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## HEIRS INHERITING CRYPTO? DON'T MAKE IT A HEADACHE FOR THEM

If you have cryptocurrency in your estate, you'll need meticulous plans and clear instructions to ensure beneficiaries don't lose out after you're gone.



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As cryptocurrency becomes an increasingly common part of personal wealth, it also introduces unique challenges to estate planning. Traditional tools, like wills and trusts, must adapt to the decentralized and secure nature of digital assets. And just like any other asset, cryptocurrency can be locked in probate for months without proper planning.

### Why probate is a concern for cryptocurrency

Probate is the legal process of validating a deceased person's will and distributing their assets, an often slow-moving and potentially costly process. One of the biggest concerns with cryptocurrency is volatility. Cryptocurrency values can fluctuate rapidly, meaning delays in probate could result in significant financial loss.

Beneficiaries' access to these cryptocurrencies is another concern. Ownership of cryptocurrency is tied to private keys — without them, beneficiaries have no way to access the assets. And since cryptocurrencies such as bitcoin (BTC) and ethereum (ETH) are decentralized, operating on blockchain technology, there's no centralized institution to intervene if credentials are lost. To avoid these risks, proactive estate planning is essential.

### Bypass probate with beneficiary designations

One of the simplest ways to bypass probate is by designating beneficiaries, if the cryptocurrency exchange offers it. This process is similar to naming a beneficiary for a bank account or retirement plan. To set it up, you'll need to log into your account and locate the beneficiary designations. Some platforms may call this a Transfer on Death, or TOD, form. Fill out the form by providing the beneficiary's full legal name, birth date and contact information, and keep a copy for your

records.

Understanding digital wallets is also critical to effectively planning your estate with cryptocurrency. Digital wallets store the private keys required to access, send and receive digital assets, and there are various types with various features. Similar to some cryptocurrency exchanges, private wallets such as Ledger, Trezor and MetaMask typically don't offer built-in beneficiary designation features. Therefore, keeping a record of access credentials and securely storing private keys is a must.

As you're planning your estate, include detailed instructions on how to access the wallet, including passwords, recovery phrases or locations of physical devices. As for storing private keys, consider using a hardware wallet or an encrypted file. In some situations, a custodial solution may be the answer. Some custodial services specialize in managing digital assets and may allow for simplified beneficiary designations.

### Using trusts to manage cryptocurrency

Implementing a trust agreement is another option for those who own cryptocurrency. Placing your digital assets into a trust can ensure they're managed and transferred according to your wishes without involving probate.

If you want to take your planning a step further, a revocable living trust may be worth looking into. These trusts allow you to retain control of your cryptocurrency during your lifetime while specifying how it should be distributed upon your death. An estate planning attorney can help you draft the trust document that explicitly includes provisions for digital assets. Once the trust is set up, you'll need to move your cryptocurrency to a wallet owned by the trust. In some cases, this may involve creating a new wallet under the trust's name or transferring funds to an existing wallet.

Once ownership is transferred to the trust, you'll need to designate a trustee. This person will be responsible for safeguarding private keys and recovery phrases and should know how to navigate the specific wallets or exchanges holding your assets.

### Practical tips

Cryptocurrency offers exciting opportunities for wealth building but requires careful planning to integrate into your estate plan. Here are some practical tips for estate planning with cryptocurrency:

- **Secure storage of keys and credentials.** Use a hardware wallet or encrypted digital storage for private keys. Ensure your executor or trustee knows how to access these safely.
- **Maintain an updated inventory.** Document your cryptocurrency holdings, including wallet addresses, types of currency and approximate values. Regularly update this inventory to reflect changes.
- **Provide instructions in estate documents.** While it's essential to maintain security, your estate documents should include enough information for your executor or trustee to locate and access your cryptocurrency.
- **Plan for less popular cryptocurrencies.** If you hold altcoins or tokens not supported by mainstream platforms, document these assets clearly to ensure they are not overlooked.

For guidance tailored to your unique situation, consult with an estate planning attorney experienced in digital assets. Taking these steps now can save your loved ones significant stress and ensure your legacy is protected in the digital age.

Patrick Simasko, principal of Simasko Law, has dedicated his legal career to the practice of elder law. Over the past 20 years, he has helped hundreds of families plan for their futures, protect their assets and receive the financial and medical benefits available to them.

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