

# Estate Planning Tips to Scoop Up for National Ice Cream Month

## Different Flavors of Transferring Your Money and Property Outside of Probate

It is summertime, and the living is easy.

Maybe you spent the day out on the boat, at the beach, or at home relaxing in your most comfortable lounge chair. As the sun sets, you have a hankering for a sweet treat and decide to get some ice cream—a no-brainer in July, National Ice Cream Month.

Do you want to eat what is in the freezer or go out? Should you order online or decide at the window? Cone or cup? Dairy or nondairy? What flavor are you craving?

You are facing what is known as the “ice cream dilemma,” which has become a metaphor for the difficulty of decision-making when there are nearly unlimited options.<sup>1</sup> This dilemma could help explain why only around one in three American adults has an estate plan<sup>2</sup>: They do not know where to start and are overwhelmed by the decision-making process.

So perhaps you start small, with a relatively easy decision, such as finishing the ice cream bars you have already bought or, in the case of your estate plan, choosing how to transfer some of your assets (your accounts, money, and property) outside of probate.

### Why Avoid Probate? The Cherry on Top

You have put together the basics of your estate plan, but something seems to be missing—that last little sweet detail that ties it all together and crowns your efforts, turning a few simple scoops into something special, satisfying, and totally shareworthy.

Skipping probate is the cherry on top of your estate plan. It avoids the court-supervised procedure of validating a will, settling debts, and distributing a person’s assets according to their estate plan (or, if no estate plan exists, according to state law). Probate can drag on for 6 to 18 months depending on the jurisdiction, tying up assets when families need them most. It also carries with it administrative and court fees (in some states up to 3–7 percent of the value of what you own at death), melting away wealth like ice cream in the heat. Still another downside of the probate process is that it is public, meaning that some of your personal and financial details become part of the public record.

Unlike the selection of 31 flavors at Baskin-Robbins, nonprobate transfers come in three basic flavors of passing assets to beneficiaries outside probate, where transfers are faster and more private.

### Joint Ownership: A Double Scoop

Assets held jointly with rights of survivorship automatically pass to the surviving owner upon death, bypassing probate.

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<sup>1</sup> Steven Rudolph, *Solving the Ice Cream Dilemma* (2011).

<sup>2</sup> Rachel Lustbader, *2023 Wills and Estate Planning Study*, Caring (Apr. 21, 2025), <https://www.caring.com/resources/2023-wills-survey>.

Joint ownership is like a double scoop on a single cone—great when things hold up, but if one scoop melts or starts to slip, the whole thing can topple. It can be sweet when both owners are aligned but risky when life gets messy and you are the one stuck holding the cone.

**Pros:**

- **Simple setup.** Creating joint ownership typically requires updating a deed or account ownership form at the relevant financial institution. It involves minimal cost and minimal paperwork.
- **Incapacity flexibility.** If one owner becomes *incapacitated* (unable to manage their affairs), the other retains full control of the asset without court intervention (like a guardianship or conservatorship). This arrangement can be useful for aging couples or an adult child and parent.
- **Automatic transfer.** Upon the death of one owner, the surviving owner automatically and immediately inherits the asset without delay or probate proceedings.

**Cons:**

- **Shared control and consent.** All owners must agree to certain decisions about the asset, such as selling real estate or, in some cases, liquidating and closing a joint bank account. This requirement can complicate things if there is disagreement or if one owner is incapacitated and has not granted someone the power to act on their behalf in a financial power of attorney.
- **Mutual liabilities.** The jointly owned asset is exposed to the financial risks of each owner, which could include creditors, lawsuit judgments, or divorce proceedings. (There is an exception for a special form of joint ownership exclusively for married couples called *tenancy by the entirety*, which provides unique legal protections and differs from other types of joint ownership.) Shared vulnerability puts the entire asset at risk.
- **Tax implications.** Adding a joint owner may be treated as a lifetime gift for gift and estate tax purposes. Depending on the value of the asset, adding a joint owner could trigger gift tax consequences (if the asset's value exceeds \$19,000 in 2025) and require a tax filing. This approach may also forfeit a basis adjustment at death, resulting in potentially higher capital gains tax if the asset is later sold by the joint owner and had increased in value since it was originally acquired.

