

Transferring a Montana Vehicle Title After the Death of an Owner

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The paperwork to transfer a Certificate of Title, also known as the title, for a motor vehicle to the deceased's legal heirs depends upon the circumstances. The purpose of this MontGuide is to describe the process for common situations occurring in Montana.

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AFTER A MONTANA RESIDENT PASSES AWAY, there are many tasks to be completed to settle his/her estate. One question family members often ask is: *How is the title of a vehicle transferred to the person who inherited it?*

The term "appropriate fee" is used throughout the MontGuide because the actual amounts may be subject to change. More information about fees can be found on page 4.

Initial Steps

There are four initial steps for survivors to follow to activate the process of transferring the title of a vehicle to the person who inherited it.

STEP 1: Determine if a title is necessary for the vehicle.

Family members first need to determine if the vehicle owned by the deceased person is one that requires a title to be registered with the Montana Motor Vehicle Division (MVD). There are very few items that are not titled in Montana. Examples of vehicles requiring a title include the following:

- Motor vehicle (automobile, pickup, motorcycle, ATV, motor home); trailer; semi-trailer; pole trailer; camper; mobile home (unless attached to a foundation); motorboat; personal watercraft; sailboat; and snowmobile.

STEP 2: Determine how the title was "owned" by the deceased.

Family members need to find the original title to determine how the vehicle was titled. Was it issued only in the deceased's name (sole ownership) or were there other owners (joint ownership)? Was it registered in the name of a trust? Or, if the vehicle was used in a business, was it registered in the name of the business?

The title could be stored in the deceased's safe deposit box, a fireproof file box, a file drawer containing important papers, a shoe box at the top of the closet, or perhaps the glove compartment of the vehicle.

If the original title cannot be found, the Montana Driver Privacy Protection Act allows the MVD to provide title information. A family member, a Personal Representative (appointed by the district court to settle the deceased's estate), or someone who believes he/she has inherited a vehicle can complete Form MV210, Release of Motor Vehicle Records. The MVD will then provide the applicant with ownership information of the vehicle in question.

Form MV210 is in a format that can be completed online, then printed for the applicant's signature. The form provides checkboxes in which the person making the request indicates the type of information requested and intended use.

The person making the request signs a certification statement indicating he/she understands the provisions of the Montana Driver Privacy Protection Act. The form must be notarized unless the applicant attaches a copy of a state or government-issued photo ID such as a driver license, identification card, or passport (none of which can be expired for more than four years).

The completed form and check are sent to the Title and Registration Bureau. The fee varies by the type and number of records being requested. For example, the fee for requesting the last six years' record of vehicle information is \$25 per vehicle. The fee for requesting one other person's current vehicle information is \$6 per vehicle.

MVD also has an online Vehicle Search Service, <https://app.mt.gov/dojvs/public>, that allows for a search of a vehicle registered in the State of Montana. The applicant must provide his/her first and last name, Montana driver's license number and last four digits of his/her Social Security Number. The requestor must declare the specific use that legally allows him/her to receive the requested vehicle record. The fee (varies by the type and number of records being requested) for the online search can only be paid by a credit card.

The use of the online Vehicle Search Service is not recommended if the applicant is from out of state because the program links driver's license information of the person making the request to the Montana's driver license database.

If the original title can be found, the Personal Representative can sign off the title if he/she provides a copy of the certified letter of appointment. The surviving owner can use a death certificate to release the deceased's interest. And, any remaining owner can sign the title to release his/her interest if the vehicle is being sold. The personal representative could also provide a certified letter of appointment and use form MV7: Application for Replacement Certificate of Title.

STEP 3. Determine the legal heir(s) of the vehicle(s).

After the type of ownership held by the deceased person is confirmed, the next step is to determine the legal heir(s) of the vehicle.

- If the deceased person owned the vehicle with another individual, his/her ownership automatically ceases upon death and the survivor becomes the sole owner.

Example 1: Eric Smith and Julie Smith owned an SUV that was titled in both of their names. When Eric died, Julie became the sole owner of the SUV.

- If the deceased person owned the vehicle with another individual, but left the vehicle in a written will to a third party not listed on the title, that provision in the will is not enforceable. The ownership of the vehicle automatically transfers to the surviving joint owner.

Example 2: Donna and Jim titled their four-wheel drive truck in both their names. Two years later, Jim wrote a will in which he left the truck to his son from a prior marriage. After Jim's death his son did not receive the truck. Donna automatically became the owner because the truck was in both her and Jim's names. Jim's provision in the will leaving the truck to his son was not enforceable.

- If the deceased person was a sole owner who died with a written will that had been validated by the district court, the Personal Representative transfers the vehicle to the devisee (legal term for a person who inherits under a will).

Example 3: Joe Lind left his motor boat to his grandson Blake in a written will. The Personal Representative transferred the boat to Blake, the devisee.

