

Your Digital Estate



The "digital" dimension in estate planning

Going "digital" may improve efficiency, access, storage, and ease of sharing. At death, those benefits disappear. For an estate's executor and its beneficiaries, going digital can have the opposite effect, making assets more difficult to access or even entirely inaccessible and lost.

The key to unlocking the value of digital assets is access.

Michael Crichton's unpublished novel, *Pirate Latitudes*, was found in his computer files by his heirs, and the novel eventually was published. Leonard Bernstein's unpublished memoir, *Blue Ink*, was password protected and is still not accessible to his heirs as of this writing. The two illustrate the range of outcomes for digital assets after death.

"Digital assets" encompasses all electronically stored information, not just what's on one's computer. An estate plan today should include a digital inventory of assets such as:

- Passwords for devices, files, email, and social media accounts.
- Passwords for financial information, accounts, and digital tax records.
- Domain names, Web pages, Blogs, and other virtual property.
- Subscription services that would need to be cancelled or adjusted.

Passwords for access to computers, phones, or tablets and user account passwords may be required so your executor or heirs can have your pictures, videos, writing, or other personal content. Don't assume they can acquire this easily from providers either. For example, Facebook will not provide access to a member's account to their family upon death, instead giving the family the option of closing the page or leaving it up as a memorial.

New Jersey Law

The *Revised Uniform Fiduciary Access to Digital Assets Act* has been enacted in a majority of states, including New Jersey. The law provides default assumptions regarding the digital estate, but those assumptions can be countermanded in a will, trust, or a power of attorney.

The law addresses questions such as:

- *As an executor, how do I obtain access to the decedent's electronic communications?*
- *Establishes the duties of the trustee?*
- *Mergers and divisions of trusts?*

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How Garden State Can Help

Garden State Trust's professionals have long provided conventional estate settlement services. We are also up-to-date regarding the issues concerning transfer of digital assets. We understand the potential pitfalls, and can help evaluate what should be addressed as a digital asset.



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1-888-323-5535