

Estate Planning for Cryptoassets

As we have discussed this semester, tokens like Bitcoin or Ether or even cryptokitties have attributes of property, which is why they are often referred to as cryptoassets or digital assets. Digital assets can complicate the administration of an estate after their owner dies. Many times, owners of cryptoassets do not reveal their holdings to anyone, as holding wealth privately may be a reason for owning the assets in the first place. Owners of cryptoassets may also be resistant to disclosing their ownership due to security worries, as any holder of a private key may move its corresponding cryptoasset. Both legal and practical questions arise from this new form of wealth. As more and more people become owners of cryptoassets, estate attorneys must become familiar with these issues to competently advise their clients.

WRITTEN ASSIGNMENT:

Please write a 500-word response paper to the video and readings. You may comment on issues of particular interest to you, critique arguments or observations of the authors or podcast participants, compare or analogize this unit/issues to others from the course, examine issues that you think were missed or remain open in this area, etc.

You must submit the response paper to the TWEN dropbox by **9am on Monday, Nov. 26th**. You will not be graded on your response, but the submission must be of reasonable quality in order to receive a 'complete' on the assignment.

READINGS AND VIDEOS:

Cryptoasset Inheritance Planning with Pamela Morgan, *Epicenter Blockchain Podcast*, Episode 240 (June 21, 2018).

<https://epicenter.tv/episode/240/>

Michael D. Walker, *The New Uniform Digital Assets Law: Estate Planning and Administration in the Information Age*, 52 Real Property, Trust, & Estate Law Journal 52 (2017).

https://www.americanbar.org/content/dam/aba/publications/real_property_trust_and_estate_law_journal/v52/01/rpte-journal-2017-52-1-article-new-uniform-digital-assets-law-estate-planning-and-administration-in-information-age%20.authcheckdam.pdf

Michael Allen Goldberg, *Estate Planning for Cryptocurrency*, 106 Ill. B.J. 38 (2018).

Available on Westlaw.

REFLECTION QUESTIONS:

What are some examples of digital assets (other than cryptoassets)? How do cryptoassets compare to other digital assets? What are the similarities and differences?

How have laws around wills and trusts changed to address digital assets generally? Have there been changes in law to address cryptoassets specifically? Are changes needed, and if so, what kind?

Are cryptoassets owned by a decedent part of an estate?

How would an estate executor know or find out about their existence?

How would the executor exert control over them?

How should a lawyer draft a will when cryptoassets are expected to be part of the estate?

What actions should a lawyer advise the client to take to ensure the heirs can benefit from the client's cryptoassets?