



ACCOUNTING FOR DIGITAL ASSETS IN ESTATE PLANNING

Probate and Succession Planning | September 2023



Estate planning, probate, and the administration of estates are part and parcel of life. When done right, estate planning allows for your assets to be managed and distributed efficiently upon death. Traditionally, real estate, personal items and financial assets formed the subjects of a will. With the acceleration of digitalisation as a result of the pandemic¹, it is only a matter of time that owning digital assets becomes the “new normal”.

For the uninitiated, digital assets pertain to anything where ownership is represented in a digital or computerized form. As with non-digital assets, there are digital assets have monetary value and there are those that are personal / sentimental in nature. A non-exhaustive list of digital assets include:

- Photographs
- Emails
- Accounts on social media platforms (e.g. Facebook, Instagram)
- Online accounts
- Personal blogs
- Cryptocurrency
- Non-Fungible Tokens (e.g. Digital Artwork, In-Game Items)

¹ <https://www.statista.com/outlook/dmo/fintech/digital-assets/singapore#revenue>

- Loyalty Points

In recent years, the Singapore Courts have also recognized cryptocurrency as a form of property. It remains to be seen as to whether all forms of digital assets at large, be it sentimental or otherwise, would be treated similarly.

As demand for digitalisation continues to grow, so will the categories and types of digital assets. The approach to estate planning must also catch up with the reality of today's digital world.

Taking stock of what you have

The first step is to keep a record of your digital assets. In the case of traditional assets, it is not usually difficult for executors and administrators to draw up a list of the deceased's assets even if such assets are not specifically listed in the deceased's will and/or told to them. Information as regards traditional assets can generally be obtained through a process of letter writing to the various financial institutions and/or conducting searches with the relevant authorities. The process for digital assets is not as straightforward and often, executors and administrators do not have an idea on how or where to even begin the search for digital assets. Without a record, your executor / administrator may never learn of the existence of your digital asset.

Keeping a record of digital assets can be tedious. One way is to do so by keeping a physical written log. Alternatively, the use of a digital vault has gained popularity in recent times to assist with the process. For example, MyLegacy@LifeSG allows the user to save information as regards their various digital accounts and assets. Upon death, such information will be released to a Trusted Person.

Digital liabilities, such as automatic payment plans and subscriptions, ought to be tracked as well so that steps can be taken to terminate payments promptly and to provide peace of mind that the deceased's identity has not been stolen.

Understanding what happens upon death

Having awareness as to what will happen to the specific digital assets upon death will help in deciding how the digital asset ought to be managed or dealt with. Some digital assets, in particular, online accounts, may not be transferrable, and each platform has their own policy for handling the accounts of users who have passed away.

Communicating what you have and giving access

We've all heard of the adage that communication is key. Non-communication of one's assets can have real and practical consequences. There is no use in providing a list of assets if your executor / administrator has no way of accessing the assets. Most digital assets are password protected and there have been unfortunate instances where digital assets have been left unretrievable as the deceased did not disclose the password / keys to access the asset².

For those who own cryptocurrency in cold wallets, it is important to communicate where the cold wallet is stored. Otherwise, gaining access to the digital assets can be challenging, if not impossible, for the executor / administrator.

For many, it is counterintuitive that we have to reveal our passwords to others but the balance between keeping our passwords secure and providing access to trusted persons has to be struck. Some may opt to write their passwords down and keep the information in a safe place. Others may prefer to store this information with password managers that will grant access to nominated persons after their passing.

² <https://www.seattletimes.com/business/crypto-ceo-dies-holding-only-passwords-that-can-unlock-millions-in-customer-coins/#:~:text=Business-,Crypto%20CEO%20dies%20holding%20the%20only%20passwords,unlock%20millions%20in%20customer%20coins&text=Gerald%20Cotten's%20sudden%20death%20left,to%20digital%20coins%20and%20funds.>

For more information, or should you have any queries or require assistance, please feel free to contact our Partner, Wang Liansheng at lswang@bihlilee.com.sg, our Associate vgoh@bihlilee.com.sg, or your usual contact at our firm.



Wang Liansheng
Partner

+65 6330 6206
lswang@bihlilee.com.sg



Valerie Goh
Associate

+65 6330 6214
vgoh@bihlilee.com.sg