

Simplify Estate Planning

by Naming Vehicle Beneficiaries

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If your state allows it, you may want to name a **transfer-on-death (TOD) beneficiary** for vehicles you own, such as cars, trucks, or small boats. This allows vehicles to be transferred to the beneficiaries you choose upon your death while avoiding probate.

Below are three good reasons to consider naming a TOD beneficiary:

- Property transfers directly to the beneficiary without the need for probate court approval – saving loved ones time and potential legal fees.
- You can set up a TOD beneficiary without the assistance of an attorney.
- You can change your mind at any time.

How does a TOD work?

In certain states, vehicle owners can register their cars and boats using a transfer-on-death (TOD) form provided by the state department of motor vehicles. The big advantage to naming a TOD beneficiary is that after the owner's death, no probate court proceeding is necessary to transfer the vehicle.

A number of states offer car owners the option of naming a beneficiary right on the registration form, making it a simple way to pass cars and trucks to beneficiaries. In California, Indiana, and Ohio, the beneficiary form is also available for small boats, and the rules are generally the same as those that apply to other motor vehicles.¹

Keep in mind, the beneficiary you name has no rights to the property as long as you are alive. You are free to sell or give away the car or name someone else as the beneficiary at any time.

The example below provides information on the state of Ohio's Bureau of Motor Vehicles (BMV) requirements. TOD requirements and procedures vary by state so be sure to check your state's department of motor vehicles website for more information.*

State of Ohio Transfer on Death (TOD)²

As the sole owner of a motor vehicle, watercraft, or outboard motor, an individual may designate a beneficiary or beneficiaries to an Ohio title with a signed and notarized Affidavit to Designate a Beneficiary (form BMV 3811) submitted to a County Clerk of Courts Title Office.

- The beneficiary may be an individual, corporation, organization, trust, or other legal entity.
- A replacement title will be issued with the TOD on record.

What Do I Need to Bring to the Title Office?

- Original Ohio title
- Certified copy of the death certificate
- Application for Certificate of Title (form BMV 3774)
- A government-issued driver license or identification card
- Payment for title fees

What if you own the vehicle jointly with another party?

In Arizona, Kansas, Missouri, and Nevada, if you own a vehicle with someone else, such as your spouse, you can still designate a beneficiary. However, the beneficiary will not inherit the vehicle until both you and the other owner have died.

In California, Connecticut, Indiana, and Ohio, transfer-on-death registration is limited to one owner. So, you may want to own the vehicle in joint tenancy with the other owner now, which will avoid probate at the first owner's death. Then, the surviving owner can designate a beneficiary to inherit the car without probate.

If you live in a community property state that allows TOD registration, such as Arizona, California, or Nevada, you'll want to obtain your spouse or registered domestic partner's consent before naming someone else as beneficiary.

In a community property state, your spouse may own a half-interest in a vehicle even if it's registered in your name. If you bought it with money you earned while married (or in a registered domestic partnership) it's considered community property. So, you and your partner own it 50-50 unless you have agreed in writing to the contrary. If the vehicle is community property and you want to name someone other than your spouse as the beneficiary, obtain your spouse's written consent and keep it with your title slips and other important documents so they can be easily located after your death.²

In the case of a divorce, the TOD designation may or may not be automatically canceled, depending on individual state laws. That's another reason why it's so important to review and update all beneficiary designations prior to and following a divorce.

What if you change your mind?

You can revoke a beneficiary designation at any time, but there are restrictions on how you can do it. You can either:³

- Sell the vehicle during your lifetime, or
- Apply for a new certificate of ownership that does not name a beneficiary or names a different beneficiary.

It's important to note that if you name someone as a TOD beneficiary and later leave the asset to someone else in your will or trust, the TOD beneficiary's claim will likely supersede that of an heir named in the will or trust.⁴ So, if you change your mind, be sure to update the certificate of ownership.

Transferring the title after the owner's death

When the owner dies, the vehicle belongs to the beneficiary listed on the certificate of ownership. The beneficiary takes ownership subject to any lien (legal claim) on it. For example, if the deceased owner still owed money on the car, the debt comes with the car.

To retitle the vehicle in their own name, the new owner must submit the following to the state motor vehicles agency in the state where the vehicle is currently registered and the TOD is in effect:

- An application for the new registration certificate

- The old certificate of ownership (if available)
- A death certificate to prove that the former owner has died

Once the new owner submits these documents and pays any required fees, the state agency will issue a new certificate of ownership. The new owner is free to keep, sell, or transfer the property as he or she sees fit.

Will the transfer be subject to inheritance tax?

Yes, since the transfer will only take place upon the death of the owner, the transfer will be subject to any applicable state inheritance tax. The inheritance tax will be assessed at the time of the death and will be based upon the vehicle's date of death value.

Additional Ways to Avoid Probate when Transferring Property

A POD, or Payable-on-Death, account is a bank or credit union account that designates a specific beneficiary who receives the account's funds directly after the owner's death, bypassing the probate process. The POD account is owned by one person (the owner) who has named another person (the beneficiary) to receive any money left in the account when the owner dies. A POD account may be a savings or checking account, or Certificate of Deposit (CD) at a bank, credit union, or savings association. The account owner maintains complete control of the account during their lifetime and may change the named beneficiary on the account at any time. To learn more about POD accounts, visit OhioBar.org.

To transfer a residential property titled in your name to a beneficiary, you may want to consider filing a Transfer on Death Designation Affidavit with the help of an attorney. When properly recorded, the affidavit permits the direct transfer of the described real property to the designated beneficiary or beneficiaries upon the death of the owner, thus avoiding probate. To learn more or to access forms, Ohio residents can visit the designated Fiscal Office for the county where they reside, either in person or online.

¹ <http://www.alllaw.com/articles/nolo/wills-trusts/tod-claim-vehicle.html>

² <http://www.bmv.ohio.gov/titles-transfer-death.aspx>

³ <https://www.nolo.com/legal-encyclopedia/naming-tod-beneficiary.html>

⁴*Ibid.*

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*TOD beneficiary processes vary by state. This content is provided for general educational purposes and is not legal advice. Please consult your attorney for state-specific requirements.

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