

Do You Have a Plan for Your Digital 'Estate'?

- ▶ With the integration of electronic devices into our everyday lives, be sure that those who rely upon you have the means to access your digital information if you cannot.
- ▶ You also want to ensure that you can access your information if your device crashes, is misplaced, or is stolen.

Even people who think they've ticked off all of the usual boxes on their estate-planning to-do lists may have overlooked an increasingly important component of the process: ensuring the proper management and orderly transfer of their digital assets. Just as traditional estate-planning relates to the management and transfer of financial accounts and hard assets, digital estate-planning encompasses digital possessions, including data stored on tangible digital devices (computers and smartphones), data stored in the cloud, and online user accounts.

Digital estate planning is, in many respects, more complicated than traditional estate planning. The field of digital estate planning is evolving rapidly, as are digital providers' policies on what should happen to digital assets that are left behind. Digital assets are also governed by a complex web of rapidly evolving laws, both at the state and federal levels. Precisely because of all the potential complications, it's important to take a few minutes and get a plan in order. Here are several key steps to take.

1) **Conduct a Digital 'Fire Drill.'** A good first step in the digital estate-planning process is to conduct a digital fire drill, which tends to jog your memory about what digital assets you deem important. Consider the following questions. What valuable items would you lose if your computer was lost or stolen today? If you were in an accident, would your loved ones be able to gain access to your valuable or significant digital information while you were incapacitated? If you were to die today, to what valuable or significant digital property would you like your loved ones to have access?

2) **Take an Inventory of Your Assets.** The next must-do is to create an inventory of the digital assets you named during the fire drill. Document the item/account name as well as user names and passwords associated with that item. Among the items to document in your digital inventory are: digital devices such as computers and smartphones, data-storage devices or media, electronically stored data, including online financial records, whether stored in the cloud or on your device, user accounts, domain names, and intellectual property in electronic format.

This document would be chock-full of sensitive information, so keeping it safe is crucial. A printed document should be stored in a safe or safe deposit box, and an electronic document should, of course, be password protected.

3) **Back It Up.** We've all been schooled on the importance of regularly backing up digital assets, and estate-planning considerations make it doubly important to do so. Even if a specific device malfunctions, storing digital assets on another storage device or in the cloud helps ensure the longevity of those assets. Moreover, online account service providers may voluntarily disclose the contents of electronic communications, but they're not compelled to do so. If you want to help ensure that your loved ones have access to the information in your online accounts, backing it up on your own device is a best practice.

4) **Put Your Plan in Writing.** Experts also recommend formalizing your digital estate plan. That means naming a digital executor—someone who can ensure that your digital assets are managed or disposed of in accordance with your wishes after you're gone. If your primary executor is savvy with technology, there's probably no need to name a separate digital executor. But if not, or if you have particularly valuable or special digital property, such as intellectual property, experts advise a separate fiduciary/executor for digital assets. Depending on the type of property, the fiduciary may also need special powers and authorizations to deal with specific assets.

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