



# Navigating Estate and Trust Liquidity Issues Post-Death

Presented by:

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# Assets Come in Many Shapes, Sizes and Degrees of Complexity

- Cash
- Publicly traded Equities, Fixed Income Securities & Mutual Funds.
- Real Estate.
- Life Insurance.
- IRA's, 401k's, 403b's, pension plans, deferred compensation plans and other retirement savings vehicles.
- Private Equity and Hedge Fund Investments.
- Oil/Gas/Mineral Interests.
- Closely Held Stock/Partnership/LLC Interests.
- Notes/Mortgages.
- U.S. Savings Bonds.
- Tangible Personal Property.



# Finding and Collecting Assets



The fiduciary must **identify, locate, collect, secure, value** and **account** for every asset owned or controlled by the decedent at death. This can take a considerable amount of time.

# Assessing Liabilities: A Critical Fiduciary Function

- Caretaker claims.
- Attorney fees for actions **prior** to decedent's passing.
- Unpaid taxes at death.
- Federal and state estate taxes.
- Mortgages, liens and credit card balances.
- Medical expenses.



# Expense Management

- Funeral expenses.
- Expenses to maintain assets prior to distribution (e.g., house maintenance).
- What is “reasonable” compensation?
  - Sometimes defined by state statute.
  - More often not defined.
- What constitutes extraordinary fees?
- If you are a 1% beneficiary and fees are excessive by \$10,000 – is it worth raising the issue?



# Authority to Liquidate

Executor or Personal Representative Appointed by Will

Successor Trustee of Revocable Living Trust


Beneficiaries of Payable-on-Death (POD) or Transferrable-on-Death (TOD) Assets


Small Estate Affidavit





GETTING A HANDLE ON


## PAYABLE ON DEATH ACCOUNTS


 The common name for a Payable on Death account is a POD.


 A POD pays out money to beneficiaries only after the account owner passes away.



 Beneficiaries can pay for immediate end of life expenses like funerals or debts with POD proceeds.

 PODs can be created with any standard bank account like a checking, savings or CD.

 PODs bypass probate court, getting your beneficiaries money faster than going through a will.

 PODs trump any wills or other estate wishes you create, so keep your planning aligned.

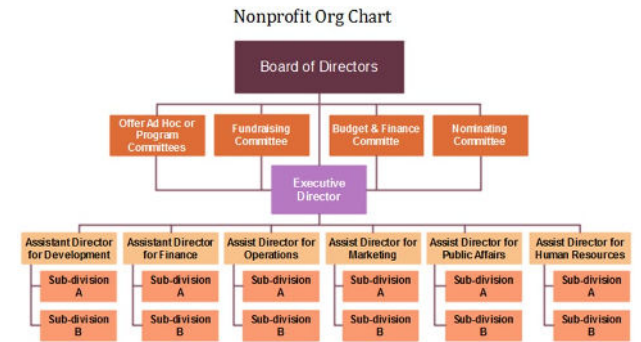
 PODs do not let you escape estate or inheritance taxes.





# Payable or Transferrable on Death Assets

- Distribution is subject to a beneficiary designation, the terms of which may be different than the terms of the will or the trust.
- The beneficiary or beneficiaries identified in the beneficiary designation(s) must claim these assets directly from the institution or custodian that holds the assets.
- All beneficiaries will need a certified copy of the death certificate.
- Charitable beneficiaries will need the Tax ID# for the charity and proof of the authority of an individual officer or employee of the charity who will claim the interest on behalf of the charity.
- Fiduciary needs to determine the date-of-value of the assets for estate tax purposes but will need assistance from the beneficiary.



## Total Liquidation of Estate and Trust Assets Post-Death – Why go to cash?

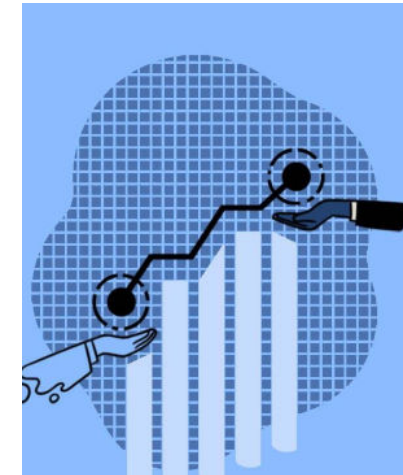
Easiest asset to manage

Basis step-up at death minimizes capital gains tax impact

Universally accepted for payment of debts, expenses and taxes

Minimize exposure to market volatility during post-death administration period

Most efficient means for making distributions and funding trusts

A magnifying glass is positioned over a bar chart with blue bars. The background is a light blue grid.

