

Zeros and ones: Estate planning for your digital assets and accounts

Published on July 16, 2020

Nearly everyone owns at least some digital assets, such as online bank and brokerage accounts, bill-paying services, cloud-based document storage, digital music collections, social media accounts, and domain names. But what happens to these assets when you die or if you become incapacitated?

The answer depends on several factors, including the terms of your service agreements with the custodians of digital assets, applicable laws and the terms of your estate plan. To reduce uncertainty, address your digital assets in your estate plan.

Pass on passwords

The simplest way to provide your family, executor or trustee with access to your digital assets is to leave a list of accounts and login credentials in a safe deposit box or other secure location. The disadvantage of this approach is that you'll need to revise the list every time you change your password or add a new account. For this reason, consider storing this information using password management software and providing the master password to your representatives.

Or, you can use an online service designed for digital estate planning. These services store up-to-date information about your digital assets and establish procedures for releasing it to your designated beneficiary after your death or if you become incapacitated.

Know the law

Although sharing login credentials with your representatives is important, it's no substitute for covering digital assets in your estate plan. For one thing, a third party who accesses your account without formal authorization may violate federal or state privacy laws.

In addition, many states have laws, such as the Uniform Fiduciary Access to Digital Assets Act ("UFADAA"), that establish default rules regarding access to digital assets by executors, trustees and other fiduciaries. If those rules are inconsistent with your wishes, you'll want to modify them in your plan.

The UFADAA allows people to provide for the disposition of digital assets using online settings offered by the account provider. For example, Facebook enables users to specify whether their accounts will be deleted or memorialized if they die and to designate a "legacy contact" to maintain their memorial pages.

The act also allows people to establish rules in their wills, trusts or powers of attorney. If users don't have specific instructions regarding digital assets, the act allows the account provider's service agreement to override default rules.

Take inventory

To ensure that your wishes are carried out, take inventory of your digital assets now. Then, talk to us about including these important assets in your estate plan.

© 2020

The Law Office of Eugene Gorrin, LLC
17 Watchung Avenue, Suite 204
Chatham, NJ 07928
973.701.9300
egorrin@gorrinlaw.com
www.gorrinlaw.com