

The background of the slide is a solid dark brown color with a pattern of lighter brown, stylized autumn leaves scattered across it. The leaves have prominent veins and are in various orientations, some overlapping.

Estate Planning & PROBATE

Real Property Transfers

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Controlling Your Legacy

- Will
- Durable Power of Attorney
- Durable Power for Health Care
- Medical Directives
- Community Property Agreement
- Transfer on Death Deed
- Joint Tenancy
- Beneficiary Designations

Non Deed Transfers

- Community Property Agreement
- Affidavit of Heirship and Non-Probate
- File a Will with Clerk of the Court

Community Property Agreement

May be affected by:

- Pre-Nuptial Agreements
- Revocation of Community Property Agreement
- Separate Property (gifts, inheritance or dissolution)
- Excise tax consequences

Affidavit of Heirship and Non-Probate

- Contains death certificate identification
- Declares medical/funeral paid; state and federal taxes paid or not owing; creditors paid or provided for
- All property in which Decedent had any interest was the community property of Decedent and Affiant, Decedent's community interest in which passed to Affiant on Decedent's death, Affiant being the sole and rightful heir of all of Decedent's property.

[statutory suggested (required?) language for excise tax exempt transaction]

Transfer on Death Deed

- Quit Claim Deed
- Title remains in Grantor until death; able to sell, borrow and rescind proposed transfer
- Grantee has no property rights or interests until death of Grantor
- Transfer occurs on Grantor's death acknowledged by recording of death certificate
- REETA not processed until Grantor's death

Probate Estates

- Value of Estate / Probate and Non-probate Assets
- Ownership of real property (if no surviving spouse) generally requires probate
- Probate property transfers require Deed / Bill of Sale

Testate Estates

- Will – with self-attesting affidavit
- Personal Representative / Letters Testamentary

Intestate Estate

- No Will
- Personal Representative / Letters of Administration
- RCW Chapter 11 – Intestate Succession

RCW 11.04.015

- Spouse / Partner
- Issue of Deceased
- Parents of Deceased
- Issue of the Parents
 - Grandparents

Degree of Kinship

Personal Representative's Deed

- Bargain and Sale Deed
- “Grantor for himself/herself and for his/her successors in interest does by these presents expressly limit the covenants of this Deed to those herein expressed and excludes all covenants arising or to arise by statutory or other implication.”
- Copy of Letters Testamentary or Letters of Administration with REETA

Real Estate Excise Tax

- Inheritance Exemption
 - Sale to Third Party
- Sale pursuant to terms of the Will

Recorded Instruments

RCW 65.04.045

Recorded instruments — Requirements — Content restrictions — Form.

(1) When any instrument is presented to a county auditor or recording officer for recording, the first page of the instrument shall contain:

(a) A top margin of at least three inches and a one-inch margin on the bottom and sides, except that an instrument may be recorded if a minor portion of a notary seal, incidental writing, or minor portion of a signature extends beyond the margins;

(b) The top left-hand side of the page shall contain the name and address to whom the instrument will be returned;

(c) The title or titles, or type or types, of the instrument to be recorded indicating the kind or kinds of documents or transactions contained therein immediately below the three-inch margin at the top of the page. The auditor or recording officer shall be required to index only the title or titles captioned on the document;

(d) Reference numbers of documents assigned or released with reference to the document page number where additional references can be found, if applicable;

(e) The names of the grantor(s) and grantee(s), as defined under RCW [65.04.015](#), with reference to the document page number where additional names are located, if applicable;

(f) An abbreviated legal description of the property, and for purposes of this subsection, "abbreviated legal description of the property" means lot, block, plat, or section, township, range, and quarter/quarter section, and reference to the document page number where the full legal description is included, if applicable;

(g) The assessor's property tax parcel or account number set forth separately from the legal description or other text.

(2) All pages of the document shall be on sheets of paper of a weight and color capable of producing a legible image that are not larger than fourteen inches long and eight and one-half inches wide with text printed or written in eight point type or larger. All text within the document must be of sufficient color and clarity to ensure that when the text is imaged all text is readable. Further, all pages presented for recording must have at minimum a one-inch margin on the top, bottom, and sides for all pages except page one, except that an instrument may be recorded if a minor portion of a notary seal, incidental writing, or minor portion of a signature extends beyond the margins, be prepared in ink color capable of being imaged, and have all seals legible and capable of being imaged. No attachments, except firmly attached bar code or address labels, may be affixed to the pages.

- **(3) When any instrument, except those generated by governmental agencies, is presented to a county auditor or recording officer for recording, the document MAY NOT contain the following information:**
 - (a) a social security number;**
 - (b) a date of birth identified with a particular person; or**
 - (c) the maiden name of a person's parent so as to be identified with a particular person.**

- **RCW 65.04.045**

Additional Concerns

- Out of State Property/Trust
- Ancillary Probate
- Tax considerations
- Legal implications
- Insolvency/Abatement

Become OK with saying “I don’t know”

- Controlling the legacy as intended by the deceased
- Knowing when to refer to attorney or accountant for advice
- Be familiar with REETA
- Do you want to explain to Realtors, Lenders and Heirs what went wrong to delay closing?

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