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January 11, 2013

## MEMORANDUM

2012-25

**TO:** All License Plate Issuing Officials

**FROM:** Brenda R. Coone, Director  
Motor Vehicle Division

**SUBJECT:** Changes in Motor Vehicle Ownership

The purpose of this memorandum is to address the questions the Motor Vehicle Division has received regarding how to issue motor vehicle registrations when ownership of the motor vehicle has changed (e.g., death, divorce). All property can be held "jointly" in more than one name. There are two distinct ways relevant to this discussion: *tenancy in common* or *joint tenancy with rights of survivorship*. See e.g., Administrative Rule 810-5-75-.40.

Section 40-12-260(7) b.1., *Code of Alabama 1975* states,

"A surviving spouse, desiring to operate a vehicle devolving from a deceased spouse, shall present an application for certificate of title to the licensing official in his or her name within 30 days of obtaining ownership. The licensing official shall then transfer the license plate to the surviving spouse. If the motor vehicle is not subject to the provisions of the Alabama Uniform Certificate of Title and Antitheft Act (Section 32-8-1, et seq.), the surviving spouse shall provide the licensing official evidence that ownership has been conveyed to the surviving spouse."

For motor vehicles subject to the Alabama Uniform Certificate of Title and Antitheft Act, the title document must accurately reflect the vehicle owner(s). When one owner becomes deceased, his/her ownership interest in the vehicle transfers to the estate if held (titled) by a single owner. If the vehicle is held (titled) jointly with two names as in the case of *tenancy in common* (John **and** Jane), the deceased's interest devolves to the estate as a ½ interest. The death of John means the estate is the owner of ½ interest and the spouse holds ½ interest on her own separate from the estate. If the vehicle has a total value of \$10,000, John's estate owns \$5,000 worth and Widow Jane owns only \$5,000 worth. The title document must be amended in order to reflect the change in ownership (title). It cannot just remain as it was before the death of one of the owners. A probate of the estate showing that the true heir is the spouse or other joint owner will normally resolve this title correction. When a probate of a small estate is not necessary, form ([MVT 5-6](#)) exists for an executor or administrator to make the corrective change in the title to the name of the heir (usually the remaining joint owner). See Alabama Code Section 40-12-260(7) b.1., which requires a change in the title and the motor

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vehicle registration.

Note that in the case of *tenancy in common* it is possible that a will or an order of probate could cause transfer of ownership in the vehicle to another heir not previously listed on the title or motor vehicle registration. That documentation must be submitted to change the title and motor vehicle registration.

If the vehicle is held (titled) jointly with two names as in the case of *joint tenancy with rights of survivorship* (John **or** Jane), the deceased's interest devolves to the other joint owner. It does NOT go through the deceased's estate. Jane becomes the 100% owner by operation of law immediately upon the death of John. Because John nor his estate no longer has any ownership in the vehicle, his name MUST be removed from the title and from the motor vehicle registration. Alabama Code Section 40-12-260(7) b.1., requires a change in the title and the motor vehicle registration. A death certificate is adequate documentation to make the change in both the title and the motor vehicle registration documents.

When ownership changes due to a divorce, the most common document to use in order to change owner documents (i.e., certificate of title) is a court order.

By way of a reminder, licensing officials are designated agents of the Department of Revenue pursuant to Alabama Code Section 32-8-34 and are responsible for ensuring that vehicles are titled and registered in accordance with Alabama law. Once steps have been taken to ensure that the title accurately reflects the vehicle owner, it is then appropriate to check compliance with Alabama's mandatory liability insurance law.

Alabama Code Section 32-7A-17(d) provides that licensing officials shall obtain one of the enumerated identifications of the registrant(s). While there have been questions raised regarding this requirement, obtaining this information simply enables the department to match this data against records received from the Alabama Department of Public Safety (DPS) for driver license suspensions.

Should there be any additional questions regarding this matter, please contact the Registration Section at 334-242-9006.