



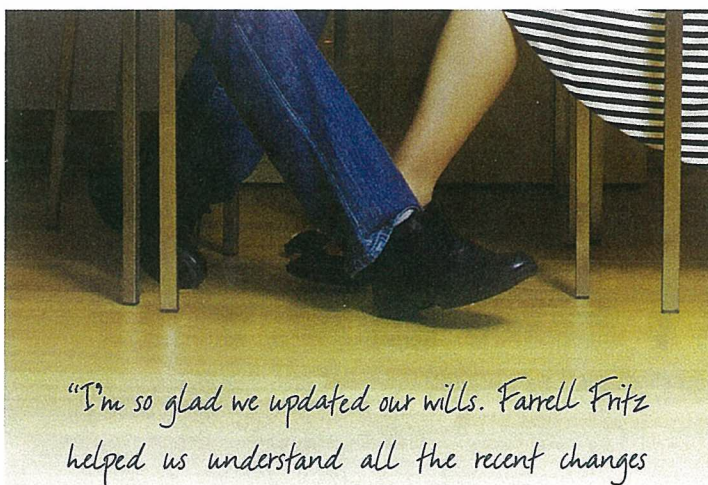
WILLS, TRUSTS & ESTATES: Plain And Simple

WHAT HAPPENS TO YOUR "DIGITAL" LIFE WHEN YOU DIE?

By Patricia C. Marcin, Esq. ©2015

Over the holidays, it's likely that you or a loved one received some type of computer or device that connects to internet websites, e-mail and applications. Or that pictures were taken and stored on such a device, or that posts were made on Facebook, Twitter, LinkedIn and more. What happens to these "digital assets" when you die? Unfortunately, the law has not kept up with the sophisticated technology of today.

Few states have enacted laws dealing with digital assets. While New York legislators have introduced a bill to deal with someone's digital assets upon death, no law is currently in place. In the absence of clear laws, most people must look to the provider's Terms of Service ("TOS") to determine the fate of an account once someone dies. The TOS for some providers do address what happens to an account when someone dies, and others do not.



"I'm so glad we updated our wills. Farrell Fritz helped us understand all the recent changes and the best part is, we minimized our estate taxes. I feel so much more secure about our family's future."



1320 RXR Plaza, Uniondale, NY 11556-1320
516.227.0700 | www.farrellfritz.com

The quote used in this advertisement is a dramatization, not based upon a specific event. Prior results do not guarantee a similar outcome.

Google does let users plan ahead with a service called Inactive Account Manager. This tool permits you to designate up to ten people to receive the content from your e-mail, documents or blogs, or you can choose to have them deleted, if you haven't logged in for a specified time period. Note that the people you designate to receive the content you chose to share cannot actually log into your account.

The TOS for LinkedIn, Google and Twitter all are similar in that the user agrees not to disclose his or her username or password to any third party and acknowledges that the user's access to his or her account is non-transferable. In essence, any rights to access the user's account terminate upon death. When signing up for an account, Yahoo users agree that their account expires when they do. Upon receiving notice of the death of a user, Facebook will keep a user's file setting public and allow the user's Facebook page to be converted to a memorial to the deceased user.

The proposed legislation in New York would give New York residents the option to choose a person to access their accounts upon death, while also indemnifying online service providers from any liability arising out of the post-death access to the user's accounts. Pending the enactment of a digital asset law, you may want to consider preparing an inventory of your digital accounts, including the login ID and password for each site. This inventory should be kept in a secure place, like in a safe deposit box or with your lawyer, or on a USB flash drive.

You may also wish to address the disposition of your digital assets in your Will. You may want one person to inherit the hardware (ex., Kindle, iPad) and another to inherit the content of the accounts. You should also consider giving your executor the power to access control and/or delete your digital accounts, but make sure your chosen executor has the skill and knowledge to deal with these assets, or permit her or him to hire a technology specialist. Some providers may recognize these will provisions, and new laws may require them to honor such provisions.

As new technologies continue to emerge, the legal issues surrounding digital assets continue to grow. It's something to pay close attention to, and to deal with as best you can in this uncertain legal environment for digital assets.