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Your Guide to Estate Planning for Digital Assets

Today, many people have increasing amounts of digital assets stored either on computers and other devices or online. Like other assets, digital assets can be passed on to family or friends in the event of your death. This guide will help you get started in planning on how to preserve or pass on your digital assets.

What Are Digital Assets?

Digital assets include all online accounts and digital files that you own, for example:

- Email accounts (e.g. Gmail, Yahoo!, Hotmail, etc.)
- Social networking accounts (e.g. Facebook, Twitter, Myspace, etc.)
- Websites, blogs, and domain names
- Online banking, shopping, and bill-payment accounts
- Virtual businesses
- Online subscriptions
- Pictures, videos, and other documents

Reasons to Plan for Digital Assets

For an even more in-depth treatment, see: Gerry W. Beyer & Kerri M Griffin, *Estate Planning for Digital Assets* (Apr. 2011), available at <http://ssrn.com/abstract=1781483>.

- **To make things easier on executors and family members** – You can provide your family members and/or executors with a roadmap to easily finding and dealing with your various usernames, passwords, and documents.
- **To prevent identity theft** – If family members cannot access your online accounts quickly, criminals can open credit cards, apply for jobs, or possibly even getting a state identification cards under your name.
- **To prevent losses to the estate** – Electronic bills need to be discovered quickly and paid to prevent late fees and cancellations. If you own an online business, you can designate someone to access incoming orders, company bank accounts, and employee payroll accounts.
- **To avoid losing your story** – Personal blogs and social media accounts have largely replaced physical diaries, personal letters, and photo albums. Alerting family members where and how to access these assets will help ensure that they are not deleted or lost.
- **To prevent unwanted secrets from being discovered** – Designating appropriate people to access or destroy certain digital assets can prevent the wrong person from coming across private information.

Ways to Plan for Digital Assets		
Method	Benefits	Obstacles
Placing digital asset information in a Last Will and Testament, or better yet, into a separate document referenced in the Will.	<ul style="list-style-type: none"> • The information will be kept safely with the Will, which does not “speak” until after your death. 	<ul style="list-style-type: none"> • Once the Will is admitted to probate, it becomes public information.
Placing digital asset information in a trust. If assets are of substantial value, a stand-alone Digital Asset Trust may be best.	<ul style="list-style-type: none"> • The information will not become part of the public record. • The trust can be the owner of the assets and will survive death. 	<ul style="list-style-type: none"> • Digital assets are constantly changing (e.g. new passwords, accounts, etc.), and constantly updating the Schedule of property “funding” the trust is a hassle.
Placing digital asset information in a separate document.	<ul style="list-style-type: none"> • The document can be referenced in the Will, but the information it contains will not become public. • Those people designated will have a clear guide to accessing your digital assets and carrying out your instructions. 	<ul style="list-style-type: none"> • Keeping all of your account information in one document can compromise your account security if the wrong person finds it.
Using online afterlife companies. In our experience, the best such company so far is SecureSafe, which offers a free account for up to 50 different digital assets. You can learn more at: www.securesafe.com	<ul style="list-style-type: none"> • Digital assets and instructions for them can be stored online. • Some companies allow you to send notes and emails to loved ones post-mortem. • Beneficiaries for your digital assets can be designated. • Updating digital asset information is easy. • SecureSafe is free for up to 50 digital assets. 	<ul style="list-style-type: none"> • The company’s security system could be breached. • The company you choose could stop operating. • The company still needs to see a Will or Trust before it can legally distribute digital assets to beneficiaries.

Current Deceased-User Policies

Many online account providers have certain policies regarding the fate of online accounts after the user's death. Here are the deceased-user policies of some popular account providers, along with tips for using SecureSafe to address them.

Account/Asset Type	Deceased-User Policy	SecureSafe Tips
Facebook	<ul style="list-style-type: none">• Family members can either remove or memorialize a deceased's account.• If the account is memorialized, future log-ins are prevented, status updates and contact information are deleted, and confirmed friends can interact with the deceased's wall. <p>The full policy may be viewed at: http://www.facebook.com/full_data_use_policy (see Section VI; last visited June 1, 2012).</p>	<ul style="list-style-type: none">• State whether you want your account removed or memorialized in the "Comment" column of the <u>Password Safe</u>.
Hotmail	<ul style="list-style-type: none">• Family members can either delete the deceased's account or receive a CD-ROM of the account's content. <p>Gaining access requires:</p> <ul style="list-style-type: none">• A photocopy of the death certificate• Paperwork stating that the family member is an executor or has power of attorney• A copy of the family member's government-issued ID• A document answering specific verification questions <p>The full policy may be viewed at: http://answers.microsoft.com/en-us/windowslive/forum/hotmail-profile/my-family-member-died-recently-is-in-coma-what-do/308cedce-5444-4185-82e8-0623ecc1d3d6 (last visited June 1, 2012).</p>	<ul style="list-style-type: none">• Designate a family member as the executor of your digital assets in your Will, or in a document uploaded to the <u>File Safe</u>.• Also, assign that family member as the beneficiary to your Hotmail account in the <u>Password Safe</u>.

