



Estate Planning for Your Digital Assets

Today, most of us rely on our cell phones and digital records to keep track of important contact information. In fact, we depend so greatly on online profiles and accounts for completing transactions and storing information that paper checks, address books, photo albums, and handwritten letters are becoming things of the past.

How Does the Digitalization of Information Affect Estate Planning?

If you store records or information digitally, you'll need to take certain steps to ensure that your executor or personal representative will be able to access everything needed to gather and safeguard your assets, contact creditors, and, if necessary, oversee your business after your passing. This may be challenging, however, if you do not arrange the proper authorization ahead of time.

Your executor should be able to access information on your computer's hard drive relatively easily with the help of a technician, but this is not the case for online accounts and remote storage. Even if you give your usernames and passwords to your executor or a family member, he or she may face service agreement limitations that deny him or her the ability to access, manage, distribute, copy, delete, or even close accounts. Further, "unauthorized use" laws can lead to legal issues for your representatives if they are deemed to have exceeded permissible access levels. Many states have adopted laws, such as the Revised Uniform Fiduciary Access to Digital Assets Act, which permit individuals to include a provision in estate planning documents allowing access to digital accounts. If there is no such provision in an estate plan document, typically, the online provider's terms of service control whether access is granted.

What Can You Do to Help Your Executor or Family Avoid These Complexities?

Consider taking the following actions to authorize access to your digital assets:

- **Ensure that the contact information and account numbers for all of your financial accounts are readily accessible.** Even if you regularly pay bills and conduct other business online, your executor or court-recognized personal representative can use this information to contact the financial institution directly and gain access to your financial and banking accounts.
- **Insert a provision in your will that grants the authority to access your nonfinancial digital assets and accounts.**



- **Talk to your attorney about adding language to grant your power-of-attorney (POA) agent authority to act on your behalf with your digital accounts and assets.** Many states have adopted laws that grant a person's fiduciary access to his or her digital assets, provided there is a provision for such access in the person's valid estate planning documents. It is important to know whether your state has adopted laws permitting your fiduciary to gain access to your digital assets, so that you know what steps may be necessary to ensure that the proper documentation is in place. An executor may eventually be able to access your digital assets, but the standard POA document rarely addresses these issues.
- **Check online service providers' policies regarding death or disability.** If the provider allows access to your executor, trustee, or POA agent, inform these individuals where important information is stored. A simple solution is to create a list of account IP addresses on an encrypted thumb drive and store this in a bank safe deposit box or a fireproof safe in your home—and be sure to update the information diligently.

What Are Some Additional Steps You Can Take to Organize Your Information?

- **Consider investing in a digital gatekeeper.** This type of service stores passwords in a digital safe and will transfer the passwords to your representative at a specific event, such as your death or incapacity.
- **Create a comprehensive inventory of your digital assets.** Be sure to store this inventory somewhere other than an email account. Some email providers will close an account if it has not been accessed for several months and will automatically delete the email history. Even if an executor promptly contacts the email provider, he or she may not be able to copy important emails or contact lists before the account is deactivated. Back up important information elsewhere, and update it regularly.
- **Don't assume your digital estate has no value.** Some frequent flyer points are transferable after your death. Cash back rewards on credit cards are generally redeemable after your death, but only if they are claimed. Internet domain names can potentially be sold, and blogs are a form of intellectual property.
- **Decide how you want your online life handled after your death.** Facebook, for example, allows a personal administrator or immediate family member to close the account or "memorialize" it. This may help ease your loved ones' pain during a time of grief. Consider creating instructions for a family member to do this, or something similar, on your social media accounts.

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With the increasing role technology and the internet play in our lives, we now have to pay more attention to our digital footprint. By following these steps, you can help ensure that your executor and your family are able to carry out your wishes as quickly and efficiently as possible.

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