

LIFE ADVANCED MARKETS

Estate planning for digital assets

A traditional estate planning strategy is typically focused on written documents such as wills, trusts, powers of attorney, etc. After a person dies, the personal representative or trustee typically searches for account statements and other documents to determine what assets they may have owned.

But as accounts of all types have become digitized, many have moved exclusively to online access only and stopped delivering paper account statements. Consequently, knowing what accounts exist and obtaining access to digital accounts has become increasingly complicated.

Even if the personal representative has the login credentials for an online account, they may be prevented from accessing the contents of the account if the user did not authorize access.

Organizing digital assets – including instructions in the client’s estate plan as to who may access the account and what access should be permitted – has become an important part of a comprehensive estate plan.

As a financial professional, you can share the information in these materials and help support your client and their attorney through the estate planning process. This digital asset organizer will help you understand the digital asset landscape and assist your client in organizing their wishes related to their digital assets.

WHAT ARE DIGITAL ASSETS?

In general, a digital asset is an electronic record in which an individual has a right or interest. However, digital assets do not include an underlying asset unless the underlying asset itself is an electronic record. For example, an online banking account is a digital asset, but not necessarily the money in the bank account.

Generally, the term “digital asset” refers to non-physical items, such as electronic documents, photos, images, videos, or cryptocurrency, all of which have value but exist only in digital, not physical, form.

Please note that some online account service providers limit or prohibit users/account holders from sharing login credentials such as passwords, or allowing others access to the user’s account without first obtaining written permission from the service provider. Please be sure you read and understand the service provider’s terms of service before sharing the information in this organizer.

While not intended to be an exhaustive list, here are common examples of digital assets:

Computer passwords/account login credentials: Usernames, passwords, security questions and answers for access to online accounts, and subscriptions are digital assets because they provide access to digital files and records.

Online accounts: E-mail accounts, online shopping accounts, financial accounts (e.g., banking, investment, Social Security), credit card accounts, utility accounts, insurance accounts.

Digital subscriptions and memberships: Streaming services, cloud storage providers.

Social media accounts: These typically hold electronic pictures, images, videos, documents, and user-created posts, which are stored in a user account.

Virtual currency: Issued by private parties, such as a group of developers or organizations, and do not have a physical form like paper money. Also included in this category are stablecoins.

Digital documents: Tax returns, financial account statements, utility bills, etc.

Music:** Digital music files (e.g., MP3 files).

Video:** Digital video files, such as movies and TV shows.

eBooks/audio books:** The digital, electronic version of a traditional printed book, designed to be read on computers, tablets, smartphones, or dedicated e-readers.

Digital art: Digital paintings, photographs, and other forms of art that exist in digital form.

Domain names and blogs: The rights to a particular domain name, or weblog (blog) content.

** Note: Although music, movies, eBooks, and audio books are digital assets, if they are purchased from digital content providers or subscription services, they are typically not transferrable. Generally, the provider's terms-of service agreement expressly describe such content as nontransferable. The user pays for a license to listen, watch, or read the content during their lifetime only. Since the user does not actually own the digital content, the user will not be able to transfer the ownership of such music, movies, eBooks, or audio books to others upon the user's death.

IS COMPUTER HARDWARE A DIGITAL ASSET?

Generally, no. Desktop computers, laptop computers, tablet computers, data storage devices (e.g., computer disk, thumb drive, SD card), e-readers, mobile telephones, and smart watches are examples of tangible, physical assets, not digital assets, and will likely be distributed along with other tangible personal property in a client's estate plan.

