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The Importance of Disclosing and Transferring Crypto Assets in Your Estate Plan

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As cryptocurrencies and noncurrency blockchain tokens grow in popularity, it is important to address crypto assets in your estate planning so as to properly disclose and transfer these assets to your heirs. Due to the unique attributes of crypto assets, this new asset class presents special planning challenges.

The first challenge is the disclosure of crypto assets to your heirs. Crypto assets can be kept offline in a cold storage device like a USB drive or kept in hot storage in an online digital wallet. Unlike a brokerage account with a financial institution, there are typically no account statements. Your heirs may not even know you have crypto assets unless you reference such assets in your estate planning documents.

The second challenge is the transfer of crypto assets at your death. Crypto assets are accessed with a private key. Some private keys are 64 digits long and used to sign every transaction made by a particular digital wallet. Your heirs or the fiduciary of your estate need only have your private key in order to access the crypto assets, which potentially makes crypto assets easy to transfer to your heirs. Your heirs may not necessarily have to be appointed Personal Representative (executor) of your estate by a court in order to take control of crypto accounts. However, if your heirs or fiduciary don't have the private key, those funds may be forever irretrievable. A court will not be able to provide the private key if you have not left behind the access information.

Your estate plan should provide for the disclosure of your crypto assets and the secure transfer of your private key to your heirs or fiduciary. The planning may be as simple as a detailed letter of instruction to your heirs or the fiduciary of your estate, which is placed in a safety deposit box, or it may involve setting up a technological solution like a “[dead man's switch](#)” that automatically transfers your crypto assets at the time of your death, but that approach has been met with some criticism. It is important to work with your estate planning attorney to implement a plan that works for you and your heirs.

