

# TEXAS ESTATE LIQUIDITY

## WHAT IT IS, WHY IT'S IMPORTANT AND HOW TO PLAN FOR IT

*If You Haven't Yet Created an Estate Plan,  
Be Sure to Discuss the Need for Liquidity with Your  
Estate Planning Attorney When You Do Create Your Plan*



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Despite knowing the importance of an estate plan, surveys show that as many as half of all Americans have yet to create one. If you are one of those who have actually taken the time to create your estate plan, ask yourself if your estate plan has enough liquidity? If you haven't yet created an estate plan, be sure to discuss the need for liquidity with your estate planning attorney when you do create your plan. To understand why estate liquidity is so important you need to understand exactly what estate liquidity is and what happens if your estate lacks liquidity.

## **WHAT IS ESTATE LIQUIDITY?**

Estate liquidity refers to the amount of cash available to your loved ones from your estate when you die. The concept of liquidity is something you are undoubtedly familiar with even if you don't use the term "liquidity". All assets have a value. The assets liquid value, however, is not always the same as its true value. To illustrate, imagine that your home is robbed two days before Christmas and all the Christmas presents you purchased your

children are stolen. You have less than 48 hours to replace those presents to ensure that your children have a happy Christmas. You own your home and have \$50,000 worth of equity built up in the property. You also own a decent stock portfolio that is worth around \$25,000. Your bank account,



however, only has about \$2,000 in it.

Clearly, your home is your most valuable asset, followed by your stocks and then your bank account; however, at the moment your bank account is your

most valuable liquid asset. Although both your home and your stocks are valuable, getting the value out of your stocks would take days, and as to your home it could take months. Whereas, the value of your bank account is immediately available and accessible. Therefore, your liquid assets at the moment only total \$2,000. The same basic concept applies to your estate at the time of your death. Unless you plan ahead your estate may include valuable assets but little or no liquidity.

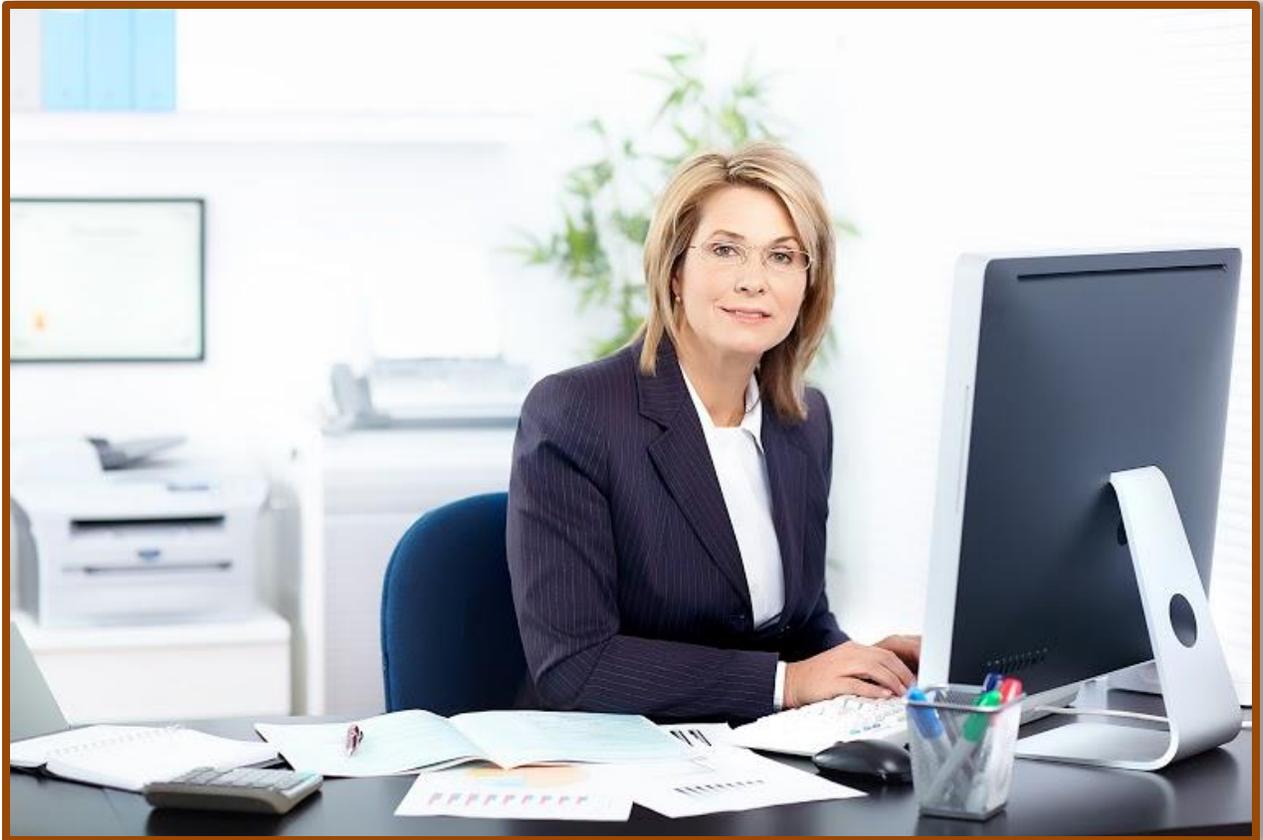
## **WHAT HAPPENS IF AN ESTATE LACKS LIQUIDITY?**

