



Heirs Face New Challenges as Assets Are Managed Online

Estate Planning in the Digital World

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Estate planning may be top-of-mind for many right now as the state of the estate tax allowance is in flux, pending action from Congress. Although there's nothing you can do to make that decision happen faster, or in your favor, now is a good time to turn your attention to an element of estate planning that's often overlooked: your digital estate plan.

The Digital Dilemma

The universe of digital assets is vast. According to the Pew Internet & American Life Project, 36 percent of adults over the age of 45 do their banking online and millions of people store some financial records online.

A digital asset may be anything stored on a computer or a cloud server. Other examples of online assets include:

- Brokerage accounts
- Picture and video storage sites
- Social networking sites
- Domain names
- Frequent-flyer airline records
- Games and related sites
- Professional sites
- Employer retirement plan and stock option information

You undoubtedly have numerous user names, passwords and security questions for your personal variety of digital assets. But stop and think: Does anyone else besides you know how to access this information? For instance, if you're married, do you know how to access your spouse's digital assets?

If you're single, there's even more chance that others don't know how to access these assets. This will be a problem when you die, but it also should be considered if you're incapacitated and are unable to act for yourself.

For older people there's another problem. According to *Kiplinger's Retirement Report* (August 2012), about half of U.S. adults in their 80s and 75 percent of those 90 and older have some form of cognitive impairment. So if you don't know your parents' user names and passwords, they may forget them — never to be retrieved.

This actually happened to the daughter of one of my clients. She needed money to cover her mother's home care and was trying to sell some shares held at a custodian

bank. Although she had her mother's power of attorney, she couldn't handle the sale on the phone because she couldn't figure out the password and her mother couldn't tell her what it was.

She finally solved it the old-fashioned way by writing a letter and providing a copy of the power of attorney. Obviously, this delayed the selling process.

As it turned out, the market held steady, but what if it had been during a downturn in the market?

Changes to the Estate-Planning Landscape

As we become more and more a paperless society, several financial firms have established digital lockboxes in which

you can store all your important financial information including your estate documents, tax returns and letters of instruction. But this paperless society has created a new

problem: What if your heirs don't know how to access this digital information?

Recently, estate-planning lawyers have become more aware of this problem and are seeking ways



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to help heirs to estates have access to this information. They're even putting language in wills and trusts about dealing with your digital assets.

Gone are the days when the family could find all the brokerage statements in the desk, since so many people have moved to electronic delivery of this information.

Some states have passed legislation related to digital-property management after death. Many lawyers are providing detailed instructions on how heirs can access and transfer virtual properties after a client's death. There are websites that enable users to release account information to designated beneficiaries after their death.

New Concept, 'Old' Rules

If you've read our past columns, you've learned about the estate-planning process and gained many tips, including suggestions to:

- Make a list of your financial advisers that includes email addresses, phone numbers and business addresses.
- Put together a financial statement of all your assets and liabilities.
- Set up a file system that contains all your financial documents: wills, trusts, powers of attorney, insurance policies, etc.

We've also recommended that you place this information and these files into a fireproof file box and ensure that your family or trusted representative knows where to find it and how to access it.

This guidance still applies; however, you now know that you must think about your digital assets as well. If you're like many consumers, you haven't.

The good news is that the goal is still the same as it has been for "hard copy" information — to organize and safeguard your information and make sure you have a trusted person who can access it.

Protecting Your Digital Assets

The first step is to develop an inventory of your assets, including a list of how and where they're held, user names, passwords and answers to "secret" questions. To safeguard this information even more, you could create two documents, one with user names and one with passwords. The documents could be stored in different locations or given to different family members.

Whatever method you choose, you may be tempted to store this inventory on your computer. But then you're exposed if someone hacks into your computer.

They'd have access to everything you're trying to keep private. One solution is to give this document an unusual title instead of the obvious "website information." Then you'd let the interested parties know how to find this list on your computer.

Another approach would be to print out this list, file it with your other important legal documents

and make sure that your family or designated heir knows where these papers are kept.

To keep this information even more secure, you could put this list on a CD, DVD-R, USB flash drive or on a cloud server. Once again, make sure a family member knows where to locate it.

If all else fails, you can write all this information on a piece of paper and put it in a safe place. Whichever

asset inventory and make sure your family knows how to access this important information.

Although no one likes to think about death or incapacity, collecting the necessary information ahead of time and sharing your wishes with a trusted individual can save your friends and family stress and confusion down the road.

We're sure you'll be reading a lot more on this subject in the future.

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approach you choose, you need to update this list regularly as you change passwords and add or delete online accounts!

Appoint a 'Digital Executor'

You may also consider adding a new member of your estate-planning team — your "digital executor." This could be the same person as your current executor (or personal representative), but might be someone different if your executor isn't comfortable with technology.

Just as you instruct your executor as to what you want done with your assets when you die, you'd do the same with your digital executor. This same person can be given your digital power of attorney should you be incapacitated.

You may want some of your digital accounts canceled right away. For other accounts, however, you may choose to maintain them for a certain time.

We recommend you put these instructions in writing. But you should be aware that some websites have explicit policies in their user agreements on what'll happen to the account on the death of an account holder.

This article is intended to alert you to the issues involved and to suggest you put together a digital

And remember, whatever the state of your plan — digital or print — make sure you regularly review and update it with a qualified attorney or financial adviser. **R**



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