



Your Digital Assets: What Happens After I'm Gone?

Digital assets are rapidly becoming a very important part of estates for both financial & sentimental reasons. This trend may accelerate as more goods & services are moving online while traditional brick-and-mortar establishments close their physical spaces and rely more on an internet presence.

*We all spend so much time on creating our online "personality."
How can we protect it when we're gone?*

What is it?

The term "digital assets" refers to personal information that is stored electronically on either a computer or an online "cloud" server account belonging to an individual. Anyone who uses e-mail, has a password protected cell phone, makes online purchases, or pays bills online has digital assets.

Why preserve access to digital assets?

Simply doing nothing is no longer a responsible action for anyone with any digital assets. It leaves problems, worry and possible financial loss to your dependents and heirs should you die. In addition, digital assets have great sentimental value including personal photos, social networks, video games, and e-mail correspondence.

What is the standard governing the care of digital assets?

The Uniform Fiduciary Access to Digital Assets Act governs how digital assets are managed and accessed by third parties.

Who owns the digital assets?

The terms of service agreement (TOSA) you accept when you create the account governs ownership. It will be the custodian (e.g. Facebook, Instagram, Snapchat) most likely.

What will the custodian require for access?

Typically, the documents required are letters of authority/letters testamentary and a copy of the user's death certificate or a court order. The custodian has the right to grant full access, partial access or a copy of the record that comprises the digital asset, and to charge a reasonable administrative fee.

What can I do to help my heirs access my digital assets?

To avoid court costs and lost time, you should address access to your digital assets in your pre and post-mortem documents such as your will and durable power of attorney.

Should I keep a digital inventory?

Most people will use a master password list as their inventory which should be stored in a secure location known by the executor of your estate.



What are the main concerns regarding my digital assets?

1. *Can your heirs or the person taking care of you during a period of incapacity find all of your digital assets?* Since digital assets are not physical in nature, they often do not leave a distinct paper trail. If the executor or person handling your affairs cannot locate your assets, they will not be able to manage or properly transfer them in accordance with your wishes.
2. *How do you access the digital assets?* Even if your legal representative is authorized to transfer the assets and can locate them online, it is likely that the assets are held by a third-party service provider that requires a password, username, and other evidence of authorization to access the assets.
3. *Do you have the right to transfer the asset?* For example, Yahoo accounts are non-transferable. This means you cannot bequest the account to your heirs or transfer ownership to another person or entity while alive. This inability to transfer digital assets can create business succession issues and estate planning challenges.