

Distributing Your Digital Estate after Death

As part of your estate planning, there are things you can do now, before the unexpected happens, to ensure the fate of your online life and *make things easier for the loved ones you leave behind*. Anything on your personal computer, tablet, and mobile phone will become part of the estate and the estate will access and distribute the information from the device. What the estate cannot do is jump through the device to your online accounts.

1. Make lists of digital assets and how to access them.

Write down all the websites you use (usually in a week or month) that require log-in information and, in a secure document on your computer or in a notepad, write down the website, your log-in name, and your password. Do not include these usernames and passwords in your *Will* itself because the *Will* is a public document. Instead, specify in a *Memorandum* the location of the lists. Create a digital inventory, including the following:

- Financial data, including bank, brokerage, retirement, credit card, mortgage, loan, and insurance accounts that you access online and services you use to access those accounts. This is the most essential information to your executor, beneficiaries, and heirs and some of the hardest information to access. If you can, specify your beneficiaries directly on the websites of the financial institutions. Download and/or print out your account statements monthly or quarterly, creating a hard copy of the information either on paper or on your personal computer – eliminating the problem of accessing your accounts.
- *Facebook*, *Twitter*, *Google*, *LinkedIn*, and other social media accounts.
 - Rules regarding what happens to your social media accounts upon your death are spelled out in the terms of service agreement (“TOS”) with the site, but several sites also offer additional services. *Facebook* has a feature that allows friends and family members to share memories of a deceased loved one on his or her Timeline. The service can be activated once the site receives proof of that person's death and deactivated at a family member's request. *Google* provides an Inactive Account Manager, which allows individuals to designate up to ten trusted friends or relatives as beneficiaries of their online accounts.
- Blogs and websites you own.
- Email accounts.
 - Again, read each account's TOS, which contains essential information about what happens to your account when you die. Some email providers consider your account terminated upon your death while others let your email account go on forever. In all cases, the TOS gives you a nontransferable license, which means that nobody else can access your account after your death. Remember that strict federal law governs the

release of private messages like email and does not allow these email services to divulge the contents of these communications without a court order or consent from the individual account licensee/owner. If you want your *executor* to access your email after you are gone, state so in your *Will*.

- Medical billing accounts.
- Online retail accounts and apps from stores, flash sale sites, or marketplaces.
- Photo- or video-sharing sites like *Instagram* or *YouTube*.
 - If you want your *executor* to access your digital photos after you are gone, download your favorites and save a copy to your hard drive.
- Music sites and e-books.
 - When you download a song, *you don't actually own the item*. You purchase a license to use the download during your lifetime. Read the TOS.
- *PayPal*, *Venmo*, *Zelle* or other online payment accounts.
- Companies whose bills you pay directly online, including utilities, mobile phones.
- Other online accounts, including airline sites with your frequent flier miles and document and data storage accounts like *Dropbox* and *Google Docs*.

2. Find a safe place to store this information.

Because your digital inventories contain personal information that could lead to identity theft and financial losses if the lists get into the wrong hands, be careful where you put them. Store the lists with your *Will* and *Memorandum* in a safety deposit box at your bank or in a safe or put them in an online password site that securely encrypts and stores all your account information and passwords in one place. You also should give a copy of the lists to your *executor* (and a trusted person like your spouse, child, or best friend).

3. The *executor* named in your *Will* must have access to your digital assets.

The *executor* of your *Will* is the person you designate to carry out your estate plan upon your death, including digital assets, ensuring that your end-of-life requests are met. Be sure your *executor* knows how to access your digital assets, including instructions that spell out how to manage your online accounts upon your death. You also should give your *executor* power of attorney over your digital accounts since he or she may need to access the accounts after you die. Let your *executor* know if you have automated any of your digital assets by using something like *Google's* Inactive Account Manager.

4. Include instructions for what should happen to your digital assets.

First, make sure the *executor* of your *Will* knows how to obtain your list of online *financial accounts* to make distributing your estate faster and easier.

Second, as to your *non-financial digital assets*, create a to-do list outlining how you want all things digital — from your *Facebook* and *LinkedIn* profiles to your *Instagram* and *YouTube* accounts — to be managed when you die. Give this document to your *executor*. The to-do list should answer questions like (1) do you want your *Facebook* account deactivated when you die, or do you want it to remain online as a memorial of your life and (2) do you want prints of your *Instagram* photos sent to your family members? Consult the TOS for social media sites; many take precedent over state laws.

In general, *Facebook* will not grant access to an account to anyone other than the account holder (or an *executor* who has your username and password). *Facebook* usually allows one of two things when a *Facebook* user dies. *Facebook* can “memorialize” the user's profile so friends and family can see and post on the wall but cannot log into the account or find the deceased in a search. Or it can deactivate the profile at the request of the user's *executor* or family.

Twitter may allow only the option of deactivating the account through “Help Center” by faxing *Twitter* copies of the death certificate and your government-issued ID (such as a driver's license), along with a signed, notarized statement and either a link to an online obituary or a copy of the obituary from a local paper.

For your *YouTube* account, the *executor* sends *YouTube* a copy of your death certificate and a copy of a document saying he or she has power of attorney over the account.

As for *Gmail*, *Google* may only grant a family member access to a deceased person's email “in rare cases.” The family member requesting this access usually must send *Google* a copy of his or her government-issued ID and the death certificate. But even then, *Google* does not promise access into a loved one's email.

5. Consider whether you want to post a final message online.

Your estate plan also can explain whether you want to send a final online message (or messages) to friends and family. Do you want to record a video of your life story, and have it posted on your *YouTube* channel when you die? Do you want to create a photo album chronicling your life and have someone put it up for you on *Facebook* or *Instagram*? Be sure your estate plan provides specific instructions for your *executor* about content you want posted online upon your death, and how and when.

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