



ESTATE PLANNING

How jointly owned assets and beneficiary designations might fail your family

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Only 33% of Americans have a written estate plan



Many families assume that having **Pay-On-Death (POD)** or **Transfer-On-Death (TOD)** designations means their affairs are fully covered – but that’s not always the case.

Think You’ve Already Done Your Estate Planning?

If you’ve added loved ones as co-owners on your accounts or listed them as beneficiaries on everything, you’re not alone. Many people believe that doing this is “good enough” estate planning. But there are some important pitfalls you should know about.

Let’s walk through the risks of relying only on **Pay-on-Death (POD)** / **Transfer-on-Death (TOD)** beneficiary designations or joint ownership — and why these strategies can often backfire.



Section 1:

Adding Loved Ones as “Co-Owners” *What Could Go Wrong?*



1) No Help if You Become Incapacitated

Adding someone as a joint owner doesn't help if you become sick or injured and can't manage your affairs. Without a valid power of attorney or a trust, your family may have to go to court just to sell your home, access your funds, or make healthcare decisions for you.

2) Your Loved One's Debts Become Your Risk

If your co-owner has debts or gets sued, your accounts or property could be at risk because their name is on it too.

3) Only Delays Probate

Joint ownership might help avoid probate after one person dies, but not after the last owner passes. At that point, your loved ones are back in probate court.

4) You Give Up Some Control

Once someone else is on the account or deed, you often need their permission to make changes, sell, refinance, or separate them from an account to apply for public benefits. And some banks require in-person consent, which is tricky if your co-owner lives out of state.

3) Higher Taxes for Your Heirs

When someone inherits property, they usually get a “step-up” in tax basis, which can reduce capital gains taxes. But if you add them as a co-owner during your lifetime, that step-up might be lost, resulting in a bigger tax bill when the property is sold.

6) It's Considered a Gift—with Tax & Benefits Consequences

- If you give someone more than \$19,000 in value (2025 limit), you may need to file a gift tax return.
- Giving away ownership can also interfere with your ability to qualify for Medi-Cal/Medicaid or other financial help for long-term care.



Section 2:

Name Beneficiaries via POD/TOD *What You May Not Know*



“POD and TOD designations transfer your accounts directly to someone after you die..”
while simple in theory, they come with complications.

1) Doesn't Help if You're Incapacitated

Just like joint ownership, POD/TOD doesn't do anything if you're alive but can't manage your affairs.

2) May Accidentally Disinherit People

If one of your beneficiaries dies before, at the same time, or shortly after you, what happens to their share? Do their children inherit it? Or does it go to the other named beneficiaries? The answer isn't always what you think, and it depends on the financial institution's rules. POD/TOD designations can also result in someone you intended to disinherit receiving a windfall.

3) Updating Every Account Can Be A Hassle

Life changes—people pass away, relationships shift. Keeping multiple account updated with the right beneficiaries can be time-consuming and easy to overlook. It takes time for financial institutions to provide the required forms.



4) “I Trust Them to Share“ Is Risky

Naming just one person with the expectation they'll "distribute" the money to others fairly is risky:

- That named person may face legal or tax issues if they try to give the money to others.
- If they're sued, incapacitated, or pass away before distributing it, the money could be tied up in court and end up with unintended people.
- If the named person deposits the funds into a joint account with a spouse, the spouse may legally own it—even if that wasn't your plan.

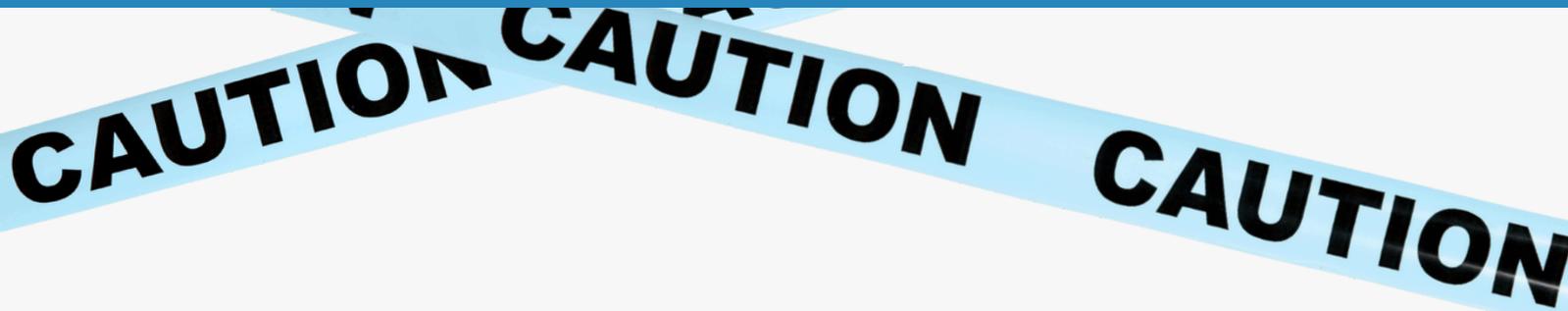
Loving your family means creating a plan that truly works when they need it most.



5) Minors Can't Inherit Directly

If a child inherits through a POD/TOD account, the court must appoint a guardian to manage the funds. And sometimes the surviving parent is an ex-spouse or someone else you may not have chosen to manage your children's inheritance. Worse, establishing a guardianship takes time and money, and your child may not get access when it's needed most.





6) Fraud or Bank Mergers Can Erase Your Plans

- If someone fraudulently accesses your account and it has to be closed and reopened, your designations may be lost without your knowledge.
- When banks merge, beneficiary designations don't always carry over.
- Some banks allow changes to beneficiary designations online, making fraud easier if someone has your credentials.

7) Lump Sums Can Be A Problem

POD/TOD accounts pay out everything at once. This can be harmful if your beneficiary is:

- Going through a divorce or bankruptcy or other legal problem
- Struggling with addiction or poor money habits
- Receiving government benefits and can't have more than \$2,000 in their name

8) Your Will May Not Matter

If your accounts and real estate pass by beneficiary designation or joint ownership, your Will doesn't control them. Even if your Will says "\$5,000 to my niece," she won't get anything unless there's money in the estate to fulfill that gift. (And there won't be if all the assets transfer according to the terms of the POD/TOD accounts.)

9) No Money for Funeral or Final Expenses

If all your assets pass directly to beneficiaries, who pays your bills? One person may get stuck covering final expenses out of pocket, creating tension and unfairness.





10) Retirement Account Beneficiaries May Face Tax Surprises

Inheriting an IRA or 401(k) can trigger unexpected income taxes, especially for non-spouse beneficiaries. A properly set up trust can help minimize taxes and protect these funds.

11) Assets Can Get Lost

If no one knows an account exists, it might never be claimed. Over \$58 billion in assets are currently held by states as unclaimed property, because loved ones did not know about the accounts. One family was surprised to find their father's long-term care policy tucked away in a safe after he had spent hundreds of thousands of dollars on long-term care!





Ready to Protect Your Family the Right Way?

Schedule time with an Estate Planning Attorney who will:

- ♥ Listen to your goals and help you clarify your priorities
- ♥ Explain your options in plain language, not just hand you papers
- ♥ Show you how to title your assets to keep your family safe and out of court
- ♥ Help you keep your plan current so nothing gets lost or forgotten

At Marsala Law Firm, we are here for you and your family

About Jeannette

Jeannette R. Marsala (she/her) is the founder of Marsala Law Firm, APC in San Jose. She is dedicated to guiding families through life's biggest transitions with care and clarity.

Her mission is simple: to help you protect the people and legacy you love most.



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