

Estate planning in the cyber age



How to manage your digital value.

WITH MORE AND MORE CANADIANS conducting their daily business online – from banking and business meetings to shopping and hailing a cab – it should be no surprise that digital assets are increasing. According to Deloitte Canada, the average Canadian has \$1,000 to \$2,000 in value stored online.¹ Deloitte estimates that by 2020, the average Canadian will accumulate \$10,000 worth of digital assets over a lifetime.

Most people are aware of the importance of creating an estate plan that includes bank and investment accounts, real estate and other property. Digital assets are often overlooked but, as Canadians' digital wallets grow, these considerations will grow in importance. If left unaddressed, family members may find it difficult (or even impossible) to access your digital accounts and information, leading to possible financial costs, the loss of items with sentimental value and even identity theft.

That's why it is essential when creating an estate plan to outline instructions that grant a trusted person the power to access and handle your digital assets in the event of incapacity (during your lifetime) or upon death.

WHAT IS A DIGITAL ASSET?

A digital asset is any information about you or created by you that exists in electronic form. These assets include a wide variety of accounts and information, which may or may not have a monetary value.

Hardware

Physical devices that hold data include laptops, smartphones, tablets, e-readers, digital cameras and digital music players. Hardware also encompasses any external hard drives, flash/USB drives, and SD cards or disks used for storage or backup.

Data

Consider all those files (documents, music, photos, videos, e-books) stored on your devices or in a cloud-based data storage account. In the case of a downloaded song or book, you've purchased only the licence to use it rather than purchased a copy outright. But other files – photographs, artwork, poetry, videos or any other intellectual property you have created – constitute part of your digital estate.

¹ www.theglobeandmail.com/globe-investor/personal-finance/what-to-do-about-online-accounts-and-assets-after-death/article14024031

Email, websites and social media accounts

Your email and social media accounts contain a lot of information about you – personal details, contact lists, electronic messages and photographs. The contents may have sentimental value or might simply need to be closed after your death to prevent hacking or fraud. Websites, personal blogs and domain names, whether they produce income or not, should also be considered.

Accounts with stored value

Many Canadians hold virtual accounts that have stored financial value, such as PayPal and Bitcoin. Other accounts to remember include those associated with credits or rewards, such as loyalty programs, credit cards with cash-back rewards, gift cards, online shopping accounts and even video games.

Business-related digital assets

If you own or are a partner in a business, clear instructions on the treatment of business-related digital assets, such as email accounts, websites and business data, will help to ensure continuity after your death or upon any incapacity during your lifetime. If the business has any patents or other intellectual property (copyrighted materials or trademarks), these can constitute digital assets as well. Keep in mind that any power of attorney or will that you prepare should be consistent with other documents that govern your business relationship(s).

HOW TO GET STARTED

The first step to getting your digital estate in order is to take inventory. List all your digital assets and how to access them – the physical location or website associated with them, any account numbers or usernames, and your passwords.

Next, figure out what you want done with your digital assets. Should an email account be disabled? Are there photos to pass on to loved ones? You may want to consider transferring administrative rights to a website domain to someone else. Perhaps there is monetary value that needs to be distributed. An attorney/representative (in the event of incapacity during your lifetime) and a trustee (appointed pursuant to your will) should be assigned to manage your digital accounts according to your instructions. This could be the executor of your existing will, or you could ask a different person to handle your digital assets specifically. You may want to designate different people for different assets (for example, if you have both personal and business digital assets to be disbursed).

Finally, store these instructions in a secure place. At some point, passwords for your digital assets must be provided to your attorney/representative or trustee to allow them appropriate access. In some cases, website administrators may refuse access without the username and password. However, care needs to be taken to ensure passwords are secure. Keep sensitive information in a lock box or safety deposit box, with your lawyer or in another secure location. Passwords should not be included as part of your will because, if probated, they become public.

With so much taking place online, digital accounts and information need a place in the estate planning process. Speak to your advisor and a lawyer to help create a comprehensive estate plan that includes all your assets – digital and otherwise. ■



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