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## The Problem With E-mail

# Digital asset deep dive: Dangers of ignoring e-mail

By Sharon Hartung



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(December 9, 2019, 9:03 AM EST) -- In today's court of public opinion, amplified by social media, estate planners should expect clients and their beneficiaries to express their displeasure if not advised of the impact digital assets as simple as e-mail could have on estate planning. In the digital age, e-mail is the foundation of the new home office and gateway to your client's information. Without preplanning, the fiduciary may end up dead-in-the-water without access to the critical information needed to find even physical assets, let alone maximizing the value of the client's estate.

In a previous article: Digital estate myth #1: All assets are the same, we discussed that by no means are all digital assets the same. In some cases, they share the same characteristics as physical assets, but they can also have unique characteristics with dramatic differences within a similar type of digital asset. What predominately drives these differences are the technology provider offerings, and their Terms of Service. And, unlike earlier digital eras, we are in new territory where many of our online accounts are no charge. Legal precedent in the estate planning and estate administration space is new and evolving and how a client uses a particular digital asset can vary so widely, we are using them in ways even the original technology provider or industry hadn't imagined.

This myriad of client uses of digital assets and their peculiarities pose challenges for estate planners and lawyers who need to get under the covers of common digital asset characteristics in order to more effectively advise clients.

Fundamentally, digital assets impact two aspects of the estate planning process, but it all begins with disclosure. First, digital assets need to be part of the normal estate planning process and covered during disclosure, analysis, client goal documentation, options, risks and client instructions and instrument identification. Second, the technology itself will have unique handling instructions due to the client's use of the technology; whether or not preplanning options exist within the technology; and any number of barriers-on-transfer due to incapacity and death that could impede timely estate closure.

## How e-mail is really used

According to Wikipedia, e-mail is a form of communication, an electronic replacement for paper letters between parties. But, our modern use of e-mail is so much more as our clients spend a third of their time on email both at home and at work. We are also using e-mail in ways that the inventors couldn't possibly have imaged. For many, it has become a repository of records, information, calendar entries and linkage to their entire lives.

The lines between information exchange with one's e-mail account have become more blurred by service providers giving us functionality for shared calendars, contact lists, apps, other platform-specific features, cloud repositories and single sign-on, which allows us to access other apps with cross-platform integration. Our e-mail address also serves as the login credential or user name for other applications and online services.

## Where all this e-mail comes from

Clients use a myriad of personal e-mail options depending on any number of circumstances. Google's Gmail is certainly the predominate player with 1.5 billion active users globally, but there is also Microsoft Hotmail, Outlook, and Yahoo Mail. Clients also use e-mail bundled with other services from telecommunication providers, such as, Bell, Shaw, TELUS and Rogers. But the e-mail options are endless -- from hosted domains to family domains to other providers including work, school and other organizations. Even Canada Post is in the game, offering a service for getting bills online.

This is the third of a five-part series. Read part one: Digital assets deep dive: Tech solutions; part two: Digital asset deep dive: Client management.

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