- If the vehicle was titled in the name of a trust, the trustee distributes the vehicle to the beneficiary listed in the trust document.

Example 4: Erik Peterson, age 17, was listed as the beneficiary of a snowmobile that was titled in the name of the Peterson Family Trust dated January 4, 2016. The trust document instructs the trustee to deliver the snowmobile to Erik when he reaches the age of 18.

- If the deceased person was the sole owner of the vehicle and died without a written will, ownership of the vehicle passes to his/her heirs by Montana intestacy statutes outlined in Table 1 of the MSU MontGuide, *Dying without a Will in Montana: Who Receives Your Property (MT198908HR)*. An MSU Extension interactive website also provides this information (www.montana.edu/dyingwithoutawill/).

Example 5: Bernie Wilson died without a written will and had an automobile titled in her name only. Under the Montana Uniform Probate Code, Bernie's husband is the priority heir, not her three children or her parents.

STEP 4. Complete the Transfer Paperwork:

After the legal heir(s) of the vehicles are determined, the final step is to complete the appropriate paperwork with the Title and Registration Bureau of the Motor Vehicle Division.

Motor Vehicle Division (MVD): Transfer Process and Forms

The specific paperwork required by the MVD to transfer title from a deceased owner to his/her legal heirs depends upon how the vehicle was titled and the dollar value of his/her estate. Situations A – E provide the processes for common circumstances occurring in Montana.

Situation A: What if a vehicle is titled in the name of a deceased person (sole ownership) and his/her estate is valued at \$50,000 or less?

A Personal Representative is not required to be appointed by the district court to administer an estate valued at \$50,000 or less. An heir who becomes the legal owner should complete Form MV12, Application for Title of a Vehicle by Right of Survivorship.

The following information about the vehicle must be provided on the form: year; make or manufacturer; model; body style/length; ton (weight); identification number; and title number. The heir must also include his/her driver's license number; federal employer identification number; tribal identification; or corporate identification number.

A death certificate does not have to be included with the form. However, the heir must report the deceased's date of death along with the city, county, state, and zip code where he/she died in an Affidavit of Death. An heir must certify that the vehicle was not left in the deceased's written will to anyone else other than the signer. Or, if the deceased person did not have a written will, the heir must certify by signing the form that he/she is entitled to the vehicle under Montana's intestacy statutes.

The heir submits the completed Form MV12 and a check for the appropriate fee to the Title and Registration Bureau. If there is a lien on the vehicle, a lien release or letter of permission on the lender's letterhead is required with Form MV12. After the Title and Registration Bureau confirms the information, a Certificate of Title is sent to the new owner.

Situation B: *What if a vehicle is titled in the name of the deceased person (sole ownership) and the value of his/her estate exceeds \$50,000?*

Montana law requires a Personal Representative (PR) to be appointed to administer the estate if the deceased's assets are valued at \$50,000 or more. If the eligible heirs do not want the vehicle and prefer to receive money from its sale, they can authorize the PR to sell it.

If a PR is not named in the deceased's will, or if the deceased person died without writing a will, the district judge will appoint one based on the order provided in the Montana Uniform Probate Code. The MontGuide, *Personal Representative Responsibilities (MT199008HR)*, provides the priority list for appointment as a PR and describes the PR's duties.

Montana UPC priority is the following: surviving spouse who is a devisee (named in the will) of the decedent; the custodial parent of a minor decedent; other devisees of the decedent; the surviving spouse of the decedent; other heirs of the decedent; and public administrator.

If the original title cannot be found, the PR completes Form MV1, Application for Certificate of Title for a Motor Vehicle, to request the vehicle be placed in the name of the legal heirs or purchasers if he/she is a Montana resident. The individual appointed as PR must enter the name of the person they are representing and sign their signature as the Personal Representative.

The PR signs the deceased's name beside his/her name in the odometer/statement of sale. The PR draws a line through the word "dealer" and writes "Personal Representative" in its place. This process allows the PR to complete the title and registration without requesting and paying the fee for a replacement title. A certified copy of the Personal Representative's Letter of Appointment should accompany Form MV1, as well as a check for the appropriate transfer fee to the Title and Registration Bureau.

If there is a lien on the vehicle, a lien release or letter of permission on the lender's letterhead needs to be included. The Title and Registration Bureau informs the new owners of any additional fees and taxes that are due upon registration of the vehicle and sends a Certificate of Title to the new owner.

If the vehicle is being sold, the PR completes form MV1 and submits it and the court certified personal representative papers to the Motor Vehicle Division with the appropriate fee.

Situation C: *What if a vehicle is titled in two or more names and one of those is the deceased person?*

The appointment of a PR to handle the transfer of a vehicle title is not necessary if the title is held in multiple names. Montana laws assumes joint tenancy.

