



Harmony Wealth Strategies

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BUILDING AND SAFEGUARDING
YOUR FINANCIAL WORLD

Transfer on Death (TOD) Designation: Will Substitutes

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What is it?

By making a transfer on death (TOD) designation for securities (like individual stocks and bonds, mutual funds, or trading accounts), you will transfer ownership of those securities immediately at your death to the person you designated.

Example(s): *Matt's single largest asset is his stock in the National Tea Company. He is at death's door and wants to leave the stock to Carol, his closest friend. However, he fears that the stock may lose value quickly if recent rumors about National's tea harvest prove true. If he leaves the stock to Carol in his will, the stock may be tied up in probate and lose its value before Carol receives it. Matt registers the stock as owned by "Matt, transfer on death to Carol." At Matt's death, Carol is able to immediately take possession of the stock and sell it if necessary.*

If you didn't make a TOD designation for these securities, they would be subject to probate at your death and distributed according to your will or, in the absence of a will, as directed by state law. Note, however, that many states have not authorized TOD designations.

When can it be used?

Can be used only to transfer securities

Although referred to as a will substitute, a transfer on death (TOD) designation can be used only to transfer certain assets. Some states will allow you only to transfer securities, while other states allow TOD designations to transfer land, cars, and other assets.

Technical Note: *In most states, the TOD designation can be used to transfer individual stocks or bonds (whether there is a stock or bond certificate or not), your entire security account (including your reinvestment account and the cash balance in your brokerage account), or mutual fund accounts.*

Not recognized in all states

The TOD designation is not available for all assets in all states. What may be registered varies widely.

Strengths

Can help you avoid or minimize the expense of probate

Probate can be expensive, and the largest expense is generally the attorney's fees. The attorney's fees can be especially expensive if set as a percentage of the gross probate estate. If you could avoid probate with a transfer on death designation, your estate would avoid these fees.

Caution: *This strategy lets you transfer only appropriately designated securities or other assets, which will generally represent only a very limited portion of your estate.*

Minimizes delays in the transfer of property

Probate takes an average of 12 months and may last for several years. Transferring assets such as securities automatically by making a transfer on death (TOD) designation provides for a quicker, almost immediate transfer of these assets.

Discourages interference with your plans to distribute your property

A will is generally much easier to challenge than a transfer of assets with a TOD designation.

Circumvents some statutory limits on your power to transfer property

State law may limit your ability to leave property to charity. For example, some states invalidate any bequest to charity written within a month of your death. Other states won't let you to leave more than a certain percentage of your property to charity. These

laws may not apply to assets passed with a transfer on death designation.

State law may also force you to leave a certain percentage of your property to your spouse. In some states, these laws don't apply to assets passed with a transfer on death designation.

You retain control over the securities or other assets and can revoke your designation until your death

You can retain or sell the assets, manage them as you wish, or change your choice of recipient until your death. The person you designate has no right to the assets until you die.

Simple and inexpensive to create

Making the appropriate designation with the holder of the securities or other asset is generally a simple process.

Tradeoffs

Does not reduce estate taxes

Because the securities (or other asset transferred using a transfer on death (TOD) designation) will remain under your control until death in spite of the transfer on death designation, the value of the securities may be subject to estate taxes.

Does not avoid other costs arising at death

At your death, your estate will be responsible for your outstanding debts, expenses arising at death (such as funeral expenses or medical bills), and any estate taxes. In addition, state death taxes may be due, regardless of whether your property is subject to probate. Making a TOD designation does nothing to avoid these expenses or provide resources to pay for them.

Recipients of the property are not protected from your creditors

The probate process requires that all claims against the estate be presented within a brief period, preventing delayed claims against your estate and beneficiaries. However, a creditor may, depending on the state, be able to bring a claim against the recipient of any property that does not pass through probate for years after your death. Check your specific state's law.

How to do it

Verify that your state recognizes a transfer on death (TOD) designation

Designate securities to transfer on death

The person you work with to buy and sell securities (e.g., your broker, trading company, or mutual fund company) will have information on how to make a TOD designation.

Tax considerations

Income tax

The recipient's basis will be "stepped-up" (or "stepped-down") to the value of the securities (or other asset transferred using a transfer on death (TOD) designation) at the time of your death. A step-up reduces the resulting taxable gain if the recipient sells the securities.

Example(s): Bill paid \$100,000 for 100,000 shares in XYZ, Inc. in 1980 and designates them to be transferred on death to Steve. Bill dies in 1990, when the stock is worth \$500,000, and Steve receives the shares automatically. Steve sells the stock in 1992 for \$550,000. Steve is taxed on \$50,000 in capital gains (the \$550,000 sale price minus the \$500,000 he "paid" for the stock). If Bill had instead sold the stock before his death for \$550,000, he would have been taxed on \$450,000 in capital gains.

Caution: The stock's value of \$500,000 would still be included in Bill's gross taxable estate at his death.

Gift and estate tax

The value of the securities at the time of your death may be subject to estate taxes.

Questions & Answers

What types of property can be conveyed with transfer on death (TOD) designations?

TOD designations can be used to transfer individual securities (such as stocks, bonds, or mutual funds), or entire brokerage or investment accounts. Many states allow other assets to be registered and transferred on death as well.

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