

THE TIMES, THEY ARE A-CHANGIN':

ESTATE PLANNING IN THE DIGITAL AGE

By Bob Prior



accounts if something happens to you?

If you become incapacitated or die, and do not plan properly for these assets, they can become a huge problem for your survivors. Typically, survivors do not know where your assets are located or even what they are. Your passwords are different for each account and often they are lost with you forever. And most companies have complex terms of service agreements that do not make it easy for your survivors to be able to access these accounts without proper authority. As a result, many times your digital assets are lost forever if you are no longer able to access them. To deal with this, here are a few ideas for planning in the digital age.

Estate planning has come a long way. Traditionally, the assets one needed to plan for were fairly simple: real estate, bank and investment accounts, maybe a small business, a retirement plan and life insurance. But in the past 25 years, that has changed. Today, in addition to our traditional assets, we now own assets in the cloud: Facebook accounts, Twitter accounts, e-mail, digital books, music, games, and others.

A recent study by McAfee determined that the average person owns about \$35,000 worth of assets stored on digital devices. Additionally, most of our personal communications, financial records, career information and family information is stored on digital hardware and protected by passwords and other security measures. Unfortunately, many fail to plan for these digital assets.

One problem with digital planning is that digital assets tend to be spread out over multiple devices: work computers, home computers, laptops, smartphones and tablets to name



a few. It can be a formidable task for someone not familiar with all of your hardware to locate your devices and access them. Additionally, we are taught and constantly reminded to keep our passwords difficult to determine and in a secure place (many times they do not exist anywhere but in our head). Often, our hardware is protected by one password and our accounts by many different passwords. How do you keep multiple passwords secure and still have them available so that your survivors will be able to access your

First, keep a good inventory. At least once a year, make a list of all of your hardware, your online accounts and your subscriptions. Determine which assets are stored on which devices and which are stored in the cloud. Make a list of your current passwords and keep them in a safe and secure place. Many businesses offer inexpensive secure, digital services for lists like these. Make sure the agent under your power of attorney, trustee under your living trust, and executor named in your will know where the

list is located and how to access it.

Second, pick the right person to assist if something happens to you and provide him/her with good instructions. Like most things in estate planning, you should give this a lot of thought. Your spouse or adult child might not be the appropriate choice for dealing with your digital assets, especially if he/she is not computer savvy. If you have died or are incapacitated, who do you really want turning on your computer to find and deal with what's there? Once you decide, let that person know and let him/her know how to find your list of hardware, accounts and passwords.

Third, and maybe most importantly, provide good legal authority allowing the person you designate specific rights to access your digital assets. This is key. Your durable power of attorney should contain specific instructions allowing your agent the ability to access all digital accounts if you are unable to handle them. And remember that a power of attorney authorizes an agent to act on your behalf if you are incapacitated; it does not grant any authority after your death. Therefore, your will (or living trust) must also contain specific instructions allowing your executor (or trustee) to be able to access all digital accounts after your death.

The world is changing and our planning needs to change with it. Be sure to ask your estate planning professional about planning for your digital assets.



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Estate Planning Elder Law

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