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<p>Gmail/Google</p>	<ul style="list-style-type: none"> Family members can gain access to the content of the deceased user’s account. <p>Gaining access requires:</p> <ul style="list-style-type: none"> A photocopy of the death certificate A photocopy of your government-issued ID The Gmail address of the deceased The family member’s name, physical mailing address, and email address The full header and content of an email the deceased sent to the family member Additional materials or a legal court order <i>may</i> be required <p>The full policy may be viewed at: http://support.google.com/mail/bin/answer.py?hl=en&answer=14300 (last visited June 1, 2012).</p>	<ul style="list-style-type: none"> Designate a family member as the executor of your digital assets in your Will, or in a document uploaded to the <u>File Safe</u>. Also, assign that family member as the beneficiary to your Gmail/Google account in the <u>Password Safe</u>. Upload at least one email sent from your Gmail address to your designated family member to the <u>File Safe</u>.
<p>LinkedIn</p>	<ul style="list-style-type: none"> Family members can remove or memorialize the deceased’s account. If the account is memorialized, profile access is restricted and messaging functionality is removed. <p>The full policy may be viewed at: http://www.linkedin.com/static?key=privacy_policy (see Section 3D; last visited June 1, 2012).</p>	<ul style="list-style-type: none"> State whether you want your account removed or memorialized in the “Comment” column of the <u>Password Safe</u>.

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<p>Myspace</p>	<ul style="list-style-type: none"> • The next of kin or executor may delete, remove content from, or preserve the deceased’s account. <p>Gaining access requires:</p> <ul style="list-style-type: none"> • Proof of death by providing either a photocopy of the death certificate or obituary, or a URL to the online news publication or funeral home website • Reason for requesting to remove or preserve the account • Proof of relationship to the deceased <p>The full policy may be viewed at: http://www.myspace.com/help?pm_cmp=ed_footer (last visited June 1, 2012).</p>	<ul style="list-style-type: none"> • Designate an executor of your digital assets in your Will, or in a document uploaded to the <u>File Safe</u>. • Assign the executor as the beneficiary to your Myspace account in the <u>Password Safe</u>. • State in the “Comment” column of the <u>Password Safe</u> whether you want the content on your Myspace profile removed or preserved.
<p>Twitter</p>	<ul style="list-style-type: none"> • An executor or immediate family member may deactivate the deceased’s account <p>Deactivation requires:</p> <ul style="list-style-type: none"> • The deceased’s Twitter username • A copy of the death certificate • A copy of the family member’s government-issued ID • A signed, notarized statement including the family member’s: <ul style="list-style-type: none"> ○ Full name ○ Current contact information ○ Email address ○ Relationship to the deceased ○ Action requested ○ Link to an online obituary (<i>optional</i>) <p>The full policy may be viewed at: https://support.twitter.com/articles/87894-how-to-contact-twitter-about-a-deceased-user# (last visited June 1, 2012).</p>	<ul style="list-style-type: none"> • Designate an executor of your digital assets in your Will, or in a document uploaded to the <u>File Safe</u>. • Assign the executor as the beneficiary to your Twitter account in the <u>Password Safe</u>. • State in the “Comment” column of the <u>Password Safe</u> whether you want your Twitter account deactivated.

Yahoo! Mail	<ul style="list-style-type: none">• Rights to the ID and content of your Yahoo! account terminate upon your death• Family members may request for the account and its contents to be permanently deleted by providing Yahoo! with a copy of the death certificate <p>The full policy may be viewed at: http://info.yahoo.com/legal/us/yahoo/utos/utos-173.html (see Section 27, last visited June 1, 2012).</p>	<ul style="list-style-type: none">• If you would like to save any contents from your Yahoo! account, upload them to the <u>File Safe</u> and designate a beneficiary to them.
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Why We Recommend SecureSafe for Digital Estate Planning

SecureSafe is a comprehensive digital estate planning tool. SecureSafe protects your digital documents, guards your passwords, preserves your digital assets, and lets you access and manage them at any time. These services are not to be confused with those provided by websites such as LastPass.com, which merely remembers the passwords to your various accounts and “plugs them in” for you.