These devices are the hardware that contains or stores digital assets like data and software. It is the intangible information stored on these

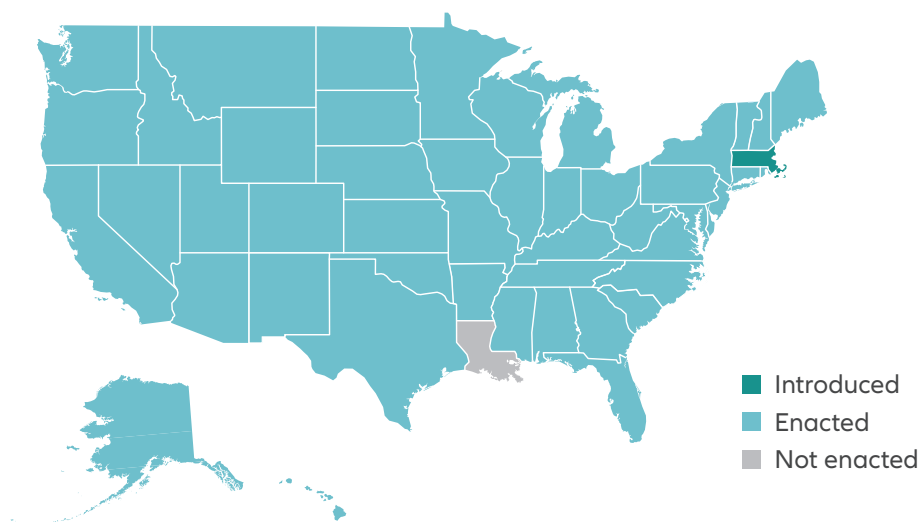
devices which are the digital assets. However, the password needed to access the physical device is a digital asset because it provides access to the digital assets stored on the device. Because access to these devices may be essential to preserving the client's digital assets, it's critical to make sure your client's personal representative, trustee, or other fiduciaries can access the password for each device.

LAWS REGARDING DIGITAL ASSETS

The Uniform Fiduciary Access to Digital Assets Act (UFADAA) was created in 2014 by the Uniform Law Commission. The purpose of the act was to give personal representatives, trustees, attorneys in fact, conservators, and other fiduciaries the authority to access and manage digital assets during the owner's incapacity or upon the owner's death.

In 2015, a revised version of the Act was created, known as the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA). As of September 2025, every state other than Louisiana has either adopted some version of the Revised Act, or legislation has been introduced for adoption.¹

Enactment Map



The revised Act essentially allows the user of an online account to direct who can access their digital accounts and what specific information may be accessed in certain situations, such as the user's disability or upon the user's death. A user may either:

1. Provide direction regarding account access through an "online tool" provided by the account custodian if available; or,
2. Direct the access and restrictions through a provision in the user's will, trust, or power of attorney.

The revised Act describes the account provider as a custodian of the digital asset. Some custodians offer online tools that allow account holders to

designate a person who will be able to access, manage, or even delete digital accounts and records. Generally, these tools can be found in the account settings or privacy section of the user's online profile. User-directed settings in the online tool generally supersede the user's estate planning documents as well as the custodian's stated terms of service.

If the custodian does not offer an online tool, then the account user will be subject to the custodian's terms of service agreement. Not surprisingly, a custodian's terms-of-service agreement will often favor the custodian and many prohibit access by third parties, even in the event of the user's incapacity or upon death.

¹ Data provided by Uniform Law Commission (as of 9/22/25)
<https://www.uniformlaws.org/committees/community-home?CommunityKey=f7237fc4-74c2-4728-81c6-b39a91ecdf22&utm>

WORKING WITH DIGITAL ASSETS IN AN ESTATE PLAN

An effective and comprehensive estate plan should address the following questions:

- What digital assets does the client own?
- Who can access the digital asset during the client's incapacity or upon the client's death?
- What access should be permitted?

These issues can be addressed by (1) helping your client prepare an inventory of the client's digital assets; and (2) having the client's estate planning attorney add effective digital asset provisions to the client's will and/or trust.

1

INVENTORY OF DIGITAL ASSETS:

Generally, a client may want to avoid listing each and every digital asset in their will or trust. Instead, preparing a detailed, comprehensive inventory of digital assets should be a standard component of a comprehensive estate plan. An example of a digital asset organizer, which your client can use to inventory their digital assets, is included below.

