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Dividing Digital Assets in Divorce



NEW YORK ([MainStreet](#))—Some are predicting the [economic recovery could spark an uptick in divorces](#) due to pent-up demand when people couldn't afford a divorce lawyer or [sell](#) the house. When couples divorce, a judge might decide how to divvy up assets like a house, bank accounts and retirement accounts, often based on decades of case law.

But what happens to digital assets like the couple's shared iTunes library or other accounts?

There aren't many cases for couples or their attorneys to use as a guide. As several publications have previously covered, [digital assets](#) are also increasingly becoming an issue in estate planning.

Although these digital assets aren't tangible like a house car, or jewelry, they can still be considered marital property. When it comes to the [online](#) realm, the majority of states use a system called "equitable distribution," whereby any property that is acquired by either spouse during a marriage is considered "marital property" and assigned a value, according to Brian M. Moskowitz, a marital and family law attorney in Boynton Beach, Fla. "That property is then distributed equitably, or fairly, between the spouses," he says. "This doesn't always result in an even, 50/50 split of the property, but it does result in what is considered to be the fairest split."

Judges don't care which spouse actually downloaded songs on iTunes or built a Kindle library. "The digital asset would be treated just like a car that was purchased during a marriage and titled in only one spouse's name," Moskowitz says.

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