

**75-2-207 Surviving spouse's property and nonprobate transfers to others -- Included property -- Time of valuation.**

- (1) Except to the extent included in the augmented estate under Section 75-2-204 or 75-2-206 or excluded under Section 75-2-208, the value of the augmented estate includes the value of:
  - (a) property that was owned by the decedent's surviving spouse at the decedent's death, including:
    - (i) the surviving spouse's fractional interest in property held in joint tenancy with the right of survivorship;
    - (ii) the surviving spouse's ownership interest in property or accounts held in co-ownership registration with the right of survivorship; and
    - (iii) property that passed to the surviving spouse by reason of the decedent's death, but not including the spouse's right to homestead allowance, family allowance, exempt property, or payments under the federal Social Security system; and
  - (b) property that would have been included in the surviving spouse's nonprobate transfers to others, other than the spouse's fractional and ownership interests included under Subsection (1)(a)(i) or (ii), had the spouse been the decedent.
- (2) Property included under this section is valued at the decedent's death, taking the fact that the decedent predeceased the spouse into account, but, for purposes of Subsections (1)(a)(i) and (ii), the values of the spouse's fractional and ownership interests are determined immediately before the decedent's death if the decedent was then a joint tenant or a co-owner of the property or accounts. For purposes of Subsection (1)(b), proceeds of insurance that would have been included in the spouse's nonprobate transfers to others under Subsection 75-2-205(1)(d) are not valued as if the spouse were deceased.
- (3) The value of property included under this section is reduced by enforceable claims against the surviving spouse.

Repealed and Re-enacted by Chapter 39, 1998 General Session