

Understanding the Different Forms of Bank Account Ownership

Q.: What are the most common forms of ownership for bank accounts?

A.: The most common forms are:

1. Individual account
2. Payable-on-death account
3. Joint account with rights of survivorship

Q.: Why is the form of ownership of a bank account important?

A.: The form of ownership affects who has access to the account and who receives the proceeds of the account upon an account owner's death.

Q.: Now, I assume that an account that I simply have in my name alone is an individual account.

A.: That's right. An individual account is in the sole name of the account owner and the account owner is the only person that has access to the account during his or her lifetime. Upon the account owner's death, the proceeds of the account become part of the account owner's probate estate and will pass according to the terms of his or her will. If the account owner dies without leaving a will ("intestate"), the proceeds of the account will generally pass to the account owner's next of kin as determined under Ohio's law of intestate succession.

Q.: How does a "payable-on-death" account work?

A.: A payable-on-death (POD) account is simply an individual account with a twist. It avoids probate. The account owner designates one or more beneficiaries who are to receive the proceeds of the account upon the account owner's death. The beneficiaries of the account have no rights in the account until the account owner's death and the account owner may change the

beneficiaries of the account at anytime. However, upon the account owner's death, the proceeds pass directly to the beneficiaries designated by the account owner and are not subject to probate.

Q.: How does a joint account with rights of survivorship work?

A.: It is an account in the name of more than one person. Each person named on the account has access to the account and may make deposits or withdrawals at any time. Upon the death of one of the joint owners, the balance of the account passes directly to the surviving joint owners and is not subject to probate.

Q.: What is the most common problem you encounter with respect to ownership of bank accounts?

A.: The most common problem is having the proceeds of an account payable to an unintended beneficiary. For example, a widow intends to leave all of her assets equally to her three children and has a will directing just that. When her health deteriorates, the widow sets up a joint account with rights of survivorship with her son because she wants her son to have access to the account to pay her bills if she cannot do so. Upon the widow's death, the bank account passes directly to the son whose name is on the account, not equally to the three children as directed in the widow's will. To avoid this result, rather than set-up a joint account with rights of survivorship, the widow could have executed a power of attorney giving the son access to her bank accounts.

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Law You Can Use is a weekly consumer legal information column provided by the Ohio State Bar Association (OSBA). This article was prepared by Victor J. Ferguson, an attorney with the Columbus firm of Vorys, Sater, Seymour and Pease LLP.

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