

## Estate Planning Part 8:

# Planning Your Digital Estate

*Alex Elswick, Nichole Huff, and Jennifer Hunter, Family and Consumer Sciences*

**H**ave you ever wondered what happens to your digital property after you pass away? Who will have access to online bank accounts, email accounts, or even social media accounts? Are these accounts deactivated? Do they disappear? Do they exist in the cloud forever? Who will have control over what happens to them?

The answers to these questions lie in the domain of digital estate planning. In the past, estate planning has involved writing a will, designating an executor to finalize your affairs, and passing along your possessions. Typically, paper documents would be compiled and stored in a safe place such as a locked desk drawer or filed with an attorney.

In the modern age of technology, however, estate planning is becoming ever more complicated. With so much vital information stored online, the nature of estate planning has changed. Although you may still have many important documents in paper format, it is likely that much of your financial documents are digitized. It may seem obvious that important digital information such as online bank accounts should be addressed in estate planning, but other types of digital assets such as social media accounts, text messages,



or even pictures stored in the cloud may have sentimental value for your loved ones. Email accounts and online retail accounts likely house critical personal information that you may wish securely kept. Unfortunately, planning for digital assets is typically neglected by individuals and their advisors. To ensure the safety and security of your digital information after your death, you will want to create a digital estate plan.

***83% of the U. S. population age 13 and older actively used some sort of social media platform. And yet, social media accounts are easily neglected in the process of planning your digital estate.***

### **How can a digital estate plan help my family and me?**

A digital estate plan can serve a number of important functions:

- It helps determine if any of your digital property has monetary value.
- It enables loved ones to locate and access important digital information.
- It may help clarify disputes regarding a final will and testament.
- It protects you and your family from online identity theft.
- It simplifies the transitions for surviving family members.

**Table 1. Digital asset inventory.**

<b>Digital Assets</b>	<b>Location</b>	<b>Passwords or Essential Info</b>	<b>Instructions</b>
<i>Email account</i>	<i>John.Smith@email.com</i>	<i>Password12345</i>	<i>Delete account</i>

Since digital estate planning is a relatively new concept, there are few laws governing what should happen with your loved one's digital assets. The preexisting legal structure for our digital lives was passed in 1986. Since then, limited legislation has been introduced to govern our digital property. However, beginning July 15, 2020, Kentucky House Bill 156 adopted the Uniform Law Commission's Revised Uniform Fiduciary Access to Digital Assets Act (2015) to allow executors, trustees, or other court-appointed person to have complete access to the deceased's digital assets.

Even with these laws in place, many online accounts are still governed by "terms of service" or "privacy policies" that determine what should happen to your account after you die. Therefore, it is ultimately up to you to take measures to protect your digital estate.

**Taking Inventory of Your Digital Assets**

In order to begin making a digital estate plan, you will first want to take inventory of all of your digital assets (Table 1). Your digital assets could include any of the following:

- Social media accounts
- Websites you own
- Online bank, credit card, or insurance accounts
- Any online bill pay or accounts you use to make or manage purchases, subscriptions, or pay statements online
- Email accounts
- Additional online retail accounts
- Stored pictures, music, or other media files
- Stored documents, data, or other file repositories
- Online payment mediums (i.e., PayPal, Apple Pay, Google Wallet, etc.)

Use Table 1 to inventory all of your digital assets that come to mind. You may leave the fourth column labeled “Instructions” blank until the final step in which you write your digital estate plan. It is imperative that this information be continually updated to guarantee that your digital executor can access each of your accounts.

## **Storing Your Inventory**

Since your digital assets inventory will contain important personal information, you don’t want it falling into the wrong hands. The next step is to find a secure place to store your inventory, such as a safety deposit box, a fireproof safe, with an attorney, or with a trusted family member. Also, a number of online services have been created that are specifically designed to secure your digital estate; examples may include PasswordBox, PasswordSafe, or SecureSafe. Some other sites, such as Google for example, have an automated system for deleting digital information. When this feature is activated on Google, you have the ability to select people who will be notified when the account has been closed. If the people you have selected indicate that you have passed away, Google will automatically carry out your instructions concerning your account.

## **Designating a Digital Executor**

Your digital executor will be responsible for carrying out your digital estate plan. Since your digital executor will be handling such private information, you will want to ensure that the person you select is both responsible and capable of navigating technology. You can name your digital executor in your will and give them Power of Attorney over your digital estate. You can include your digital estate plan as a part of your will, but do not include usernames and passwords. Your will becomes public record after it enters probate and you certainly do not want usernames and passwords to become public information. Just ensure that your digital executor is aware of the secure location in which you have planned to keep your digital inventory.

## **Writing Your Digital Estate Plan**

Once you have taken stock of all your online assets, ensured their proper storage, and identified an executor to oversee your digital assets, the final step is to actually write out your digital estate plan. Your instructions should be written clearly so as to eliminate any confusion regarding your final wishes. Create a list of instructions for each digital asset. You may use the fourth column of your inventory table to list these instructions, but you will also want to write them out more explicitly. Be as detailed as necessary to ensure that your loved ones have what they need to carry out your instructions.

## **Be Aware of Terms and Conditions**

As of 2020, 83% of the U.S. population age 13 and older actively used some sort of social media platform. And yet, social media accounts are easily neglected in the process of planning your digital estate. You may want to review the terms of service for your social media accounts, email accounts, YouTube accounts, etc. Each site may have a different protocol in place when a member passes away. Below are the existing terms of service for a few popular social media sites.

### *Facebook*

Facebook allows families to either memorialize an account or to close it. The terms of service dictate that accounts are nontransferable; thus, families must rely on a username and password in order to access account information. Facebook has gone to court and defended its right not to release passwords to family members based on the Stored Communications Act of 1986.

### *Google*

As referenced earlier, Google has a function called “Inactive Account Manager” that allows users to predetermine what they wish to happen once their account has been inactive for a set amount of time. Users can choose the period of inactivity allotted and can have a text message sent to their phone to double check that the account is inactive. Perhaps most importantly, users can craft an email that will be sent to the beneficiary (probably a digital executor) when the account becomes inactive.

### *Twitter*

Twitter requires a much more demanding process to access the account of a deceased family member. Families must produce their loved one’s username, death certificate, government-issued identification, and a signed statement from the executor providing the action requested on behalf of the deceased family member. Strict privacy measures are in place to prevent false and/or unauthorized reports.

As new technologies emerge, digital estate planning promises to become even more complicated. Nevertheless, having a digital estate plan will ensure safe transfer of online assets, prevent theft of identity or assets, protect personal information, and make the transition easier on family members. You will want to periodically research state and federal laws concerning digital assets as well as the terms of service of each of your online accounts to better protect your online assets.

## **The Estate Planning Series**

This publication is part of a ten-part series on estate planning. The publications in this series are:

- Part 1: *Getting Started*  
(FCS5-420)
- Part 2: *Your Records and Personal Information*  
(FCS5-422)
- Part 3: *Selecting Your Team*  
(FCS5-423)
- Part 4: *Financial Planners*  
(FCS5-424)
- Part 5: *Wills and Probate in Kentucky*  
(FCS5-425)
- Part 6: *Trusts*  
(FCS5-426)
- Part 7: *Federal and State Estate Taxes*  
(FCS5-427)
- Part 8: *Planning Your Digital Estate*  
(FCS5-465)
- Part 9: *How to Settle an Estate*  
(FCS5-436)
- Part 10: *A Glossary of Terms*  
(FCS5-428)