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Payable-On-Death (POD) Bank Accounts

One commonly used method of transferring money to another person is to establish a payable-on-death bank account (“POD” account). There should be no extra fees associated with opening such an account at a bank. A POD designation can be added to *any* new or existing account: checking, savings, money market or certificate of deposit (“CD”).¹

To open such an account, or add a “beneficiary” on an existing account, simply notify the bank. No documents are filed with a court and you need not even notify the intended beneficiary. As long as you are alive, the beneficiary has no right to access the account and you can change the beneficiary at will. After your death, the beneficiary can obtain whatever money remains in the account by presenting proof of identity and a certified copy of your death certificate. Because the beneficiary has no right to the assets in the account until the depositor’s death, the establishment of the account does not constitute a gift. Also, POD accounts may be entitled to additional coverage from the Federal Deposit Insurance Corporation (“FDIC”). Each beneficiary’s interest in the account is separately insured [See “FDIC Update” in this issue].

Don’t be fooled into thinking that a POD is not a part of your estate because it transfers to the beneficiary at your death. These accounts are absolutely part of the estate of the depositor and, if an estate tax return must be filed, they must be accounted for 100%.

¹ Please note that a “transfer-on-death” registration may now be utilized for securities (stocks, bonds and brokerage accounts). While similar to POD accounts the transfer-on-death designation is somewhat unique. Discussion of this type of account is outside the scope of this article.

When you ask to open a POD account, the bank's representative may give you a form that authorizes the creation of a "Totten Trust." No need to panic: the representative did not misunderstand you or give you the wrong form by accident. A POD account is often called a "totten trust" account. This name comes from an old court case which was the first to recognize an account that designated a beneficiary, one who had no right to the account until the depositor died.

Before opening a POD account, be sure to give careful consideration to your selection of the beneficiary or beneficiaries. For instance, while one can name a minor child as a POD beneficiary, if he or she is still a minor at your death, a custodian will be appointed to manage and use the money for the benefit of the child until the child reaches the age of majority. If you name more than one beneficiary, each will inherit an equal share of the account unless you specify otherwise. If one of the beneficiaries dies before you do, the account will be divided among the *surviving* beneficiaries. This may not be what you intended. For all of these reasons, it is best to discuss the utilization of POD accounts with your estate planning counsel before taking this step. Berwitz & DiTata LLP will be happy to answer your questions.