

## PUBLICATION

### Cryptocurrency and death: Where's your key?

Shelley E. Waite, TEP, K.C.

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Matthew Burgoyne and Shelley Waite, TEP, offer guidance on incorporating and protecting your cryptocurrency in your will and estate plan. Matthew is head of the Cryptocurrency and Blockchain group at McLeod Law and Shelley is a partner in our Wills, Trusts and Estates group.

#### Cryptocurrency, defined

Based on a quick market scan, over 5,000 different versions of cryptocurrencies exist today and global cryptocurrency market is expected to grow with a compound annual growth rate of 56.4% for the period of 2019 through 2025. Cryptocurrency is a digital currency that uses blockchain technology to create a decentralized, immutable, public ledger. More simply put, it is an Internet-based financial transaction between two parties, using digital cash.

Once a cryptocurrency account is established and funded, a private digital key is generated and only the owner has access to it and the funds held in the account. Storing this private key is essential for the owner to be able to continue to access and manage it.

#### How do I ensure my cryptocurrency is included in my estate plan?

Shelley includes cryptocurrency, other digital assets, online trading accounts, etc. on their intake interview sheet, and drafts authorization into the Will and power of attorney for the executor or attorney to deal with these assets.

Matthew recommends the use of a separate memorandum that identifies the type of cryptocurrency held and where it is stored. The reason why this is important is unique to this type of digital asset. If the sensitive private key information is in the will itself, these details become part of the public record through the probate process, potentially exposing valuable information that can put the assets at risk.

#### How careful should I be with my private digital key?

As anyone can access cryptocurrency with the private digital key, Matthew underscores that secure storage of this key is vital. He recommends cryptocurrency holders use third-party services to manage their private keys in the event of death, or leave the private key with a trusted family member or advisor, or keep a list of the

private keys on a thumb drive in a safety deposit box to ensure the cryptocurrency is accessible to executors, attorneys and/or heirs.

Matthew has also encountered the unconventional method of account holders using a 'dead man's switch,' which is an automated program that emails the user at specific times and waits for a reply. If the program does not receive a reply within a certain period of time, it will automatically check death certificate records. If you have died, the program will transfer the contents of your cryptocurrency wallets to a specific account, for example, the account of an executor, which you set up beforehand. There are various programs available that rely on the inactivity of a user or a request from multiple friends or family of a user to transfer your cryptocurrency to a designated account.

For more information please contact us - we're here to help.

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