
Crypto Estate Planning

By Robert D. Kaplow, Esq.

You were smart and bought some type of crypto-currency (Bitcoin, Ethereum, Ripple, etc.). You hope that the value will skyrocket and represent a sizeable portion of your estate. How do you handle your bitcoins for estate planning purposes?

[For purposes of this article, all crypto-currencies will be referred to as bitcoin.]

One of the major selling points for purchasing bitcoins is its anonymity. There is no paper trail and there are no physical assets to touch. However, this becomes a major problem when you die. How does your family access the bitcoins? Do they even know that you own bitcoins? Thus, the major estate planning advice is transparency and disclosure! Tell your estate planning attorney and your family that you own bitcoins. More importantly, you need to make sure that your bitcoins can be accessed upon your disability or your death.

Bitcoins are accessed through the use of a “private key.” The private key is a password that is necessary to gain access to the bitcoins. Bitcoin users store the private keys in “wallets.” Wallets are generally stored online. Once someone has access to the wallet, the bitcoins can be purchased, sold or transferred. Thus, it is important that your personal representative (executor), trustee or trusted family member has access to the private key. Don’t misplace your private key or the hard drive that contains the private key. There are numerous stories (probably some of them apocryphal) of people losing millions of dollars by selling their computers only to later remember that the hard drives had their private keys. (This also happened to Leonard in an episode of *The Big Bang Theory*.)

It is our suggestion that you prepare a detailed letter — to be kept in a safe deposit box or other secure location — indicating your private key and your bitcoin transactions. This letter needs to be updated periodically. The letter should also provide detailed instructions on how to access the bitcoins, including any passwords or codes needed to take custody of the bitcoins. It is also our suggestion that your bitcoin holdings be transferred to your revocable living trust.

This will avoid the necessity for having to go to the probate court to transfer the bitcoins upon death.

While we generally refer to bitcoins as “currency,” the Internal Revenue Service held in Notice 2014-21 that bitcoins are property, not currency. The tax implications of this ruling are that you have gain or loss on the sale or transfer of bitcoins and must maintain records to show your tax basis in bitcoins. For example, if you used \$2,000 of bitcoins to purchase a television and the bitcoins cost you \$500, you have a gain of \$1,500 that needs to be reported on your income tax return.

While bitcoins may be the currency of the future, it is imperative that you take the necessary steps to make sure your family can access the bitcoins upon your death.

[Read Robert D. Kaplow's article published in WealthManagement.com](#)