**Designations: Estate Planning Sprinkles**

Naming a beneficiary or using a transfer-on-death (TOD) or payable-on-death (POD) designation is a straightforward way to transfer assets. These designations are widely available for brokerage accounts, bank accounts, insurance policies, and even real estate in some states. They are the sprinkles on an estate plan: easy to add but possibly the first part to fall off and get scattered if you are not paying attention.

**Pros:**

- **Easy execution.** Most institutions allow you (as the account owner) to add or update beneficiary designations by filling out a paper form. Some even allow online updates. No probate, no attorneys, and no costs.

- **Swift access after death.** After your passing, beneficiaries generally need to present only a death certificate to the financial institution or insurance company to claim the asset, avoiding court delay.

**Cons:**

- **No help during incapacity.** These designations take effect only when you die. They are of no help to you if you are alive but incapacitated. Additional tools, such as a financial power of attorney, are needed to address this gap.
- **Unprotected inheritance.** The named beneficiary will receive the asset outright, making it vulnerable to the beneficiary's creditors, divorcing spouse, or poor spending habits if not protected by other estate planning tools.
- **One-size-fits-all.** Beneficiary designations offer no built-in flexibility or control over when or how the inheritance is given to beneficiaries. There are no mechanisms to set conditions, stagger distributions, or protect the inheritance from potential mismanagement. Control provisions offered by other estate planning tools allow you to thoughtfully leave an inheritance to minor children, beneficiaries with special needs, or adult beneficiaries who have trouble managing their finances.

**Trusts: A Custom Sundae**

Trusts are the custom-made sundae of estate planning. They can be layered, made to order, and individually crafted to your specifications.

**Pros:**

- **Probate-free privacy.** Any assets properly titled in the trust's name or made payable to the trust at your death bypass probate, as smooth as premium ice cream, and remain private.
- **Incapacity planning.** A trust can be set up so that a successor trustee can immediately step in to manage trust assets for you and on your behalf without court involvement if you become incapacitated.
- **Customized inheritance.** Forget 31 flavors. Trusts are way more customizable than that. They can contain any number of specific instructions about distributions, such as for education, healthcare, or reaching certain milestones. Trusts can also provide for long-term management of assets for future generations or beneficiaries with special needs.

**Cons:**

- **Requires asset retitling.** For your trust to work properly, you must retitle your assets in the name of the trust or designate the trust as the beneficiary of each applicable trust asset. However, it is not exactly scooping your own ice cream, since an attorney can help with this process.
- **Administrative costs.** Because provisions may require ongoing administration fees, expect to pay more when going off menu and customizing your estate plan order with a trust.

**Do Not Let Your Estate Planning Goals Melt Away**

How you eat your ice cream and how you choose to set up your estate plan can say a great deal about your personality and what motivates you.

Are you what behavioral psychologist Jo Hemmings calls a biter (impulsive and confident), a nibbler (cautious and thoughtful), a licker (relaxed and methodical), or a guzzler (enthusiastic and impatient)?<sup>3</sup>

No matter how you prefer to approach estate planning, do not let the number of options cause brain freeze. We can help you create a plan that fulfills your craving for peace of mind, smooth transfers, and a legacy that is as sweet and satisfying as ice cream in the summer. Call us to create or update your existing estate plan.

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<sup>3</sup> Jonathan Chadwick, *Bite, Lick or Nibble? What Your Ice Cream Style Says About Your Personality*, Daily Mail (May 12, 2025), <https://www.dailymail.co.uk/sciencetech/article-14702571/Bite-lick-nibble-ice-cream-style-says-personality.html>.