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Legacy Planning, Once Removed

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Once Removed: The “Death Dossier”: Keeping Good Records and Documents for Successors

Episode 50 Summary

To make sure an estate plan can be administered effectively, it takes more than putting in place the right documents, structures and strategies. The executor, agent, trustee and other important figures must have access to information that will help them administer the estate or trust – and in many cases, the successors don’t know where to begin. This episode explores one of the most popular concepts from the last 50 episodes: the “death dossier,” a collection of documents and records that help successors identify and administer the assets in the event of a client’s death or incapacity.

Transcript:

(0:00):

Hello and welcome back.

I’m Steve Murphy, a trust and estates attorney with McGuireWoods LLP. And this is Legacy Planning Once removed my podcast on legacy, family, trusts, estates, and everything else on my clients’ minds.

For those who are returning again, welcome back and for those who are new to the podcast, let me say welcome.

On this podcast, we try to help people with the specifics and mechanics of estate planning but also help them think through their overall legacy, how to frame it and how to build it.

And because we think so much about legacy, we have a tagline here.

We say: Walk Like You Leave Footprints.

We’ve been doing this podcast for about two years, and it’s been a great project and this is episode 50.

I try to make these episodes evergreen, so you can listen to them at any point in the future. And we also try to make these episodes standalone, so you can listen to one or some or all in any order and still get a lot out of them.

But since this is episode 50, I want to return to what is honestly the one concept that clients comment about the most from this podcast. And I want to explore that further.

It's the one concept they find so helpful out of all of the topics and episodes we've covered in the last 49 episodes.

(01:30):

This is a concept called the Death Dossier. This comes from a Wall Street Journal article from back in 2011. That article is called "The 25 Documents You Need Before You Die". I'll put the full citation in the transcript: O'Brien, E. (2011, August 26). The 25 documents you need before you die. The Wall Street Journal.

But this article got my, and a lot of people's, attention several years ago because it didn't talk about estate planning strategy; it didn't talk about trusts, gifts, charitable planning, tax planning, and on and on, it talked about documentation. It talked about keeping good records, and as we'll see over the next few minutes, this is critical.

And why is it so critical?

Well, think about what your executor agent or trustee would need to do after your death or if you're disabled.

They have to locate and administer your assets and debts.

They have to reach out to your advisors and understand your planning.

You may know all of this like the back of your hand, but the question is: will your successors know about that if you aren't there?

And remember, that's the concept of this whole podcast. It's called Legacy Planning Once removed, this idea of how will that legacy be carried out once you're removed from the situation.

So, this issue of the death dossier is critical because if your successors don't have that information then well, it can be confusing. Imagine people trying to go back and recreate all of those assets and information.

It can be stressful, and they will have enough to worry about after your death or if you're disabled. And it can be expensive and not just in additional lawyers or an accountant's fees, but think about all of the assets or debts that might go missing.

If that property isn't claimed, then it's often turned over to a state's unclaimed property department, according to the National Association of Unclaimed Property Administrators. Okay, yes—I'm also surprised that that's a thing, but apparently that's a thing.

(03:39):

As of 2011, there was \$32.9 billion, billion with a B, in unclaimed bank accounts and other assets.

You don't want that to happen to you and your successors after your passing.

And then to get specific, let's use the example of a life insurance policy.

You may be very familiar with the terms of that policy and know it exists, but that policy could result in literally millions of dollars for your beneficiaries and a death benefit.

But what if that life insurance policy notice and documentation is hidden away somewhere in your email or your computer hard drive?

What if your successors never learn about it? All that could be lost.

So, returning to the article—the article has some really important takeaways—but here are a few general comments; or that, is here are some notes about what your death and dossier might have in it.

First of all, yes, it should have those key documents that we talk about on this podcast: your will revocable trust agreement, any irrevocable trust agreements, your power of attorney, your healthcare documents and the like.

But it should also have those ancillary documents we talk about too, things like your letter of wishes, especially as that gets updated over time.

Maybe a separate memorandum of tangibles, leaving tangible items to specific people. For any LLCs or corporate documents, you have an interest in, include those organizational documents—and it really should have the originals. But that list of just those documents, that's just for starters for the death dossier.

(05:18):

Second, it should have a chart of assets and debts, including any loans or debts that you owe to somebody else and someone else owes to you.

And we've talked about this before, but this chart should not only have that list, but it should also build out some specifics about each of those items.

So, you could imagine the chart could include the financial institution where any account is held, contact information such as the financial advisor or other contact for that asset or debt.

The ownership could be included. And remember, you might want to confirm this ownership from time to time.

You could list the beneficiary designations and again, confirm that from time to time.

Now, in these charts, I don't like to include account numbers because that's private information, and I worry about this chart, being distributed and others getting access to it.

But you could include perhaps a shorthand or nicknames. So again, people can identify and find those financial accounts.

You could also include other assets that might not be conventional on a balance sheet, things like cryptocurrency. A lot of our clients have cryptocurrency holdings directly or indirectly and other things like frequent flyer miles.

Now I've heard some people talk about listing logins and passwords and other information similar to that for logging into accounts online or emails.

Now that's something you should consider with your advisors, but you could make sure that your will, trust agreement, or power of attorney gives your successors the rights to access that information or that account.

(06:53):

And then you can provide information in the death dossier, so someone can at least start to get access to those emails or financial accounts by maybe resetting a password or contacting the account administrator.

Fourth, the death dossier should have contact information of all those who might be important figures in the administration of your estate or trust.

So, it could include a list of your estate planning attorney or other professionals, your accountant or tax preparer, any financial advisors, any other individual who plays a role in the plan, like an executor or a trustee.

And how about any others who might be beneficiaries in the plan, perhaps other family members or friends where your successors might not know exactly how to contact them.

And then fifth, what should it not have?

Well, I don't think that the death dossier should have the kitchen sink.

I heard one story of a client whose death dossier was two filing cabinets.

That seems like it has too much information.

And again, that might actually be too confusing for the successor.

(08:02):

So maybe you should aspire to have this death dossier be a relatively small folder or one drawer in that filing cabinet.

So where do you keep the death dossier?

Well, somewhere secure, obviously, but then there's an additional question: who should know about it?

Some clients approach this differently.

You could leave this in a safe deposit box or a fireproof safe.

Just remember that you'll need to make sure someone knows where the death dossier is and can access it.

And think about this. You don't have to share all the contents of the Death dossier with that third party.

You could just tell them where it is.

So, if anything should happen to you, they know where to look.

And as you're thinking through this death dossier, remember to talk with an experienced estate planning professional and your other advisors to help you create and maintain this important record.

I'm Steve Murphy and this has been Legacy Planning Once removed my podcast on thoughtful legacy planning.

Thanks for listening.

And until next time: Walk like you leave footprints/

