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Your Digital Estate

An Overview of Digital Assets & Estate Planning

Everyone has “digital assets.” If you store anything on a digital device, like your smartphone or computer, you have digital assets.

However, a real issue arises where your digital assets are held on a third-party’s server. For example, your music on iTunes, your social media account, your photographs in the “cloud”, your e-mails, or an online bank. Traditionally, access to these digital assets was difficult or impossible, even if a will gave someone permission to access them.

The issue was that an estate administrator, like a trustee or personal representative, had the obligation to gather a deceased person’s assets, but was prohibited from accessing certain digital assets under Federal laws and service agreements.

The Revised Uniform Fiduciary Access to Digital Assets Act?

Last August, Minnesota adopted a law called the Revised Uniform Fiduciary Access to Digital Assets Act (the “Act”). This Act, for the most part, resolved a troublesome issue.

Simply put, the Act gives the option to make estate plan determinations for digital assets just like any other piece of property. The way this happens is that the fiduciary is now allowed to step into the shoes of the deceased person to access digital assets. Until August of 2016, this was not possible.

In order to cover all of your digital assets, it is important to include reference to digital assets in your estate plan.

In addition, everyone should maintain an inventory of the digital assets you use. This way, your estate administrator will be able to find the digital asset and take any actions necessary. This inventory should include accounts and passwords to help your estate administrator. However, it is very important to keep the inventory in a safe and secure place accessible only to your estate administrator. Revealing the accounts and passwords to third parties may implicate the Computer Fraud and Abuse Act under certain terms of service agreements.

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