MASSACHUSETTS ESTATE PLANNING

Don't Let Your Bitcoin Disappear

Cryptocurrency and Your Massachusetts Estate Plan

> In 2013, James Howells threw away a hard drive.
>
> It contained the key to 8,000 Bitcoin—now worth nearly **$923 million**.
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> He has spent over a decade trying to dig through a landfill to find it.

What strikes me about this story is that it is not just about his loss. It is about what happens when any crypto-owning individual passes away—or simply becomes unable to manage their own accounts.

There is no reset button. No customer service line. No court order that can magically restore lost access.

Without the right credentials, the crypto effectively vanishes, even if your family knows it exists.

Crypto is the **only** asset class where **access**—not market performance—determines whether your family inherits anything at all.

With a brokerage account, your personal representative can work with the institution. With real estate, there is a deed, a title, and a clear process. With crypto, without a plan, the assets can disappear—permanently.

If you hold cryptocurrency and live in Massachusetts, there are five estate-planning issues you should address proactively.

1 Legal Authority Under Massachusetts Digital Asset Law

Massachusetts has a statute governing fiduciary access to digital assets, based on the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), codified at M.G.L. Chapter 190B, Article V, Part 5A, Sections 5-401 through 5-417. This framework establishes how personal representatives, trustees, and agents under a power of attorney can seek access to your digital property, including cryptocurrency accounts and wallets.

However, this law does not automatically grant access. Your will, trust, and durable power of attorney documents must explicitly authorize your fiduciary to manage and access digital assets. Without clear language giving that authority, even a court-appointed personal representative may find it difficult to gain access to your crypto holdings.

The law also recognizes a hierarchy of instructions. Directions you give within an online or platform-based legacy tool generally take priority, followed by instructions in your estate-planning documents, and only then by the platform's default terms of service. That means your estate-planning documents and your account settings should align so your wishes are carried out consistently.

2 Where Your Crypto Lives: Exchanges, Hot Wallets, and Cold Wallets

The rules and practical realities change depending on where your crypto is stored.

On centralized exchanges, assets are linked to a user account that the platform controls. Some exchanges offer procedures for reporting a deceased or incapacitated account holder, but those rules vary and must be followed in tandem with Massachusetts probate or fiduciary authority. Even when a process exists on paper, your fiduciary still needs proper documentation, legal authority, and clear instructions to move forward.

Self-custodied crypto—held in hardware wallets, cold storage, or through a private key you control—tells a different story. In that environment, ownership is defined by whoever has the credentials. There is no institution to call. There is no support ticket that can restore a lost passphrase or seed phrase. For these assets, your estate plan must address more than just labeling that you own cryptocurrency. It must account for how access information will be preserved securely and how your fiduciary will be able to use it without compromising your security during your lifetime.

3 Tax Implications: Federal and Massachusetts

For U.S. tax purposes, the IRS treats virtual currency as property rather than as currency. That means general tax rules for property apply, including rules on basis, gain or loss, gifts, and transfers at death.

When you pass away, assets you own—such as most retail crypto holdings—generally receive a stepped-up cost basis equal to their fair market value on your date of death. This step-up can significantly reduce the capital gains tax your heirs might owe if they later sell those coins.

Transfers of crypto by gift during your lifetime are treated as property gifts for federal gift-tax purposes. Depending on size and frequency, they may trigger federal gift-tax reporting requirements and may affect your overall estate-tax planning strategy.

Massachusetts Estate Tax Note:

For decedents dying on or after January 1, 2023, Massachusetts provides a **$2 million exemption**. Estates over that threshold are subject to Massachusetts estate tax on the amount exceeding $2 million, not on the entire estate value. This represents a change from prior law—before 2023, Massachusetts taxed the entire estate once the threshold was exceeded.

Massachusetts does not impose a separate inheritance tax. Cryptocurrency holdings included in your estate count just like any other property when determining whether the state's estate-tax threshold is exceeded. That is why accurate recordkeeping—including transaction histories and cost-basis details—is important both for federal reporting and for Massachusetts-level compliance.

4 Balancing Security and Accessibility

As an estate attorney, I often see the tension between security and accessibility play out with crypto. You use multi-factor authentication, unique passphrases, offline cold-storage devices, and segregated locations for your keys precisely because they protect against loss and theft. Those are smart protections during life—but for your family after your death, they can become obstacles unless you have a clear plan.

To balance security with accessibility, you might consider:

A secure letter of instruction, kept separate from your will (which becomes part of the public probate record in Massachusetts). This document can outline what you own, where it is held, and how authorized individuals can gain access—without exposing sensitive credentials in a public filing.

At least one trusted person who knows where to find your access plan or how to retrieve it—whether directly or through your attorney.

Professional assistance for larger or more complex holdings. A digital-assets-aware estate planner or custodian can help you design a structure that is both safe and workable.

The goal is simple: keep your assets secure while you are alive, and keep them reachable for those who need them when you can no longer manage them yourself.

5 Planning for Incapacity, Not Just Death

Estate planning is not only about what happens at your death. It is also about what happens if you are living but unable to manage your financial affairs. A stroke, cognitive decline, or major accident can leave significant crypto holdings effectively frozen for years if no one else is authorized or able to manage them.

A durable power of attorney that specifically addresses digital assets can help. Your document should reference digital assets and authorize your chosen agent to access, manage, and safeguard your cryptocurrency in accordance with Massachusetts law. When that authority is paired with clear practical instructions, it can help prevent situations where substantial wealth sits out of reach simply because access was never clearly addressed.

Why This Matters for Your Massachusetts Plan

This is not about fear. It is about making sure the wealth you have built actually reaches the people you love.

Your investment strategy got you this far. Your estate plan is what carries it forward.

If you hold cryptocurrency and live in Massachusetts, ask yourself:

- → Do your documents give clear legal authority over digital assets to your fiduciary?
- → Are your account-level instructions consistent with the directions in your will, trust, or power of attorney?
- → Have you documented how your crypto is stored and balanced strong security with realistic access for your fiduciaries?
- → Are the federal and Massachusetts tax implications of your crypto holdings reflected in your broader estate-tax planning?

If you have questions about how cryptocurrency fits into your Massachusetts estate plan, I'm happy to talk it through with you.

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SOURCES

M.G.L. Chapter 190B, Article V, Part 5A, Sections 5-401 through 5-417 (Massachusetts Revised Uniform Fiduciary Access to Digital Assets Act)

M.G.L. c.65C (Massachusetts Estate Tax statute)

Internal Revenue Service guidance on virtual currency, including IRS Notice 2014-21

Federal rules on stepped-up basis at death under the Internal Revenue Code

Law Offices of Nicole James, P.C., "Secure Your Digital Wallet: Cryptocurrency and Your Estate