

How to title business, personal financial accounts

How to title your business and personal financial accounts is probably not something that you spend much time thinking about.

However, you may have a number of accounts and titling them properly can be beneficial. Most people go to the bank to open an account without considering the issue at all. Bank clerks are not necessarily trained to advise you on how to title your accounts, and lack information on your personal situation that would allow them to give you the best solution. Several factors go into how to title the following types of accounts.

Business accounts

How to title your business accounts is in large part driven by what kind of business form you have. The most common forms are:

- **Sole proprietorships.** Historically the most common form of business, a sole proprietorship is not a legal entity and therefore you will put the account in your individual name, perhaps along with a fictitious name, such as John Doe, d/b/a John Doe Plumbing. Add a pay-on-death beneficiary to avoid probate on death.

- **Partnerships.** This business form has largely been replaced by a limited liability company. General partnerships lack liability protection for the personal assets of the owners and are thus rarely used. Title can



Stephen Aton

be held in either the names of the partners or of the partnership.

- **Limited Liability Company.** The LLC is now the favored entity, whether for one person or more. LLC accounts are held in the registered name of the business, and a resolution presented to the financial institution, along with the operating agreement, states who the members are.

Members with revocable trusts often name their trusts as the member of the business or designate a POD beneficiary to avoid probate.

- **Corporations.** Both C-corporations and S-corporations hold accounts in their registered corporate names, and present a resolution to the bank, which tells who the signers on the account will be and the monetary extent of their authority.

Personal accounts

Titling of personal accounts also is something to consider carefully. Your marital

status and your estate plan play an important role in deciding how to title your accounts.

The following pertains to checking accounts, savings, money market and investment accounts.

- **Single persons.** If you are single, accounts listed in your sole name will go through probate on your death. Therefore, it is best to list a POD beneficiary or, if you have a trust, to list the trustee as the cur-

rent owner or as the POD beneficiary. It is not generally advisable to add a son or daughter on your bank account because they may be sued or declare bankruptcy and place your account at risk.

- **Married persons.** If you are married, you may have titled your accounts jointly. This method provides some protection from creditors as long as your spouse is still living and you are married. On the death of one spouse, the survivor owns the account solely. On the death of the second spouse, the account would go through probate, so adding a POD beneficiary to your joint account is recommended.

- **Persons with trusts.** If you have a

trust, you may title the account to be currently held by yourself as trustee of your trust. The successor trustee can act on your incapacity by presenting a copy of the trust and a letter from a physician stating you are not able to serve as trustee, or on your death, by presenting your death certificate and a copy of the trust showing their appointment as successor trustee.

You may also name your trust as the POD beneficiary so that on your death the

successor trustee has the authority to act on the account. This method does not cover you in the event of incapacity, so it is best avoided unless you have a power of attorney. Both this and the preceding method

will avoid the delay and expense of probate.

Titling business and personal financial accounts properly is very helpful to those who will someday handle your affairs. Consult with your professional advisers to select the method that works best for your situation.

» Titling business and personal financial accounts properly is very helpful to those who will someday handle your affairs.

Stephen Aton of Aton Law Firm practices corporate law and estate planning. He can be reached at steve@atonlaw.com.