

Estate planning with cryptocurrency is fraught with hidden pitfalls

As cryptocurrency continues to evolve as an emerging asset class, it is important to determine how this uniquely positioned investment interacts with other financial planning considerations. One key focus should be on the transfer of wealth embedded in cryptocurrency through estate planning. Here are the key considerations when integrating cryptocurrency into an estate plan.

Asset accessibility

In many ways, estate planning and decentralized cryptocurrency appear to have conflicting objectives. The former focuses on providing heirs with access to one's assets, while one of the tenets of the latter is to ensure that this data remains private and anonymous. For example, one may have wealth stored in cryptocurrency, but this wealth provides little value if there is no way to transfer access information (e.g., providing passwords or private keys) to a future party.

Beneficiary designations

Unlike many traditional assets, due to the nature of cryptocurrencies and digital assets, a beneficiary cannot be named on an account. Further, at present, no crypto custodian allows for digital currency to be purchased directly in the name of a revocable trust. As an alternative, one way to protect cryptocurrency or other digital assets is by listing these assets on a schedule of revocable trust assets. This will provide insight to the trustee on where a digital asset is held, but does not allow access to its value. Typically, a private key is required to access a digital account. This private key is usually composed of a series of alphanumeric characters. Unlike more traditional assets that have a failsafe to ensure value transfer, if this private key is lost, so is the digital asset.¹

Risk of asset loss

Further complicating matters: anyone who has access to this private key is entitled to its value. If it falls into the wrong hands, the digital asset could be claimed by an unintended recipient. And, due to its decentralized nature, there is no government agency that provides protection or insurance in this situation.

Potential solutions

So can you protect the value of this asset while ensuring that only the planned inheritors gain access to secure data? In short, as this is a developing technology, there is no definitive answer. Rather, new (albeit imperfect) solutions are being generated to address this need.

One common solution is for the digital asset holder to break their private key into multiple pieces,

spreading out a password across a couple or dozens of recipients to guarantee that not a single person can act unilaterally. However, this solution is rife with issues. What if one person loses their section of the password? This effectively renders the entire key useless and asset value is lost. To solve for this, some people provide their password to multiple institutions (e.g., a bank-directed trustee). Once more, this is not an ideal solution either as it relies on multiple parties maintaining data in perpetuity.

Several software companies see the value in creating a “digital trustee” as their longer-term solution; as such, they have developed technical solutions where digital assets can be custodied with a digital trustee. Much like an individual or corporate trustee, assets held by a digital trustee would only distribute to the intended recipients if it triggered the specific stipulations of a trust agreement. Companies like Casa, Genesis, and BlockFi have begun to offer these services at a premium fee. These technologies are incredibly nascent; further, it is impossible to know how these digital trustees will be managed and account for the ever-changing technological landscape of this space in the decades to come.^{2,3}

Even with companies evolving their efforts, there is still no ideal solution. A trusted, viable resolution to this conundrum will evolve in time alongside this emerging asset class. In the interim, while present accommodations are imperfect, some plan must be devised to set up the greatest probability that wealth stored in digital assets will transfer successfully. The perspective of several trusted professionals will provide the best guidance possible — coordinating a conversation between your financial advisor, estate planning attorney, and CPA should allow for a meaningful starting point.

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1. <https://money.usnews.com/money/personal-finance/family-finance/articles/what-holding-cryptocurrency-means-for-your-estate-plan#:~:text=Protect%20Your%20Crypto%2DAssets,susceptible%20to%20loss%20or%20theft.>
2. <https://www.jdsupra.com/legalnews/estate-planning-for-digital-assets-and-9463278/>
3. <https://www.camdenlawoffice.com/how-to-incorporate-cryptocurrency-into-your-estate-plan/>

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