



Tax



Technology



People

# Estate planning and digital assets

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While technology advances rapidly, we constantly use digital formats to store business and personal data. Sometimes we do not realize the value of digital assets and the potential loss, financial or sentimental, should those assets become inaccessible.

Digital assets are any data in which a person has some sort of ownership, right or interest including among others:

- electronic communications, such as emails, social networking sites, and blogs;
- online reward programs, such as credit cards, hotels and airlines;
- financial accounts, such as online banking, investment, and brokerage accounts;
- digital collections, such as music files, photographs, and videos;
- business accounts including customer databases with personal and sometimes confidential information; and
- virtual currencies or cryptocurrencies.

It is important to keep record of account numbers, access names or codes and media access passwords as part of your estate documentation.

- Do you ever wonder if you can control where your digital assets and social media accounts go after your death or disability?
- What if your contacts continue to receive messages from you even when you passed away?
- What if your accounts are frozen and your loved ones have no money to satisfy their basic needs?
- What if these assets contain some confidential and sensitive information that you do not want to share?

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These are some of the questions you should ask yourself when thinking and pondering this subject.

Digital assets should be considered property, however the rights to access these assets are scattered through a web of user agreements and federal and state law that tend to protect decedent's privacy. In most of the cases, the fate of your digital assets rests on the policy of the company, the state law or a personal representative appointed by you to have the right to access these assets.

Some of these digital assets have monetary value, like a blog, original writing, musical compositions, e-books and rewards points. Others have a sentimental and personal value, such as photos, videos, e-mails, Facebook, LinkedIn and Twitter. Both classes of digital assets are important when dealing with estate planning. You must determine what you would like to happen to them once you pass way.

A well drafted estate plan should address the management and distribution of digital assets to mitigate additional burdens on loved ones or to the administrator of the estate.

Many companies are becoming aware of this need and are providing an "online tool", "legacy contact", or an "inactive account manager" which allows the account owner to appoint someone on his behalf to manage and terminate the account.

Nevertheless, the best way to protect your digital assets is to include them in your estate planning documents. Granting a power to manage your digital assets through a Power of Attorney or a Durable Power are also alternatives to consider. This mechanisms allow an agent appointed by you to manage your digital assets in the event you are not be able to do it on your own due to temporary or permanent disability or death.

It is essential that you create and maintain an updated list of your inventory of digital assets. If you receive bills/statements by e-mail or pay bills automatically, it will facilitate the identification of your assets and debts to manage them correctly and to stop payments for services not needed. In addition, managing your online accounts after death or disability could prevent fraud, identity theft, and other cybercrimes.

There is no federal or local standard addressing the issue of the designation of a third party access to digital assets not owned by the person designated. Therefore, plan to avoid complications with sensitive information.

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**"Manage your digital assets as any other asset in your estate."**

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Please contact our Tax Department should you require additional information regarding this or any other tax issue. We will be glad to assist you.



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