If the surviving owner wants to keep the vehicle, he/she completes Form MV12, Application for Title of a Vehicle by Right of Survivorship. The surviving joint owner sends the completed MV12 form and a check for the appropriate transfer fee to his/her local Motor Vehicle Department or to the Title and Registration Bureau.

If there is a lien on the vehicle, a lien release or letter of permission on the lender's letterhead will need to be included with Form MV12 before the Motor Vehicle Division will remove the name of the deceased person.

The surviving owners are responsible for paying title or registration fees if the taxes are not current. However, if the registration shows both the name of the survivor and the name of the deceased person and if the license plates are current, the surviving owner pays only the title fee. The registration receipt is issued in the survivor's name.

If the surviving owner wants to sell the vehicle, he or she sends the completed Form MV12 and a check for the appropriate fee to his/her local Montana Motor Vehicle Department or the Title and Registration Bureau. The funds are deposited into an escrow account in the surviving owner's name until titles can be provided.

Situation D: *What if a vehicle is titled in the name of a business that the deceased person owned?*

If the title is in the deceased owner's name followed by DBA (doing business as) then the actual owner of the vehicle is the person listed, rather than the business. For example, Jack Smith, DBA Yellowstone Fertilizer Company), means that Jack Smith is doing business as Yellowstone Fertilizer Company. In this case the DBA has no ownership and the procedure described in Situation A would apply.

If the title is issued in the deceased's name along with an actual business name, (for example, Jack Smith, Jack Smith's Fertilizer Company) the business retains an ownership interest in the vehicle. In this case the business name remains on the title and a death certificate is used for transfer of the title. Or, if a PR was appointed for the deceased person, the PR would sign the title and have his/her signature notarized. A certified copy of the PR letter of appointment must also be provided to the MVD. This process will transfer the title of the vehicle to the business.

If the title is issued in only a business name and it is a sole proprietorship, the heirs submit an affidavit that the business was a sole proprietorship and follow the procedure in Situation B. Form MV12, Application for Title of a Vehicle by Right of Survivorship can be used to indicate that the business is a sole proprietorship.

If there is a lien on the vehicle owned by the proprietor, a lien release or letter of permission on the lender's letterhead should be included with Form MV12 before the Motor Vehicle Division will remove the name of the business.

Situation E: *What if a vehicle is titled in the name of a trust and if a person for whom the trust was created or the trustee dies?*

The secondary or successor trustee is responsible for completing Form MV40, Statement of Trustee. On this form the trustee indicates he/she is acting as a trustee of the trust with authority to transfer the title of the vehicle.

The trustee sends the completed form, the title, and a check for the appropriate transfer fee to his/her local MVD or to the Title and Registration Bureau.

Summary

This MontGuide has described the process of transferring a vehicle's title from the name of a deceased person to legal heirs for common situations occurring in Montana. The paperwork to transfer title for vehicle in Montana depends upon how the title was listed by the deceased person and the value of his/her estate. In many cases an heir can use form MV12, Application for Title by Right of Survivorship to transfer title into his/her name.

Acknowledgement

This MontGuide has been reviewed by representatives of the following:

- Business, Estates, Trusts, Tax and Real Property Section: State Bar of Montana
- Title and Registration Bureau, Motor Vehicle Division: Montana Department of Justice

Disclaimer

Depending on the type of submitted documents, the county office and/or the Title and Registration Bureau may request additional documents.

Further Information

The forms for transferring ownership for vehicle title and registration can be found at the Montana Motor Vehicle Division website. The forms are in PDF fillable format so they can be completed online and printed for signatures of the applicants.

Specific forms mentioned in this MontGuide include:

- Application for Certificate of Title for a Motor Vehicle ([Form MV1](#))
- Application for Replacement Certificate of Title ([Form MV7](#))
- Application for Title of a Vehicle by Right of Survivorship ([Form MV12](#))
- Statement of Trustee ([MV40](#))
- Release of Motor Vehicle Records (under the Montana Driver Privacy Protection Act) ([Form MV210](#))

Appropriate fees: The fees for 2016 are

- \$12 for light vehicles, trucks and buses weighing less than one ton
- \$10 for all other vehicles unless otherwise noted.

The **mailing address** for the Montana Motor Vehicle Division:

Title and Registration Bureau
Box 201431
302 N. Roberts
Helena, MT 59620-1431
Phone: (406) 444-3661 Fax: (406) 444-0116
E-mail: dojmvdttitleinfo@mt.gov

Montana State University Extension has 39 different MontGuides on a variety of estate planning topics that can be downloaded without charge at www.montana.edu/estateplanning/eppublications.html



To order additional publications, please contact your county or reservation MSU Extension office, visit our online catalog at store.msuextension.org or e-mail orderpubs@montana.edu.

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