### Step-Up in Basis

*[step əp in 'bā-səs]*

The event in which the value of an asset is adjusted from its initial cost basis to its current market value upon the owner's death.

*We Still Accept Cash*



## Total Liquidation - Obstacles to Selling Estate and Trust Assets Post-Death

Resistance from beneficiaries

Some assets are hard to sell

Some assets may need to be  
distributed in-kind

Some assets need to be  
professionally appraised before  
they can be sold or distributed

Some assets may be subject to  
restrictions on their transfer or sale



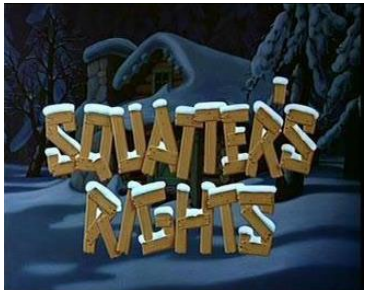
# Asset Valuation is Not an Exact Science

- FMV = price agreed to between a willing buyer & willing seller.
- Always get an **independent** appraisal if a party related to the estate/trust is buying the asset or taking their share in-kind.
- Ask for a copy of the closing statement on real estate.



"How much are you currently worth?  
Good question, let's see. You mean,  
aside from the sentimental value?"

# Asset Specific Liquidity Issues: Estate and Trust- Owned Real Estate - Sell or Distribute?

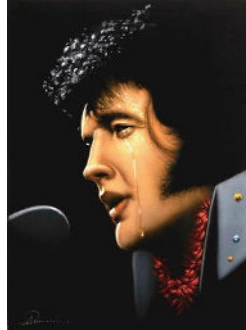


**Who pays the bills after someone dies?**

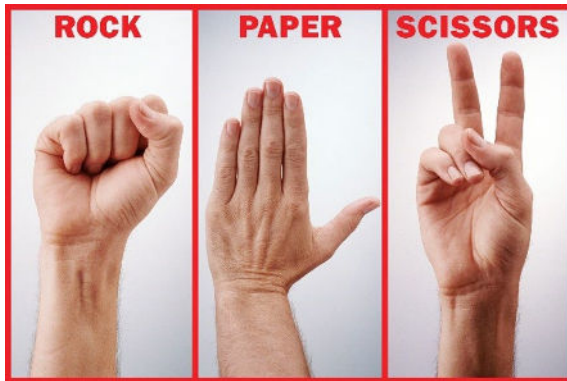
- Has it been appraised?
- Residential or Commercial?
- What does the will or trust say?
- Is there a mortgage?
- What are the costs of insurance, taxes, maintenance, upkeep, utilities and other related expenses?
- Does the property generate income?
- Is it occupied?
- Is there a beneficiary willing to accept it?



# Asset-Specific Liquidity Issues: Jewelry, Fine Art, Collectibles, Cars and Other Tangible Personal Property: Sell or Distribute?



# Asset Specific Issues: Jewelry, Fine Art, Collectibles, Cars and Other Tangible Personal Property - If it must be distributed, how will it be divided?





## Asset-Specific Liquidity Issues: Not very desirable and hard to sell

- Timeshares.
- Cemetery Plots.
- Vacant Lots in the middle of nowhere.
- Superfund Sites.
- Most things you need to feed.
- Some tangible personal property.
- Assets that can't be liquidated until the future (e.g., some REITs).



**Paws to Plan: Estate Planning  
for You and Your Pet**

# In-Kind Distributions to Charity



- Can the asset be sold?
- Would accepting the asset violate a charity's gift acceptance policy?
- What are the costs associated with maintaining the asset?
- Would retaining the asset be consistent with the charity's mission?

# Conclusion(s)

- ❖ Cash is still king
- ❖ When people die, they typically own a wide variety of marketable and non-marketable assets
- ❖ Fiduciaries must be prepared to deal with all the assets
- ❖ Beneficiaries must prepare for the possibility that their distributions may include assets that are costly to maintain and hard to sell



# Questions?

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