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Hallmark Capital Management, Inc.

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“Do you have a digital estate plan?”

By Steve Erikson, CFP®

Planning for your own or a family member's death through the estate planning process (wills, trusts, power of attorney, living wills and healthcare proxies) is always difficult and sometimes complex.

Usually, one focuses on what to leave to whom and how to avoid probate. Then there is the federal tax bite to consider and/or state estate or inheritance taxes if you are in a state that has either.

These are all important considerations for your estate plan, but have you also spoken with your family and attorney about your digital estate plan? Not too many years ago, we depended only on mail delivery for our bills and statements, kept our photos in albums and our papers stuffed into file cabinets! I remember several years ago, when my own father died, gathering up his mail and credit cards and either calling or writing letters to terminate the cards, close his accounts and transfer the assets.

Today is very different—many of us now use the internet to communicate and store our information. Your assets may now include information or data stored electronically, whether online or on a physical device, including: email, social media accounts, online shopping accounts,

credit card reward accounts, hotel mileage accounts and photo and video-sharing websites, to name a few. You will need to record these digital assets, as well as any passwords associated with them.

By creating a digital estate plan, you will make it easier for your family to locate all accounts you have online. You will also have access to those accounts to assess the information they hold and to transfer or distribute digital assets. **This will allow you to determine if any of the digital property has a financial value or needs to be probated.**

One way to start this process is to store this information with an attorney or online service, keep it in a locked file cabinet/safe or share it with your spouse and/or children.

The Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws), was established in 1892 and “provides states with nonpartisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.” The ULC was the precursor to the Uniform Fiduciary Access to Digital Assets Act (UFADAA).

The first version of UFADAA was spurred by objections from

major internet and tech companies. These companies contested on the basis that existing ULC acts violated the decedent's privacy interests and would override many companies' current terms of service agreements.

According to its proponents, UFADAA is an important update for the internet age. **The act ensures that account-holders can retain control of their digital property and plan for its ultimate disposition after their death.** Unless the account holder instructs otherwise, legally appointed fiduciaries will have the same access to digital assets as they have to tangible assets, along with the same duty to comply with the account holder's instructions.

As of early 2015, the state-by-state legislative agenda for UFADAA appeared to be moving forward, and had been introduced to 27 different state legislatures. Yet, to date, none of the states has enacted UFADAA, except for a modified 2014 edition adopted by Delaware.

While states work out their position on UFADAA, it is wise to take into account the issues it raises. Until formal legislation is adopted in your state, consult with your attorney on how to integrate digital estate issues into your estate plan. 

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—Steve Erikson, CFP®

How to reach **Hallmark**

We are delighted to offer our services and welcome the opportunity to speak with you. Steve Erikson, CFP®, and George R. Kress, CFA®, can be reached at 973.808.4144.



Standing, left to right: George R. Kress, Thomas S. Moore; seated, left to right: Cynthia Bechmann, Steve Erikson

About Hallmark Capital Management, Inc.

Hallmark Capital Management, Inc. (Hallmark) is dedicated to empowering clients to attain their financial goals by providing objective investment management and financial planning services. Hallmark employees remain committed to maintaining the highest degree of professionalism and integrity, while using their best judgment and wisdom on behalf of clients, as they have for more than 25 years. They have a fiduciary duty of care, loyalty, honesty and good faith to always place the best interests of clients ahead of their own.

Assets Under Management
\$912 million (as of 12/31/14)

Minimum Asset Requirement
\$500,000 (for investment services)

Number of Clients
379 (as of 12/31/14)

Primary Custodian for Investor Assets
Multiple—please inquire

Financial Services Experience
Erikson, 30 years; Kress, 24 years; Moore, 34 years; Bechmann, 30 years

Professional Services Provided
Planning and money management services

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