

# Estate Planning in a Digital Age

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Since we live in a digital age, it is hard to find an area of our lives that has been left untouched by the changes that have occurred over the last 20 years with the explosion of the internet. Our ability to carry around smartphones and tablets provide us with immediate access to all things digital.

These changes enable us to share our lives with the outside world through social media outlets like Facebook, LinkedIn and Twitter. But what happens to your social media accounts when you become disabled or die? What about those 750,000 frequent flyer miles you have accumulated, the loyalty points on your credit card or your catalog of songs on iTunes? You may have heard questions like these addressed in the media recently because they have become an area of tremendous frustration for grieving loved ones left behind trying to access a Facebook account so they can capture the last few pictures or posts of their loved ones. It also presents challenges for a Trust Officer like myself trying to gather the assets of a deceased person to settle their estate. Trustee documents or Executor paperwork don't always supersede the restrictive privacy agreements that providers of digital and social media have in place with the decedent.

While many people know the importance of having an Estate Plan, planning for access to and the disposition of digital assets has been, until recently, widely overlooked. Chances are if your estate plan was prepared more than five years ago, it is silent on the topic of digital assets. Now, I realize that preparing or amending your estate plan is about as desirable as getting a root canal for a lot of people. However, because every corner of our lives is somehow touched by digital assets, this is an area that you cannot ignore. None of us know when the unexpected may happen. When it does, wouldn't it be better to ensure a smooth transition for those left behind? Planning ahead can help.

Where to start? You should begin by compiling an inventory of your digital holdings. These include things like bank and investment accounts, credit cards, email accounts, social media accounts, digital media accounts like YouTube and Shutterfly, and services like PayPal, eBay, Netflix and Amazon. Financial services like Quicken, Turbo Tax or Mint and service providers like your physician or CPA should all be included. Once you have completed your inventory, you will need to document log-in details and passwords for each site. Including answers to frequently used security questions for your accounts is also important as many sites will require a correctly answered security question if logging in from an unrecognized device. In addition, if you use the cloud to store your information, you should create a back-up to an external hard or flash drive.

Once you have compiled your inventory, you will need to decide who will be the holder of this information. Attorneys are now preparing digital wills for clients in addition to traditional wills. A digital will sets forth who will have ownership of, access to and control of the assets listed on your digital inventory. These are particularly important for business owners who own website domains, utilize social media outlets or deal in cryptocurrencies like Bitcoin. I have also recently seen language included in powers of attorney granting a person's agent access to digital assets and accounts in the event the principal becomes incapacitated. Having both a power of attorney with this language and a digital will ensures that the person you chose will be able to access your accounts and information when needed. Considerable thought should be given to the person you name as the digital executor or power of attorney as this person will have access to highly sensitive information. Keep in mind that wills are probated at a person's death and placed on file in the courthouse which makes them accessible to the public. For this reason, you should never include the digital inventory with your will or include the account and password information in your will. It should be a separate document that is kept in a safe and secure location.

While some states are passing legislation to deal with digital assets, the laws vary by state and are not necessarily comprehensive. Currently, the best way to ensure that your loved ones will be able to access your accounts is through thoughtful planning and preparation of a digital inventory, power of attorney and digital will.