

# The Vanishing Paper Trail: How CPAs Can Help Clients Protect Digital Assets Upon Death

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One of the more challenging elements of estate administration is identifying and locating the decedent's assets. In the past, estate administration attorneys would regularly advise family members or friends responsible for administering the estate to look through the decedent's documents, watch the mail and review old tax returns in order to identify the decedent's assets. Certified stocks, bearer bonds or life insurance policies could even turn up from time to time, aiding in the process.

Although not a perfect method, statements received in the mail and tax returns more times than not yielded the "paper trail" needed to identify and locate the decedent's assets.

But there's more that needs to be done in today's world.

## **Enter the information age, and the expansion of assets**

Enhanced Internet capabilities and the ability to access Internet content via multiple devices from nearly any location reduced reliance on documents to substantiate transactions or to verify account balances or tangible copies of photographs — thousands of which can be stored in the most basic mobile phone. Increasingly, individuals receive account statements via email and pay bills using PayPal or online bill paying services. The ubiquity of the Internet has enabled the development of alternative currencies, such as Bitcoin, and the creation of financial institutions that exist on the Internet only without a single bricks-and-mortar branch.

In addition to changing the methods through which transactions are substantiated and information stored, the expansion of the Internet created new opportunities for entrepreneurs to innovate and develop new Internet-based products and services. As more of these became available, the concept of assets had to be expanded to include "digital assets." Although not subject to exact definition, digital assets may include music files, medical records, videos, software, social media accounts, email accounts, blogs, websites, shopping accounts, financial accounts and tax documents.

## **Sharing passwords and user names**

Like tangible assets, digital assets may have monetary value or contain personal or private information that merit protection. However, unlike tangible property that can be protected via physical restrictions (e.g., safe deposit boxes, in-home safes, locked file cabinets), access to digital

assets is limited through the use of passwords and usernames. Password and username protection may be applied at the hardware level to access a phone, tablet or computer and/or at the asset level to access an account, website or software.

Having password-protected devices and digital assets can create multiple issues if the owner passes away without providing information about his or her digital assets. First, home computers are becoming the de facto file cabinets for electronic documents. Without a username and password, the computer effectively becomes a permanently locked file cabinet that could contain information critical to the administration of the decedent's estate. Similarly, absent username and password information for the decedent's email accounts, another avenue for critical information is unnecessarily foreclosed. As a result, his or her digital assets may be undiscoverable. It's unlikely that these assets will be distributed to the owner's heirs without the ability to discover or access digital assets.

### CPAs can help

Many people overlook the monetary and sentimental value of digital assets, and the information needed to ensure they are preserved after their death. Accountants, attorneys and financial advisers are uniquely positioned to help their clients develop a plan for digital assets. The following are suggestions CPAs can use to help with this important task.

1. **Start the conversation.** It's not uncommon for clients to overlook the problems that password-protected devices and online accounts can create for surviving friends and family members after the owner passes away. There is also a common misperception that digital assets are not valuable if they do not have an obvious monetary value. In the eyes of a surviving family member, the most valuable asset may be the years' worth of pictures stored in the cloud or specific email conversations. Helping individuals recognize the unique characteristics of digital assets, the value they may represent and the problems surviving family members and friends may encounter when dealing with them usually provides sufficient motivation to develop a plan for digital assets.
2. **Conduct a digital audit.** Provide clients with a digital inventory listing various classes of digital assets (e.g., email accounts, social media accounts, hardware, software), and encourage them to conduct a "digital audit" to determine the extent of their online presence. The inventory should provide spaces for the client to list the username, account number (if applicable) and password for:
  - > Hardware (e.g., computers, mobile telephones, netbooks, notebooks)
  - > Email accounts
  - > Social media accounts
  - > Blogs, domain names and websites
  - > Photo accounts
  - > Financial accounts
3. **Discuss options for storing username and password information.** The most challenging aspect of creating a plan for digital assets is helping clients overcome their justifiable fear of consolidating all of their passwords, account numbers and usernames in one document. In most

cases, a discussion about options for securely storing the inventory and the benefits of creating the inventory can help clients overcome their reservations. While some clients prefer a handwritten list, others may prefer an electronic copy stored on an encrypted USB drive. Regardless of the medium, the inventory should be stored in the client's personal safe or safe deposit box, and the person named to administer the estate advised of its location and password if it is encrypted.

Considering the frequency with which we change and add passwords, updating them presents an additional challenge. Establishing two or more dates per year (e.g., children's birthdays, daylight saving time) have proven to be excellent reminders to update the inventory.

Alternatively, clients may wish to purchase a password manager, which is a software application that stores, organizes and updates passwords as they are added and/or changed.

- 4. Review and update estate planning documents.** Clients should review their wills, revocable trusts and powers of attorney to ensure that these documents authorize an individual to access and manage their digital assets. Many states are in the process of reviewing and adopting the Uniform Fiduciary Access to Digital Assets Act (UFADA), which allows personal representatives, trustees, attorneys-in-fact and other authorized agents to manage digital assets. Gov. Mark Dayton in May signed the measure into law for Minnesota. Because UFADA will allow a fiduciary access to email, text messages and social media accounts only if the fiduciary is specifically authorized to do so in writing, it's increasingly important to ensure that provisions addressing digital assets are included in the client's estate plan.
- 5. Make a plan for managing digital assets after death.** Encourage clients to review their inventory and develop a written plan outlining how their digital assets should be handled after death. In some cases, accounts may contain sensitive or secret information that is to be deleted and not to be revealed to family members or friends.

### **Start talking about this today**

As digital assets become more prevalent in day-to-day life, they will also take on greater significance after death. Absent special efforts to help surviving family members and friends discover and access digital assets, individuals may be unintentionally sacrificing assets with significant emotional and monetary value. However, with a little forethought and planning, individuals can simplify estate administration and preserve these assets for their heirs.

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