

What Steps Should a Surviving Spouse Take?



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In our experience working with surviving spouses, we realize how difficult the transition can be when one loses their partner. With this loss may come the need for administration of your spouse's estate, as well as sound decision making about your own estate plan.

If you have recently lost a spouse, we recommend setting an appointment a few weeks later to determine what steps must be taken to transfer assets out of your spouse's name and to answer questions that you might have about debts, taxes, and your own estate plan going forward.

Transferring Assets

In many cases, spouses hold most assets jointly in survivorship or have named each other as the primary beneficiary of individually-held accounts. If that is the case, you may only need assistance filing an Affidavit of Survivorship for real estate and vehicles.* There may, however, be assets in your spouse's name alone without a beneficiary, such as shares of stock or a small bank account. In those cases, or in the case of real estate that is held jointly as tenants in common, probate administration will be necessary (for more explanation see the article titled "What Assets Will Go Through Probate? (Probate vs. Non-Probate Assets)" on our website). Fortunately, Ohio offers abbreviated probate proceedings when the assets are under a specified amount.

*Vehicles are an exception to the general probate and non-probate rules. Even if a car was titled in your spouse's name alone, it can be transferred directly to you by filing an affidavit with the auto title office. Multiple vehicles (worth less than \$65,000 total) can be transferred this way.

Your Will and Beneficiary Designations

Your own Last Will and Testament and beneficiary designations should be reviewed to ensure that dispositions at your death will be consistent with your wishes. Depending on your overall estate plan, it may be wise to add beneficiaries to particular assets such as bank accounts, and to verify beneficiary designations on life insurance, IRAs, and other accounts.

Income Tax

For the year of death, you will still be able to file a joint tax return. In the year following death, however, your filing status will change — typically to "single." It may be wise to speak with your tax preparer to better understand how your tax liability will change given: 1) different tax brackets for single individuals; 2) lower exemption and standard deduction amounts; and 3) a lower threshold for when Social Security becomes taxable. A tax projection may be helpful, so you will not be surprised when you file the year-after-death tax return.

At Niehaus Law Office, we have served thousands of clients since 1978. For surviving spouses, we recommend setting a time to review the assets in your spouse's name, discuss what steps must be taken to transfer assets, and to answer questions that you might have about debts, taxes, and your own estate plan. If you would like to schedule an appointment, please contact our office at 513-251-4900.