BE MADE TO THE BUYER)**

ASSETS OF A DECEDENT

- d. Any **real estate** property (such as vacant land, land with dwellings, oil/gas/mineral rights) *with deed recorded prior to decedent's death* **THAT WAS DEEDED TO A BENEFICIARY UPON DEATH (UNIFORM TRANSFER ON DEATH DEED/REVOCABLE TRANSFER ON DEATH DEED)**
- e. Any **Personal property** such as vehicles, tangible personal property, banking &/or investment accounts, corporate stocks, savings bonds, LIFE INSURANCE policies, **that were designated by the decedent to be transferred to a Payable-on-Death beneficiary (look for paperwork showing POD beneficiary)**
- **Here are some examples of PROBATE assets (PROOF OF PROBATE IS REQUIRED to transfer or gain access to the asset):**
 - a. Any **real estate** property (such as vacant land, land with dwellings, oil/gas/mineral rights) that is:
 1. In the decedent's name alone
 2. Deeded to the decedent and another person under terms of GENERAL WARRANTY &/or TENANTS-IN-COMMON only
 3. Inherited by the decedent with others such as siblings
 - b. Any **titled personal property** such as vehicles, ATVs, motorcycles, boats, campers/motorhomes, utility trailers that is:
 1. Solely titled/registered to the decedent or
 2. The title/registration card lists another name BUT the other person is already deceased
 3. The title/registration card lists another name with the word "AND" or the symbol "&" is between the names. *this situation means each person had ½ interest, so the full value would be halved*
 - c. Any **non-titled tangible personal property** that SOLELY belonged to the decedent such as: jewelry, guns, collectibles/collections, household items such as large & small appliances, large & small furniture, artwork, bedding, clothing, large & small hand tools/power tools, farm/yard equipment, livestock, etc. *If the Will made a specific bequest, that item should be valued separately. Otherwise, many times these items can be grouped together as "miscellaneous" and given an estimated value as if the items would be sold at a garage or estate sale or auction.
 - d. Any **monetary assets** that SOLELY belonged to the decedent such as savings, checking, money market, investment accounts (IRAS, CDs, Annuities), cash on hand/in wallet, coin collections, corporate stocks, savings bonds, LIFE insurance policies Payable to the Estate (or company requires "Executor papers" before issuing), profits from rentals, &/or refunds due to the estate such as from utility companies, credit card companies, nursing home accounts, etc.
 - e. Rarely there are CEMETERY PLOTS that were purchased by the decedent but were never used and need to be transferred to beneficiaries/heirs-at-law. You can contact the cemetery owner for confirmation that the plot(s) would need to be PROBATED and possibly also a current value.

IF YOU HAVE GONE OVER THE LIST OF PROBATE ASSETS AND DETERMINED THERE ARE NONE, PROBATE OF THE ESTATE "MAY" NOT BE REQUIRED AT THIS TIME—UNLESS THERE ARE OTHER REASONS TO PROBATE THE ESTATE

Use the Asset Chart on page 3 to help you identify, classify and value the decedent's assets