The reason estate liquidity is important has much to do with probate. Probate is the legal process required of most estates upon the death of the estate owner. Probate is required to ensure that all your estate assets are accounted for and valued and that all creditors of your estate are provided

the opportunity to file a claim before your assets are distributed to the intended beneficiaries or heirs of the estate. Most of your estate assets will become part of the probate process when you die. Even a relatively simple probate can take months to complete. More complicated probates can take years. While your estate is going through the probate process your estate assets can be inaccessible to the intended beneficiaries. An estate worth \$1 million doesn't do your family and loved ones any good if they cannot access the assets. If your family depends on your financial support imagine what will happen when you die, if no funds are immediately available? Your family won't be able to maintain their home, buy groceries, or even pay for your funeral if they don't have access to any liquid assets.



## WAYS TO ENSURE YOUR ESTATE HAS SUFFICIENT LIQUIDITY



Now that you understand what estate liquidity is and why it's important, you need to start thinking about how to ensure that your estate has sufficient liquidity. The key to creating estate liquidity is to incorporate assets into your estate that are not included in the probate process. Assets that pass outside of probate are made available to the intended beneficiary shortly after death instead of being held up by probate.

There are a number of estate planning strategies and tools that you can incorporate into your estate plan to create the necessary liquidity, such as:

- **Life Insurance** –life insurance benefits are normally not part of the probate of your estate. Therefore, they are typically released to the named beneficiary within a very short period of time after providing proof of your death.
- **Trusts** –assets held by certain types of trusts are not included in the probate of your estate because those assets are no longer legally owned by you. Assets you transfer into an irrevocable living trust, for example, become the property of the trust once transferred. Therefore, those assets can be distributed according to the trust terms without the need to wait out the probate process.

- **Joint Tenancy** – by properly titling property, such as your home, your interest in the property can transfer directly to the co-owner when you die, instead of your interest becoming part of your probate estate. Because Texas is a community property state, it is particularly important that you consult with your estate planning attorney to ensure that co-owned property is titled correctly if you want it to pass directly to the co-owner.

- **POD/TOD** -- certain types of accounts can be designated as “payable on death” or “transfer on death” accounts. Typically, financial accounts and securities can be changed to a POD or TOD account. This allows you to designate a beneficiary who will automatically become the owner of the account or asset when you die. The POD/TOD designation differs from co-ownership because the beneficiary has no ownership interest in the asset while you are alive. The beneficiary’s interest in the asset only begins when you die; however, using this designation avoids the need for the asset to go through probate, thereby providing liquidity.

With a better understanding of what estate liquidity is you should now be ready to sit down with your estate planning attorney and discuss ways to ensure that your estate has sufficient liquidity.

## **REFERENCES**

Legal Hotline for Texans, [How Property Can Be Owned in Texas to Minimize the Need for Probate](#)

Bankrate, [The Pros and Cons of a Funeral Trust](#)

LifeHealthPro, [Why You Should Keep an Eye on Estate Liquidity](#)

## About the Author



Stephen A Mendel

Stephen A. Mendel is a member of the American Academy of Estate Planning Attorneys, a national organization that serves the needs of legal professionals whose practices focus on estate planning and asset protection. The Academy fosters excellence among its members and helps them deliver the highest possible service to their clients. Stephen A. Mendel provides a broad spectrum of strategies and planning tools that can accomplish very diverse goals.

Mr. Mendel is an attorney who focuses a substantial part of his practice on estate planning. Mr. Mendel's guiding principle is to provide his clients with quality legal services tailored to each client's specific needs and goals.

Mr. Mendel has been providing quality estate planning for Houston and surrounding area clients for many years. His firm helps numerous people who are concerned about protecting their families from the devastating legal effects of disability and death. The aim of the firm is to help you accomplish your estate planning goals and to take the mystery out of the planning process.

Specific services include, but are not necessarily limited to, design and preparation of wills & trusts, asset protection, use of family limited partnerships as part of the planning process, buy-sell agreements, business counseling, and succession of closely held, family owned businesses.

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