

# Appointment of Beneficiaries in Bank Accounts

The appointment of bank account beneficiaries must be made before the bank itself, and that such designation must comply with the procedure established by the bank.

A bank account beneficiary is a person appointed to receive the account balance in the event of the main account holder's death. According to article 219 of Decree-Law No.9 of 1998, as modified and amended into a Single Text through Executive Decree No.52 of 2008 (the "Banking Law"), banks may agree with the account holder of a bank account that, in the event of the death of the account holder, the balance of such account, regardless of its amount, shall be paid by the bank directly and without any other process, to the persons appointed by the main account holder as beneficiaries of the account. The account holder must make the appointment of the beneficiaries of the account with the formalities determined by the bank.

The Banking Law also provides that each bank must establish the procedure to deliver the balance of the accounts and such procedure must be informed to the main account holder appointing beneficiaries. The corresponding payment will be made by the bank once it has duly identified the beneficiaries and it has verified the death of the account holder, but in any event subject to the terms and conditions governing the account. As long as all the formalities governing the account are met, the payments that the bank makes to the beneficiaries cannot be disputed.

It is important to note that the appointment of bank account beneficiaries must be made before the bank itself, and that such designation must comply with the procedure established by the bank, which generally includes formal criteria, such as, that the appointment be made in writing and that the signature of the holder is placed or

verified before a notary public; this is to provide greater certainty and security to the act. The appointment of beneficiaries cannot be made privately, outside the bank, and then be submitted to them.

The appointment of beneficiaries in bank accounts pursuant to this rule does not have to entail the formalities of a will, and for the delivery of funds, once the main account holder is deceased, there is no need to resort to an estate settlement process. These principles are of the utmost importance, since they manage to achieve that the concept of the beneficiary in connection with bank accounts be very useful and efficient in terms of time and cost, both in its adoption and its execution. Also, this issue is protected by the duty of confidentiality established by the Banking Law.

It is also important to point out that this rule has not been regulated, and it has certain gaps. While some of them have been filled through standard banking practices, others remain. In this regard, banks are rightly reluctant to accept appointments of bank account beneficiaries in situations that involve complexities, or in cases that are not expressly contemplated by the Banking Law.



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