

**Sec. 13.12.205. Decedent's nonprobate transfers to others.** The value of the augmented estate includes the value of the decedent's nonprobate transfers to others, not included under AS 13.12.204, of any of the following types, in the amount provided respectively for each type of transfer:

(1) property owned or owned in substance by the decedent immediately before death that passed outside probate at the decedent's death; property included under this category consists of

(A) property over which the decedent alone, immediately before death, held a presently exercisable general power of appointment; the amount included is the value of the property subject to the power, to the extent the property passed at the decedent's death, by exercise, release, lapse, default, or otherwise, to or for the benefit of a person other than the decedent's estate or surviving spouse;

(B) the decedent's fractional interest in property held by the decedent in joint tenancy with the right of survivorship; the amount included is the value of the decedent's fractional interest, to the extent that the fractional interest passed by right of survivorship at the decedent's death to a surviving joint tenant other than the decedent's surviving spouse;

(C) the decedent's ownership interest in property or accounts held in pay on death, transfer on death, or co-ownership registration with the right of survivorship; the amount included is the value of the decedent's ownership interest, to the extent the decedent's ownership interest passed at the decedent's death to or for the benefit of a person other than the decedent's estate or surviving spouse;

(D) proceeds of insurance, including accidental death benefits, on the life of the decedent, if the decedent owned the insurance policy immediately before death or if and to the extent the decedent alone and immediately before death held a presently exercisable general power of appointment over the policy or its proceeds; the amount included is the value of the proceeds, to the extent the proceeds were payable at the decedent's death to or for the benefit of a person other than the decedent's estate or surviving spouse;

(2) property transferred in any of the following forms by the decedent during marriage:

(A) an irrevocable transfer in which the decedent retained the right to the possession or enjoyment of, or to the income from, the property, if and to the extent the decedent's right terminated at or continued beyond the decedent's death; the amount included is the value of the fraction of the property to which the decedent's right related, to the extent

the fraction of the property passed outside probate to or for the benefit of a person other than the decedent's estate or surviving spouse;

(B) a transfer in which the decedent created a power over the income or property, exercisable by the decedent alone or in conjunction with another person, or exercisable by a nonadverse party, to or for the benefit of the decedent, the decedent's creditors, the decedent's estate, or creditors of the decedent's estate; the amount included with respect to a power over property is the value of the property subject to the power, and the amount included with respect to a power over income is the value of the property that produces or produced the income, to the extent the power in either case was exercisable at the decedent's death to or for the benefit of a person other than the decedent's surviving spouse or to the extent the property passed at the decedent's death, by exercise, release, lapse, default, or otherwise, to or for the benefit of a person other than the decedent's estate or surviving spouse; if the power is a power over both income and property and the preceding provision defining the amount included produces different amounts, the amount included is the greater amount; and

(3) property that passed during marriage and during the two-year period next preceding the decedent's death as a result of a transfer by the decedent if the transfer was of any of the following types:

(A) property that passed as a result of the termination of a right or interest in, or power over, property that would have been included in the augmented estate under (1)(A), (B), or (C) or (2) of this section, if the right, interest, or power had not terminated until the decedent's death; the amount included is the value of the property that would have been included under (1)(A), (B), or (C) or (2) of this section, if the property were valued at the time the right, interest, or power terminated, and is included only to the extent the property passed upon termination to or for the benefit of a person other than the decedent or the decedent's estate, spouse, or surviving spouse; as used in this subparagraph, termination, with respect to a right or interest in property, occurs when the right or interest terminated by the terms of the governing instrument or the decedent transferred or relinquished the right or interest, and, with respect to a power over property, occurs when the power terminated by exercise, release, lapse, default, or otherwise, but, with respect to a power described in (1)(A) of this section, termination occurs when the power terminated by exercise or release, but not otherwise;

(B) a transfer of or relating to an insurance policy on the life of the decedent if the proceeds would have been included in the augmented estate under (1)(D) of this section had the transfer not occurred; the amount included is the value of the insurance

proceeds to the extent the proceeds were payable at the decedent's death to or for the benefit of a person other than the decedent's estate or surviving spouse;

(C) a transfer of property, to the extent not otherwise included in the augmented estate, made to or for the benefit of a person other than the decedent's surviving spouse; the amount included is the value of the property transferred to a person to the extent that the aggregate transfers to that person in either of the two years exceeded \$10,000.

(b) Notwithstanding the other provisions of this section, the augmented estate does not include property transferred to an irrevocable trust with a transfer restriction under AS 34.40.110(a) if

- (1) the settlor is a discretionary beneficiary of the trust; and
- (2) the transfer was made more than 30 days before the marriage, or the decedent's spouse consented to the transfer under AS 13.12.208(a)(2).