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## Should a Lawyer's Office Be a Dead Storage Warehouse

Jacob V. Schaetzel

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### B. *Colorado Law*

Chapter 84 A, Section 44, of the Colorado income tax law provides that a fiduciary may apply to the Director of Revenue for a so-called closing agreement to settle all questions of tax liability of the decedent or the estate. The Director must take action within six months of the application, or the fiduciary will be discharged from personal liability. The better practice is to apply for a closing agreement at the time of filing the decedent's final income tax return to cover returns filed by the decedent in his lifetime and to apply for closing agreements on the estate's income tax return at time of filing the final estate income tax return. Under present regulation<sup>6</sup> the right to ask for two closing agreements might be questioned, but such a request would appear to be justified under the law, and is desirable from the point of view of closing estates more rapidly. The fiduciary's primary concern is with the decedent's lifetime returns, not with the returns which he has himself prepared. If he has had clearance on returns filed by the decedent by the expiration of six months from the date of his request for a closing agreement, he will for all practical purposes be ready to close the estate without fear of hidden tax traps.

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## SHOULD A LAWYER'S OFFICE BE A DEAD STORAGE WAREHOUSE?

JACOB V. SCHAETZEL  
*of the Denver Bar*

Office space costs as much as \$2.25 or more per square foot in large cities, and with expanding business every foot of space in a lawyer's office counts. Should we not give our clients their files when we are through with their cases?

Our office now has a record of 9,250 cases handled under this system during the past 12 years, and we have never regretted our move to return all files to the clients when their cases are completed. Here is how it works:

We have a large 5"x8" white card with a record of the case on it. It contains such data as Court number (if there is one), name of client and who referred the client to us, work to be done, estimated fee, estimated time required, and then the final fee that was actually charged and collected, and the total number of hours consumed. A review of these cards from time to time will tell us how much per hour we were able to charge our clients and thus assist us in determining future fees to be charged in like cases. This card has sufficient space to record things we are doing for the client. When our work is completed, we make a note on the card as to the disposition made of the case and then deliver the entire file to the client after taking his receipt. We itemize the important documents such as deeds, releases, abstracts, etc., and

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<sup>6</sup> Article 37.

then generally add a statement, "together with complete contents of file." This file includes all correspondence connected with the case. Any papers that we think we should keep, such as closing sheets on real estate transactions, receipts for abstracts, etc., are fastened permanently to this white card. All cards bear a file number and the cards are then placed in our permanent file. Any information on possible will contests is retained by us. Under this system if a client calls us and wants to know where his papers or abstracts of title are, we can immediately turn to our index and then look at the white card and tell him what disposition was made of these papers.

We believe it to be much better for a client to have his own papers than to leave them in his lawyer's office. Lawyers die, retire, move or go into military or government service, and it then becomes a serious problem as to what to do with their old files.

Many lawyers who go into government service leave their papers in their attics, basements, or in the attics of some of our office buildings, and when somebody wants their papers, it is difficult to find them. In fact, some of them never are found.

A lawyer is not paid for storing old files and the only reasons I ever heard as to why he should do it was the fact that it brought the business back to the office. If the work we do for our clients won't bring them back, they won't come back anyway and it is rather embarrassing to have an attorney come in with a letter from the former client asking for the delivery of the papers to him. Another reason I have heard is that the lawyer might be liable for some of his acts unless it could be explained by some of the letters in the file. Under modern practice, we can compel the client to produce these letters should occasion arise because they have receipted for the entire file and should the papers not show up upon proper showing to the Court, we could give oral testimony as to their contents. In our 12 years of returning the files to the clients, we have had no occasion to regret our procedure. When our files are all active, papers properly filed and indexed, it only takes a few moments' time to report the status of a case to our client. We don't have to take time out to look through old files to satisfy the curiosity of clients as to whether a certain thing was or was not said years before. I have never known a client to tender a fee for the many hours spent in searching files. We tell the clients to file certain papers in the bottom of their trunks, others are to go in their safety boxes, and still others we leave discretionary with them as to whether they will or will not be destroyed. Another nice result that happens is that the clients will look through the file and for the first time realize the large amount of work and correspondence which their case necessitated, and some are frank enough to admit that the fee charged was more than reasonable. Yes, we find that it does not pay to be a dead storage warehouse for our clients' old files.