

Cryptocurrency from the Crypt

Welcome to the world of cryptocurrency! If you are the proud owner of Bitcoin, Litecoin, Ethereum, or Ripple, to name a few, how will you provide for its distribution on your death? The law lags behind new technology, and probate rules do not yet work for cryptocurrency.

Ownership of cryptocurrency is anonymous. Furthermore, these assets provide no ability to add a beneficiary. If you don't tell anyone about it, no one knows about it. We have to treat cryptocurrency almost like gold buried on your hundred-acre ranch: if you don't leave a map for your intended recipient, it's gone.

Part of your treasure map is including cryptocurrency in your Will or Trust documents. This alone does not give your Personal Representative or Trustee the ability to find it nor the authority to access it. Your map also needs to include a tangible record of your private key or username and passcode to open your "digital wallet." Until the law catches up with the times, write down (or download to a thumb drive) any such key, username, and passcode, together with the type and amount of currency you own. Store the document or drive in a locked safe in your home or in a safe deposit box at a bank. Leave the combination or key with your estate planning attorney or with your chosen fiduciary.

If you are reluctant to give access to your cryptocurrency during your life, there are developing technological options, but none are risk-free. You can provide a copy of your digital wallet to your intended beneficiary. You might also utilize an application that requires multiple signatures to transfer currency ("M-of-N transactions"). With both of these options, you have to trust that any individuals involved will know of and abide by your wishes as stated in your estate plan. Other options are developing, but for now, the simplest and safest bet might just be an old-fashioned treasure map.

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