

LAW OFFICES OF LEONARD KOMEN, P.C.  
7733 Forsyth Blvd., Ste. 2000  
St. Louis, MO 63105  
Tel: (314) 862-3535  
Fax:(314) 726-2340  
Cell:(314) 651-1601  
lenkomen@komenlaw.com

## **"POD" and "TOD" -Pay/Transfer On Death Accounts**

First, none of the following applies to joint accounts. As always, upon the death of one joint owner, the survivor becomes sole owner.

On accounts held in one name with a "POD" designation, the first question is "Survival" of the named beneficiary. Except for accounts in joint names, a "P.O.D." or "T.O.D" beneficiary must survive the owner by 120 hours. If a named beneficiary does not survive the account owner for 120 hours, that designation is eliminated by operation of law. The account is treated as though the owner died without any beneficiary designation.

If the "POD" beneficiary does survive by 120 hours and then dies before distribution of the account, the next question is whether the deceased POD beneficiary was a "lineal descendant" (child, grandchild or great grandchild) of the account owner.

Where the deceased "POD" beneficiary survived by more than 120 hours and was a lineal descendant of the account owner, then the share of that deceased beneficiary belongs to that beneficiary's own lineal descendants in equal shares. For example, a mother creates a certificate of deposit naming her daughter "POD." The mother dies and then the daughter dies but has three children of her own. The daughter's three children take one-third of the (deceased) daughter's share.

To avoid this, the account must have a notation "No LDPS" after the beneficiary's name.

On the other hand, if the "POD" beneficiary survives the account owner by more than 120 hours but is not a lineal descendant, that beneficiary and descendants are eliminated and that share goes to any other "POD" lineal descendants designated.

The owner of an account may always avoid these results by a different and specific designation on the account itself. For example, to avoid the 120 hour rule, the owner may put a notation on the account that this does not apply, or that there are other circumstances that raise a different presumption of survival. Similarly, if an owner of an account does not want that share to go to lineal descendants of a deceased beneficiary in any event, the owner can always place the designation "No LDPS" on the account.

**P.O.D. ACCOUNTS SUMMARY**  
**PROCEDURE ON DEATH OF OWNER**

- ▶ If there is a joint account owner - *all to the survivor.*
- ▶ If an individual account or no surviving joint account owner,
  - ▶ If the “POD” beneficiary survives by 120 hours - *all to beneficiary, or beneficiaries in equal shares.*
  - ▶ If beneficiary does not survive by 120 hours:
    - ▶ If a lineal descendant (child, grandchild, etc.), - *all to deceased beneficiary’s own children in equal shares.*
      - ▶ If deceased beneficiary’s own child is then also deceased - *that person’s share goes to his/her own children in equal shares.*
      - ▶ If “No LDPS” is added after deceased beneficiary’s name - *ignore above rules - that beneficiary and his/her descendants are eliminated.*
    - ▶ If not a lineal descendant - *that beneficiary is eliminated.* If “LDPS” is added after deceased beneficiary’s name; then - *distribute in equal shares to that beneficiary’s children.*

\*\*\*\*\*

*Use of this Web Site and review of this Article does not create an attorney-client relationship. The law and its application by the courts is constantly evolving and changing. As with all memoranda in these archives, the discussion of the law is for general informational purposes, is in general summary form, is not to be taken as a definitive guide, and should not be relied upon to determine all fact situations. Each set of facts must be examined separately with the current case and statutory law analyzed and applied accordingly.*