

Digital Asset Planning: From Facebook and E-mail to Bill Pay and iTunes

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As more and more aspects of our lives are managed online — banking, photo storing, music collecting, etc. — it seems prudent to take into consideration what would happen to those, less tangible, parts of your assets in the event of illness or death.

First, recognize that digital asset planning is not all about money. In fact, most of your digital assets are probably worth zero to nothing. While some digital assets do have value and may be

transferrable, like domains or digital artwork or music that you have created, your Facebook, e-mail, Twitter, and LinkedIn accounts probably have no pecuniary value. These accounts, however, do have tremendous personal value. For example:

- Do you want your executor to have access to all of your email communications?
- Do you want your social media accounts such Facebook account to be “memorialized” so that it remains for everyone to see?
- Do you want all of those family pictures stored on your computer to be deleted, or do you want them copied and delivered to your loved ones?

These are important questions to answer, and your estate planning documents can be drafted to reflect your preferences.

Second, understand the meaning of Digital Assets. “Digital assets” is a loose phrase used to describe all of your electronically stored information (i.e. Word documents, photos, etc.) and your online accounts (i.e. bank accounts, social media accounts, gaming accounts, etc.). It is important to document the existence of all of your digital assets, regardless of its value. Not doing so could cost your estate. For example, if your executor is unaware of sites to which you subscribe for a fee, or is unaware of the bills that you pay automatical-

ly online, your estate may be dishing out money unnecessarily after you are gone!

Third, know the framework within which you are working. For example, when it comes to music purchased on iTunes, you do not actually “own” your iTunes collection in the way you might have thought; your ownership is subject to your license with Apple Inc. and that agreement suggests that your collection is yours alone, forever and always. You may not transfer your iTunes account to someone else.

Licensing agreements control your use of most, if not all, online digital assets, and when planning for those accounts, it is important to understand what they say. They establish the framework within which you can plan.

The Bottom Line?

The law on digital asset planning is unsettled. Some states have legislated in this area, but most have not. What happens to your digital “stuff” may be affected by licensing agreements, other local laws, or court orders. Make sure you have a voice in the matter by documenting your wishes as a part of your comprehensive estate plan.

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