

# Estate Planning in the Digital Age



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You already have planned whom will get your assets – your remaining retirement will be distributed amongst your children, profits from your house sale will go to your grandchildren, and your younger brother will get your car. And if there's anything you possibly have forgotten to account for in your will, your next of kin can handle it.

Most of us take that safety net for granted, but when it comes to digital assets, such a convenient solution does not exist.

Digital assets are stored content or accounts that live in the digital space. They include but are not limited to social media accounts, photos, music, emails and text messages as well as credit card, online banking, healthcare and bill pay accounts. Your digital assets are worth the same degree of protection as your financial assets, however, unlike your financial assets, they are not automatically distributed to your next of kin.

Often, this transfer does not occur because digital companies view their sites or networks as licensing properties, which expire when the licensee dies. Yahoo!, for example, terminates all of your digital information upon death. To access a relative's Facebook page, you must get a court order. However, with the introduction of Digital Asset Protection Trusts (DAP Trusts), a trust creator can now place existing digital rights and property, including that license, into a trust for beneficiaries to use. You just have to be sure you plan ahead.

## Digital estate planning

### Step 1: Create a list of all your digital assets and assign value to them.

While you may think a photograph does not warrant much financial worth, domain names, music libraries, online businesses and bitcoins are valuable digital assets. You must also consider things like PayPal balances, credit card rewards and online credits. These all have monetary value and are elements of your portfolio that require special instruction.

### Step 2: Make a list of all the usernames and passwords required to access your digital assets.

Do not include this information in your will, as that document becomes public upon your death. Draft a hard copy and put it in your safe deposit box or put it in a password-protected document that can be accessed by trusted family members. Just be sure to make the master password accessible to a designated family member or executor.

### Step 3: Draft a statement articulating who will control each of them after your passing.

Be aware, though, that even though your wishes are written, the executor is not guaranteed access. Many digital platforms, such as online bill pay accounts, consider a log-in with someone else's password a violation of their terms. Online data management companies have begun selling services that claim to transfer digital assets to your beneficiaries, but they don't resolve the potential conflicts with online providers' terms of service or federal laws.

Recently, a group of lawyers drafted the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), which allows people to specify in their wills that the executor of their estate can access their email and social media profiles. Thus far, 39 state legislatures have adopted it. However, even that law doesn't specify exactly how that access should happen, so the executor must still contact the company behind each platform.

The rules for digital estate planning are still in the early phases of development, so it's important to be vigilant in planning ahead. Not preparing for the fate of your digital assets could prevent loved ones from accessing precious memories, or more seriously, result in a lapse in payments or leave you vulnerable to post-mortem identity theft. As with traditional estate planning, it's a difficult topic to face, but by planning on the front end, you can ensure peace of mind for you and your family.

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