

## Digital assets need to be considered as part of will, says legal specialist

*by Keeli Cambourne, Deputy Editor SMSF Adviser and Matthew Burgess, Director, View Legal*

SMSF advisers should have a checklist to ensure that digital assets of a deceased are protected including social media, online storage facilities, and digital finance assets, says a leading legal specialist.

Matthew Burgess, director of View Legal, said digital assets should be treated in the same way as any other asset as they can be of significant emotive or financial value.

“The virtually limitless ability to create digital content has seen an increasing amount of media attention focused on ownership of content, particularly in the event of death,” Mr Burgess said.

“In most jurisdictions, government legislation does not separately deal with digital assets, and therefore, the same rules that apply to physical assets will generally apply, however, many of the rules in this area lack the sophistication required to deal with digital platforms that are normally either hosted outside Australia or perhaps outside any discrete jurisdiction on the basis that they are cloud-based.”

Mr Burgess said most digital platforms do offer deactivation mechanisms or automatic closure due to inactivity, but these features do not necessarily assist concerning ownership of the data.

“Ultimately digital assets should be treated in the same way as any other asset, and to the extent that they are of significant emotive or financial value, dealt with in the last will of the owner,” he said.

He said one of the easiest ways to ensure a person’s digital footprint is identified is by using a checklist that confirms contact details, user names, passwords, access codes, answers to security questions, login pins, member numbers and payment arrangements.

Mr Burgess added six basic areas should be captured on any checklist including any social media such as Facebook, Twitter, LinkedIn, Instagram, Pinterest, Snapchat, Google Hangouts, Tumblr, and Yammer.

“This checklist should also include digital platforms including Skype, YouTube, App Stores, blogs, online music and movie streaming, education and information services,” he said.

He added that platforms for podcasting, books, news feeds, magazines, software providers, personal websites, and domain names also come under this area.

One of the most important areas on which to focus is online storage including documents, personal information, photos, videos, personal health and fitness, dictation, blogs, data storage, diaries, journals, Moleskins, Evernote, backup storage services, and Dropbox.

“Digital financial assets such as rewards points, prepaid services and bitcoin should also be looked at as should email accounts including work, Gmail, Hotmail, Bigpond, personal and any automated responses and mail lists to which the deceased was subscribed.”

Mr Burgess concluded that any digital assets including passwords should at least be communicated via documents such as a letter of wishes or memorandum of directions.