Features of SecureSafe

File Safe – In order to prevent loss of or unauthorized access to your important data, you can store them in SecureSafe’s highly secure online safe. The central storage facility assists you in organizing your daily life and secure access to your data is possible at any time.

Password Safe – Store your passwords confidentially and without risking their security in a central depository where you can access them at any time. You can also assign a beneficiary to each online account you list.

Data Inheritance – SecureSafe offers a secure and private way of passing your files and passwords on to your partners, friends and loved ones in the event that something should happen to you. For every data item you store, you can assign a beneficiary, to whom your digital content will transfer.

Access on the Go – You can access all your data via a PC/Mac browser or from an iPhone/iPod/iPad. The functionality is kept as simple as possible. No computer expertise is required.

Secure Delivery – With a SecureSafe account, your bank can deliver account statements to your safe. The incoming documents from your bank will be delivered directly

to a specific inbox folder. Long-term preservation as well as secure communication with your asset manager or business partners is guaranteed.

For a brief introduction to the benefits of using SecureSafe, visit:

<http://vimeo.com/42877260>

Digital information is gaining importance daily

Many people use online accounts to pay bills, shop, etc. These accounts often contain the user's credit card information. As the amount of online business transactions has increased, so has internet crime, such as identity theft. Many private individuals are unable to protect themselves comprehensively. This leads to the need for a professional, independent service provider that can offer this protection.

All of the user's data is highly encrypted and secure

SecureSafe makes use of well-established cryptographic standards such as AES-256 and RSA-2048, without compromise. Both standards will provide proven security for many years to come.

The SecureSafe application and data storage – and therefore all client data – are only hosted with highly secure datacenters inside of Switzerland. SecureSafe datacenters further comply with the specific regulations of the Swiss Federal Banking Commission.

SecureSafe subscribes to McAfee Secure, which performs vulnerability scans and compliance checks of SecureSafe's web services on a daily basis.

SecureSafe is one of the leading providers of digital asset planning

SecureSafe recently bought one of its largest competitors, Entrustet, solidifying it as one of the leading providers of digital asset planning.

For more detailed information on the security benefits of using SecureSafe, visit:

<http://www.securesafe.com/en/security.html#dc>

How to Plan for Digital Assets Using SecureSafe

Step 1 – Setting Up an Account

Setting up an account with SecureSafe is free and only takes a few minutes. None of your personal information is required. You can sign up at:

<http://www.securesafe.com/en/>

Step 2 – Inventory Your Digital Assets and Provide for Access

- Files can be uploaded to the File Safe and downloaded later.
- You might also want to upload a file containing an inventory of all your hardware devices, such as home and work computers, laptop, tablet, mp3 player, back-up CDs or DVDs, portable hard drives, USB flash drives, digital cameras, etc.
- Account usernames and passwords can be saved in the Password Safe.
- Be sure to update your digital assets (new accounts, passwords, documents, etc.) at least once every three months.

Step 3 – Identify Appropriate Help

Give serious thought to who should be looking after your digital assets on your demise.

- Beneficiaries can be assigned for each file in the File Safe, for each account in the Password Safe, and can also be designated to receive messages or data in the Data Inheritance tab.

Step 4 – Provide Instructions

You may wish for certain digital assets to be deleted, maintained, or memorialized.

- In addition to the messages you can leave for beneficiaries in the Date Inheritance tab, instructions for accessing and dealing with your online accounts can be added in the “Comment” column of the Password Safe.
- You may also wish to upload a document to the File Safe containing detailed instructions for how to deal with each of your digital assets.

Step 5 – Give Appropriate Authority

Designating a specific person as executor of your digital assets will help ensure that your wishes are followed.

- You may designate a person as executor of your digital assets in your Will or in a separate document.
- If you choose to do so in a separate document, you can upload it to the File Safe.

Final Words About Estate Planning for Digital Assets

As more of our business and social interactions are conducted online, and as more of our files are stored in digital form, the more important planning for their secure and timely transfer upon death becomes.

By planning for the administration of your digital estate, you will help make its administration easier and improve the chances that your wishes are followed. There are several ways to plan for your digital assets, each with its own pros and cons.

In our opinion, the best method is SecureSafe because of its ease of use, its security features, the functionality of its various services, and its dominance in the market.

If you'd like to talk to us about how we can help incorporate digital assets into your estate planning, please contact us.

To schedule a free consultation to discuss **your** estate planning needs and goals, contact us at **404.410.6820**, or via email at paul@pvblack.com.



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