

Elder Law: Safe deposit boxes — why are we using them?

December 30, 2019 9:00 AM

Many of us can remember the good ol' days when it was a big deal if Mom or Dad went to the bank to access the family safe deposit box.

Something important was about to happen — a car title was going to be transferred or maybe the house was being sold. Or there was some important jewelry that Mom only wore on special occasions that had to be retrieved before the weekend.

Even when you enter a bank today (which is rare due to ATM machines and online banking), you may be reminded — when you see gleaming stainless steel grand vaults that still line thousands of banks — that there was a time when formality and personal privacy reigned.

Tens of millions of safe deposit boxes sit in banks across the United States. But do people really use them anymore? And do banks really want to deal with them? How secure is your stuff that you place in the box? What kind of complications can occur when a person dies owning a safe deposit box?

Let's start with the first question: Why does the average consumer really need these boxes?

The answer is: We really don't know.

Having worked with thousands of clients and their families over several decades, we've seen a significant decline in the number who actually have a safe deposit box, let alone put anything in it. Frequently, we've found old recorded deeds, copies of canceled loan documents, random keys, cemetery deeds, wills that were superseded by new wills and so on.

In our digital age, most third parties will accept a copy, scan or facsimile of a document. In addition, now it's relatively easy to buy your own fireproof lockbox or safe that can remain in

your home. You don't have to pay a monthly fee to the bank, and you can access whatever is in your box at any time — not just during banking hours.

One interesting thing to note: We don't usually see people leaving their original estate planning documents in the bank safe deposit box anymore. That's probably a good thing, because it can be cumbersome to access the contents of the box after the owner dies. Contrary to what you see in the movies, it's rare that Uncle Elmer's fortune in gold bars and diamonds is stowed away.

Do banks want to deal with safe deposit boxes?

Apparently not, as fewer banks offer them now. With the advent of virtual online banking, the phase-out trend will continue as thousands of branches close across the United States.

Banks are built around vaults, not vice versa. So, as these banks are decommissioned, the vaults cannot typically be removed cost-effectively. The result is a new trend of other industries — including restaurants, gyms and offices — integrating the vaults into a new purpose.

How secure are the items you put into a safe deposit box? Maybe less than you think.

While most of us view the grand appearance of the vault as projecting security, there are no federal laws to protect your stuff in the safe deposit box.

While you may see dozens of FDIC stickers displayed throughout the bank lobby as you make your way back to the vault, the coverage only applies to deposit accounts (i.e., a checking, savings, certificate of deposit, etc.).

Take a look at the contract you signed with the bank when you opened your safe deposit box. That's where your rights are in most states. Surprisingly, you may find that the contract you signed limits the bank's liability for lost items to a specified amount, which may only amount to a fraction of the fair market value.

What happens when a person dies owning a safe deposit box?

Well, if the decedent's name is the only name on the box, the bank will seal the box until the personal representative of the estate appointed by the court shows up to claim the contents.

Oh, and by the way, in Pennsylvania you have to first make a date with a revenue officer from the Pennsylvania Department of Revenue to meet you at the bank so the contents of the box can

be inventoried (and possibly taxed). Kind of like having the Grinch join you to open Christmas presents.

So just because your family has always had a safe deposit box doesn't necessarily mean you still need one or should get one in the future. Figure out if you might really need one and what alternatives may exist that are more flexible, cost-effective and private.

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