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Transfer on Death vs. Wills vs. Living Trusts

Benefits and limitations exist with different methods of transferring assets within estate plans. Included among the most common methods of asset transfer are Transfer on Death (“TOD”) designations, Wills, and Living Trusts. In consultation with an estate planning attorney, you should carefully consider your circumstances and goals in determining the best approach. Many factors must be considered, such as privacy concerns, tax implications, the degree of asset protection, and costs. The chart below seeks to identify some of the key distinctions among these transfer methodologies.

TOD	Wills	Living Trusts
<p><u>PROS:</u></p> <ul style="list-style-type: none"> Typically avoids Probate Court Potentially avoids delays in distributions or transfers <p><u>CONS:</u></p> <ul style="list-style-type: none"> Does NOT take effect until death NO incapacity planning NO tax planning NO asset protection NO creditor protection 	<p><u>PROS:</u></p> <ul style="list-style-type: none"> May minimize estate taxes Possible asset protection for children (from lawsuits, divorce, creditors) <p><u>CONS:</u></p> <ul style="list-style-type: none"> Does NOT take effect until death NO incapacity planning Requires Probate Court Attorney costs and court fees to Probate Delays in distributions until Probate completed Requires inventory and valuation of all assets Public disclosure of inventories and values in Probate Court Public notice to creditors Easier to challenge and contest 	<p><u>PROS:</u></p> <ul style="list-style-type: none"> Takes effect immediately Avoids Probate Court (delays, expenses) Maximum privacy Can address out of state property Incapacity planning May minimize estate taxes Asset and creditor protection available Potential protection of assets upon remarriage Options for property use and purchase Avoids family conflict Difficult to contest <p><u>CONS:</u></p> <ul style="list-style-type: none"> More front-end costs Need to retitle assets Takes time to design for preferences and instructions for incapacity