



How Much Do You Know About Joint Bank Accounts?

In Ohio, joint bank accounts have a survivorship feature, even if the account is not designated as an account with survivorship. This means that following the death of one of the owners of a joint account, the ownership of the account automatically passes to the other owners. This is an easy method of estate planning and the reason for the popularity of joint bank accounts. For example, a parent can open a bank account with a child as the joint owner and know the child will own the account at the parent's death.

Q: Who owns a joint and survivorship account *before* the death of an owner?

A: Under Ohio law, it is presumed that, *during the lifetime* of the owners of a joint account, the account belongs to all of them according to the contributions of each, unless there is clear and convincing evidence of a different intent.

Q: Who owns the account *after* the death of an owner?

A: Ohio law also presumes that after the death of an owner, the assets in a joint bank account are owned by the surviving owners of the account. In 1994, the Supreme Court of Ohio ruled that the way a joint bank account is opened is usually *conclusive* on the question of ownership after the death of one of the joint owners. The intention of the deceased owner is to be determined by the legal form of the joint account, so usually ownership of a joint account will be automatically transferred to the surviving owner or owners. Only where there is evidence that the deceased owner did not freely intend to establish the joint account (for example, evidence of fraud, duress, undue influence, or lack of mental capacity) will an Ohio court consider an argument that, after the death of an owner of a joint bank account, the money in the account should not be distributed to the remaining owner or owners.

Q: Are there other implications of the 1994 Ohio Supreme Court decision?

A: The Court's decision makes ownership of these joint accounts more certain. This, in turn, makes it easier for Ohio banks to provide such accounts, since it reduces the possibility of disputes over account ownership after an owner's death. However, the Court's decision also requires consumers to be knowledgeable about the legal effects of joint bank accounts. A joint bank account that is set up for convenience, such as, for example, naming one child as a joint owner so an elderly parent's bills can more easily be paid by the child, will be owned by that child alone upon the parent's death, even though the parent may have intended the account to be distributed among several children after the parent's death. In such a case, the parent may be better served by other alternatives, such as the creation of a limited or general durable power of attorney, or the creation of a revocable trust.

Q: What is the law of other states on the ownership of joint bank accounts?

A: The law varies from state to state. In 1989, the National Conference of Commissioners on Uniform State Laws proposed that uniform legislation called the Multiple-Person Accounts Act be adopted in all states. Among other things, the provisions of this Act encourage banks and credit unions to offer pay-on-death accounts and agency accounts as alternatives to joint accounts by protecting the financial institution if it pays in accordance with the terms of the bank account contract. This Act has not been adopted in Ohio, but the

in accordance with the terms of the bank account contract. This Act has not been adopted in Ohio, but the National Conference of Commissioners on Uniform State Laws reported that, as of November 2016, the Act had been enacted in Florida, Alabama, Nebraska, Massachusetts, Montana, Arizona, the District of Columbia and the U.S. Virgin Islands. In addition, a number of other states have adopted similar provisions as part of their probate codes, so distribution after death in accordance with the actual terms of a joint bank account in most circumstances is now the law in more than half of the states, according to the National Conference of Commissioners on Uniform State Laws.

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