

DO YOU HAVE A JOINT BANK ACCOUNT?

Do you have a joint bank account? If you do, then allow me to explain how this is one of the most misunderstood wealth transfer devices I have seen in my law practice. The joint bank account, by definition, has two or more owners. By operation of law (or automatically), it becomes the sole property of the surviving joint owner once the other owner dies. This is all well and good. But, the problem arises in that this transfer supercedes any wishes the decedent may have put in his/her Last Will and Testament or Trust document. In other words, the joint owner could have the most beautiful and perfect set of estate planning documents, and they would have no effect on how the property transfers at the original joint owner's death.

Let me give you an example (hypothetical, of course). Let us say that a widow named Jane Doe has four (4) children. She has one son named Jon Doe, and he lives nearby in the same city. The other three (3) children are scattered across the country. In simple terms, Jane's Last Will and Testament gives her property in equal shares to her four (4) children. However, because Jon lives nearby, and takes Jane to the bank every week, Jane puts Jon on her \$100,000.00 bank account as a joint owner. Upon Jane's death, the \$100,000.00 account goes automatically to Jon, outside of Jane's wishes in her Will. Perhaps Jane knew that this would be a transfer outside of her Will, but maybe she did it unknowingly only for ease.

Well, in some cases, Jon may divide the account equally among himself and his siblings, knowing his mother's wishes. In other cases, Jon may keep the account for himself, which, by law, he is entitled to do, absent some actual contrary evidence from his mother when she was living. In all of my 27 years in the practice of law in the Trust and Estate area, I have seen the transfer of wealth by inheritance bring out the very best in people, but I have unfortunately often seen it bring out the very worst. Which will it be in your family? We really could not know ahead of time.

Why leave your estate affairs to Russian roulette? We should all put our legal affairs in order; we should run, not walk, to our estate planning attorney and get these matters handled. Only then, can we turn our hearts and minds to what is truly important to leave behind.

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