O'NEILCANNON
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TAX AND WEALTH ADVISOR ALERT: THE PITFALLS OF PAYABLE ON DEATH ACCOUNTS

Payable on Death (POD) accounts are offered by banks and other financial institutions to permit an account owner to designate a beneficiary to receive the funds in a savings, checking, CD, or similar account, upon the account owner's death. If there is a POD beneficiary on a joint account, the named beneficiary will receive the funds upon the death of the last account owner (see our previous article discussing the drawbacks of joint accounts here). Some financial institutions will allow the account owner to name multiple beneficiaries. A POD account is an easy way to transfer the account assets upon the account owner's death: the beneficiary or beneficiaries can withdraw the funds by simply providing a death certificate, without a probate or other court proceeding.

While POD accounts offer a streamlined transfer of assets upon death, they limit planning opportunities for the account owner and may create unnecessary complications. The designation of a POD beneficiary assumes that the beneficiary will survive the account owner, which is not always the case. If a POD beneficiary on an account dies before the account owner and the beneficiary designation has not been changed, the default in Wisconsin law provides that under certain circumstances, the descendants of that POD beneficiary will inherit the account. Consider the example of Jane who designated her daughter Sue as the POD beneficiary on her bank account. If Sue predeceases Jane, upon Jane's death, Sue's children would be entitled to Jane's bank account. Now assume that Jane designated her two children as beneficiaries: Sue and John. If Sue predeceases Jane, Sue's share will still go to her children, unless John can prove in court that Jane intended that he receive the full account. Another complication is that under Wisconsin law, if Sue predeceases Jane, and John presents the bank with Jane and Sue's death certificates, the bank can pay the full account to John instead of paying half of the account balance to Sue's children. If this sounds confusing and contradictory, it is!

Another downside is that financial institutions can interpret POD provisions differently. You may set up accounts at different financial institutions that are not handled the same way upon your death. In some cases, the financial institution's interpretations may not withstand a legal challenge.

Additionally, a POD beneficiary is not required to pay your estate expenses, including funeral costs, from the account. This could create a hardship for your family or other loved ones if

the POD beneficiary refuses to pay for your funeral or other final debts.

Finally, a will or trust does not override a POD designation, so it is essential to coordinate your POD designation with your estate plan. A POD naming your revocable trust does not have the risks discussed above and is often an important step in your estate planning. But if you create an estate plan and forget to change your POD designation, your POD designation will control the disposition of the assets in that account, regardless of what your will or trust states.

When it comes to estate planning, it is crucial to be aware of the potential pitfalls associated with POD accounts. In order to ensure your accounts and other assets are disbursed according to your wishes, contact our Estate and Succession Planning Group. Additionally, if you have a dispute over the payment of POD accounts, our Inheritance Litigation Group can assist.