2

ADDING EFFECTIVE DIGITAL ASSET PROVISIONS:

A client should consider authorizing fiduciaries to have access to any or all of their online accounts and digital assets. To that end, the client should discuss with their estate planning attorney adding such authorization as a provision in their will and/or trust. Clients should also read and understand both the terms of service agreement and the privacy policy for each online account provider. Some terms of service agreements or privacy policies may actually prohibit access of an account by a fiduciary, notwithstanding the fact the client has authorized such access in their will or trust. An example of a digital assets provision for will or trust is included.

DIGITAL ASSET ORGANIZER

Name: _____ Date: _____

Computer or other electronic device access			
Description of device (laptop, tablet, phone)	Code to unlock device or screen	User name	Password

Online financial accounts				
Bank accounts (checking, savings, money market)				
Bank name	Account type	User name	Password	Who can access
Investment accounts (brokerage, stocks, bonds, mutual funds)				
Institution name	Account type	User name	Password	Who can access
Retirement accounts (IRAs, 401(k), 403(b), annuities, pension)				
Institution name	Account type	User name	Password	Who can access
Mortgages				
Lender/servicer name	Account type	User name	Password	Who can access
Insurance (home, auto, life)				
Insurance company name	Type of policy	User name	Password	Who can access
Other				
Company name	Type of policy	User name	Password	Who can access

Virtual currency					
Device used to access (desktop, laptop, phone)	Wallet/ software name	Currency name	Private key	Public key	Who can access

Social media accounts			
LinkedIn			
Profile name	User name	Password	Who can access
Facebook			
Profile name	User name	Password	Who can access
Other			
Profile name	User name	Password	Who can access

E-mail accounts			
Gmail			
Profile name	User name	Password	Who can access
Outlook			
Profile name	User name	Password	Who can access

Cloud storage accounts			
Google drive			
Profile name	User name	Password	Who can access
Dropbox			
Profile name	User name	Password	Who can access
Apple iCloud			
Profile name	User name	Password	Who can access
Microsoft OneDrive			
Profile name	User name	Password	Who can access

Online subscriptions			
Amazon Prime			
Profile name	User name	Password	Who can access
Apple iTunes			
Profile name	User name	Password	Who can access
Netflix			
Profile name	User name	Password	Who can access
Spotify			
Profile name	User name	Password	Who can access
Other			
Profile name	User name	Password	Who can access

Customer loyalty/rewards accounts				
Transportation (airlines, ride-hailing companies, rental cars)				
Company name	Account number	User name	Password	Who can access
Hotel chains				
Hotel group name	Account number	User name	Password	Who can access
Restaurants, food, and coffee				
Company name	Account number	User name	Password	Who can access

Other online accounts				
Account description	Account type	User name	Password	Who can access

SAMPLE DIGITAL ASSETS PROVISION FOR WILL OR TRUST

My personal representative or trustee is hereby authorized to exercise all powers that I, as the owner of the account or digital asset, would have regarding the use, administration, and distribution of: (1) any kind of computing device of mine; (2) any kind of data storage device or medium of mine; (3) any electronically stored information of mine; (4) any user account of mine; and (5) any domain name of mine.

My personal representative or trustee is hereby authorized to obtain copies of any electronically stored information of mine from any individual or entity that possesses, has custody of, or controls that information. I hereby authorize any individual or entity that possesses, has custody of, or controls any electronically stored information of mine or that provides to me an electronic

communication service or remote computing service, whether public or private, to divulge to my personal representative or trustee: (1) any electronically stored information of mine; (2) the contents of any communication that is in electronic storage by that service or that is carried or maintained on that service; and (3) any record or other information pertaining to me with respect to that service.

I hereby expressly consent to interception of electronic communications under the Electronic Communications Privacy Act of 1986, as amended; authorize consent under the Computer Fraud and Abuse Act of 1986, as amended; and any other applicable federal or state data privacy law or criminal law.



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