

Digital Art (e.g., NFTs – Non-Fungible Tokens);

Online Content (e.g., digital books, photography);

Frequent flyer points or other loyalty programs.

These assets, while intangible, often hold significant value, and their division in a property settlement can have financial implications for both parties.

For example, if the wife has a following on Instagram of over 3,000,000 people and the wife is paid to endorse products through her Instagram profile, the husband may assert there is a value to the wife's Instagram profile which should be included in the asset pool.

Identifying digital assets in property settlement

Identifying digital assets can be one of the most challenging aspects of a property settlement. Unlike tangible assets such as real estate or vehicles, digital assets may not always be obvious or easily identifiable. Moreover, one party may have exclusive control or knowledge of certain digital assets, such as cryptocurrency wallets or online business accounts, making them difficult to discover.

Family lawyers often recommend clients take an inventory of their digital assets and maintain documentation, including ownership records, passwords, and details of their worth.

Valuing digital assets

Once digital assets have been identified, they need to be [valued by an expert](#). For example:

Cryptocurrencies can experience significant volatility in value over short periods.

Domain names or social media accounts may hold value based on traffic or user engagement, which can be subjective and may appeal to a limited market (due to their specific domain names and social media page names), making them harder to sell.

Intellectual property may hold future value that is difficult to quantify in the present and is not easily sold.

Division of digital assets in family law

Once digital assets have been identified and valued, they must be divided between the parties. Digital assets can be treated like any other asset in a property settlement and divided in one of two ways:

Physical division of digital assets

This involves physically dividing the asset or giving one party ownership of the asset. For example, one party may retain cryptocurrency while the other receives an equivalent value in cash or property.

Sale and distribution of digital assets

In some cases, it may be more practical to sell the digital asset and distribute the proceeds. This is commonly done with digital businesses, where the business is sold, and the funds are divided.

The division will depend on several factors, including the nature of the digital asset and the financial circumstances of both parties.

If there is ever a sale, [tax consequences must be considered](#).

Special considerations for cryptocurrency

Cryptocurrency presents a unique challenge in family law property settlements.

Cryptocurrencies such as Bitcoin and Ethereum operate in decentralised networks, making it difficult to track and trace ownership. Furthermore, cryptocurrency values can fluctuate dramatically, making it hard to place an accurate value on the asset at the time of settlement.

To address these challenges, the court may require expert reports on the valuation of cryptocurrency holdings or even special court orders to gain access to cryptocurrency accounts for disclosure orders.

Social media and online businesses

Monetised social media accounts and online businesses, such as YouTube channels, blogs, and affiliate marketing websites, can also be considered valuable digital assets. However, dividing these assets can be complicated by the fact that their value is often tied to personal branding or expertise. For instance, a YouTube channel may have little value if the content creator no longer contributes, making it difficult to sell or transfer the asset.

In these cases, courts will often take into account the contribution of both parties to the success of the online business or social media account and determine an equitable solution.

Non-financial digital assets

Not all digital assets have a direct financial value but can still be of personal significance. Examples of non-financial digital assets include family photos, videos, or personal emails stored online. While these assets may not form part of the financial settlement, they can still be important to the parties involved.

In cases involving these types of assets, parties may come to an agreement on how to divide or share access to non-financial digital assets. For example, parties might agree to duplicate family photos stored in the cloud or share access to social media accounts with sentimental value.

Final considerations

When dealing with digital assets in a property settlement, there are several legal and practical considerations to keep in mind:

Full disclosure

Both parties must provide [full disclosure of all digital assets](#). This includes digital currencies, online accounts, and intellectual property. Non-disclosure can lead to penalties or a re-opening of the settlement.

Seek advice about valuations of digital assets

Given the complexities involved in valuing digital assets, it may be necessary to seek advice from experts in cryptocurrency, intellectual property, or digital business valuations.

Keep documentation

Digital assets can be easily overlooked, so it's important to maintain records, such as account details, passwords, and transaction histories, to support claims during the settlement process.

Get help from a family lawyer

As digital assets become increasingly prominent, family law property settlements must adapt to ensure these assets are accurately valued and fairly divided. Whether it's cryptocurrency, intellectual property, or an online business, parties involved in a family law property settlement should be aware of the complexities surrounding digital assets and seek professional advice to protect their interests.

With proper planning and legal guidance, digital assets can be effectively managed during a separation, ensuring a fair and equitable outcome for all involved.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.