



Estate Planning Today Must Include Digital Assets and Social Media

From an Estate Planning perspective, digital assets can be a largely ignored if not often times under considered area of personal planning. However, for the modern family, all manners of life are touched by online relationships including communication, operational and archival type accounts. Communication type accounts include email and social media. Operational accounts include financial, medical, tax, and educational relationships. Finally, archival accounts are those that document the history of our family such as photos. By considering each of these areas, a family may better develop a continuation plan in the event of incapacity or death of a key family member.

The most common type of digital asset that most families utilize is email. Often time individuals have multiple personal and business email accounts. Free accounts such as Yahoo, Google, and Microsoft accounts provide differing rules on accessing accounts upon the death of the account holder.¹ Yahoo does not make available the account upon the death of the holder. Google provides an Inactive Account Manager for user to utilize prior to death or incapacity, and may work with immediate family for the release of email account contents.² Microsoft's Outlook email service will not provide access to the account but will provide the contents to the appropriate parties via DVD.³ While each of these service providers have different rules, leaving a clear path to access account passwords can avoid difficult delays.

Social media providers, such as Facebook, are another type of digital asset service provider. With a significant portion of Americans using the service, the ability to access the information can be important to retrieving important personal history items such as personal photos. When alerted of a user's death, Facebook will change the users account to Memorial status. The word "Remembering" will be place on the profile.⁴ A user has the ability to nominate a "Legacy Contact" who will have the ability to write a pinned post, update the profile photo, respond to friend requests, and download a copy of what was shared by the deceased.⁵ However, the Legacy Contact cannot log in to an



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Community Corner

May 25th is Memorial Day. It is celebrated to remember those who served and died in the American Armed Forces. San Francisco is home to one of the largest Memorial Day Celebrations. (...Continued on page 3)



Upcoming Events Schedule:

May 8th, Friday 9am to 1pm
San Mateo Daily Journal Senior Showcase
We will be available at a booth to answer your questions. This a great event for those with older family members!
Located at Twin Pines Senior & Community Center -20 Twin Pines Lane in Belmont.
[Click Here For More Information](#)

June 25th, Thursday 6pm
Blended family protection planning – 2nd marriage? Children from prior marriage?
Strategies for protecting all parties. [RSVP Here](#)

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account, delete information, or read messages. Instead of appointing a Legacy Contact, a user may also choose to have their account deleted as well.

In a family, operational accounts would include any type of service relationship with an institution utilized on a day-to-day basis. Such accounts may include utility providers, telephone companies, financial institutions, banking information, and medical providers. With the push to online statements, often times a family will not receive a statement without access to the email address of the account holder. In an emergency, such as the death or incapacity of a parent with young children, the ability to pay bills can be hampered if usernames and passwords are not left in an accessible place.

When a family member passes, one of the most emotional issues is the archiving of family photos. Google Plus, the successor to Google Picassa would be governed by the same rules as with email. Shutterfly, a large photo service, will provide a third party serving as executor or under power-of-attorney the ability to access an online account.⁶

Often of concern are not just user created photos but also content purchased online. An example is the iTunes account from Apple and the corresponding applications such as iPhone and iPad. Technically, the Terms of Service indicate that the account and data cannot be used by anyone other than the purchaser. However, the website MacWorld which follows and comments on Apple policies, indicates that there are provisions for properly authenticated users to access the account to continue enjoying the use of content.⁷ For families with large libraries of books and music, the state of the law has not kept up with the growth of online digital assets.⁸

Ultimately, creating a plan for digital assets and account information is critical for families in modern America. By creating a centralized place for storage of online user names and passwords is critical for helping a family return to normalcy upon the death of a family member. In coming issues, we will review best practices for managing online information including current online solution providers charging for the storage of account information and critical documents. We will also review work arounds to establish best practices using commonly available online tools

¹ Yahoo Terms of Service provides that “neither the Yahoo account nor any of the content therein are transferable, even when the account owner is deceased.” <https://help.yahoo.com/kb/SLN9112.html>

² <https://support.google.com/accounts/contact/deceased?hl=en>

³ http://answers.microsoft.com/en-us/outlook_com/forum/oaccount-omyinfo/my-family-member-died-recently-is-in-coma-what-do/308cedce-5444-4185-82e8-0623ecc1d3d6

⁴ <https://www.facebook.com/help/103897939701143>

⁵ <https://www.facebook.com/help/1568013990080948>

⁶ http://shutterfly-2.custhelp.com/app/answers/detail/a_id/1495/~deceased-user-accounts

⁷ <http://www.macworld.co.uk/how-to/apple/access-itunes-account-music-apps-after-death-3507255/>

⁸ Ariel Bogle, described the situation in a Slate article located at:

http://www.slate.com/blogs/future_tense/2014/08/22/digital_assets_and_death_who_owns_music_video_e_books_after_you_die.html

This type of planning can become complicated and should not be attempted without the assistance and counseling of an experienced attorney. We are here to answer your questions about trust-based asset protection strategies and advise you on planning options. Please feel free to call our office now.

This newsletter is for informational purposes only and is not intended to be construed as written advice about a Federal tax matter. Readers should consult with their own professional advisors to evaluate or pursue tax, accounting, financial, or legal planning strategies.

Check List for Digital Accounts and Assets

Type	Name:	Password:	Notes:
Household Accounts:			
Financial Accounts:			
Utility Accounts:			
Educational Account:			
Password Keeper File:			
Photographs:	Physical Locations:		
	Film:		
	DVD:		
	Flashdrive:		
	Online Providers:		
Music:			
	Physical Locations:		
	Digital Locations:		
Social Media Assets:			
Facebook:			
Appoint Legacy Contact?			
Legacy Preferences?			

What We Do:

- ✓ Family Limited Partnerships (FLP)
- ✓ Legacy Trusts (ILIT)
- ✓ Intentionally Defective Grantors Trusts (IDGT)
- ✓ Qualified Personal Residence Trusts (QPRT)
- ✓ Charitable Remainder Trusts (CRUT, CRAT)
- ✓ Dynasty Trusts
- ✓ Asset Protection Trusts
- ✓ Business Succession Planning
- ✓ Buy/Sell Agreements
- ✓ Special Needs Trusts
- ✓ Other methods of advanced estate planning and document preparation

Did You Know?

- ✓ Memorial Day was formerly known as *Decoration Day*.
- ✓ It originated after the American Civil War to remember those Confederate and Union soldiers who died in the war.
- ✓ It's different from *Veterans Day* which celebrates all of those who served their country.
- ✓ To many Americans, it means the beginning of summer vacation season.
- ✓ It's legally required, due to a bill passed in 2000, to observe a moment of remembrance at 3 PM on Memorial Day.
- ✓ Waterloo, New York is considered the birthplace of Memorial Day.

Community Corner Continued: (cont'd from Front Page)

It is a parade held in the Presidio from 10:30 to 11:00 AM. It starts at the Main Post and ends at the National Cemetery.

[Click Here for More Information](#)

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