

Distributing Tangible Property: What Families Need to Know

Executive Summary

- The distribution of tangible property — jewelry, art, furniture and collectibles — is typically accomplished through a will or revocable trust. Some states allow you to write a separate memo or list, signed by you, that outlines the distribution of your property; however, generally the existence of the memo or list should be specifically referenced in your will or revocable trust to be legally enforceable.
- Nonfinancial assets can have both monetary and sentimental value. Failing to plan ahead for the disposition of these assets may incite family drama after you're gone.
- Following a process — determining market value and identifying heirs' preferences — can help preserve the family legacy and relationships and help avoid conflicts following your death.
- The best outcomes result from proactive discussion, as a family, during your lifetime.

Opening a dialogue

Parents can be reluctant to discuss who gets what when they die, and so it may fall on their children to initiate the conversation. If that is the case, children may approach their parents with a “what if” conversation. For example, “If something happens to you, are there specific items you have in mind for each of us?” This can open the door to a meaningful dialogue.

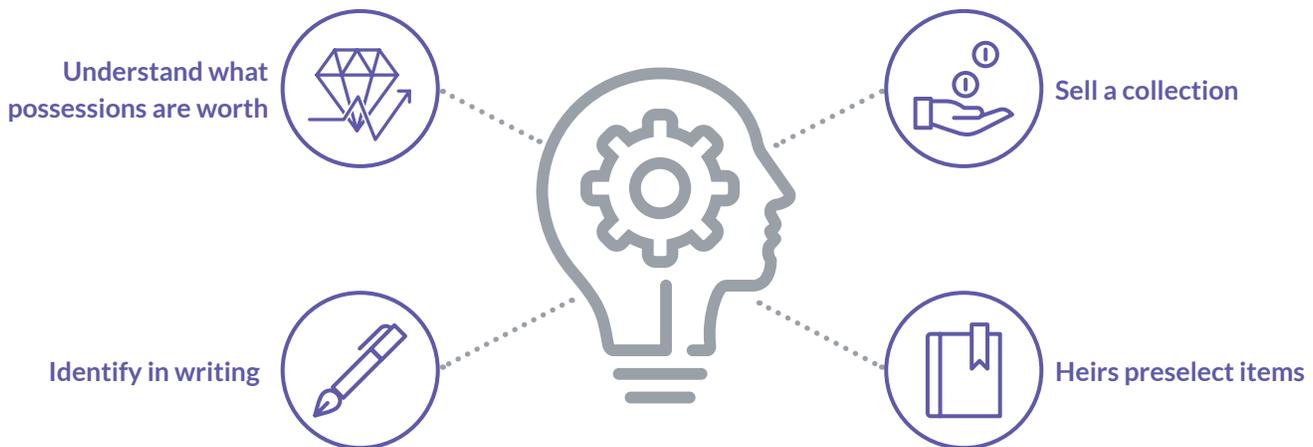
It's also important to discuss your wishes should you become incapacitated.

Who will become the primary decision maker — your spouse, a child or an advisor — through a power of attorney? If the primary residence is being sold to help raise money for assisted living or longterm care, will there be other items that should also be sold? Having everyone on the same page helps ensure that important caregiving decisions are determined in a timely fashion while minimizing the likelihood of family stress over “stuff.”

We encourage families to discuss the ultimate distribution of nonfinancial assets across generations. An additional benefit of these discussions is that they provide an opportunity to share stories about an object's family history and significance, especially with younger children — and to confirm the intended recipient wants it.

By proactively discussing these issues, a family can arrive at a meeting of the minds about the disposition, including what will stay in the family and what should be sold or donated.

Decisions to make during one's lifetime



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- **Understand what possessions are worth.** Having a sound understanding of the approximate value of tangibles, especially jewelry, art and furniture, enhances decision-making. Values can change significantly over time, depending on tastes and trends. Traditional mahogany furniture, for example, is generally much less valuable today than it was 20 years ago, while mid-century modern furniture from the 1940s-1960s has risen in value.
- **Sell a collection.** The person who built the collection is likely best positioned to arrange for its sale. They already know potential dealers, the history (provenance) and selling points and even perhaps possible buyers. For example, an avid book collector handled the negotiations for donating her collection to a university library, a feat her children may never have accomplished so successfully. Making the gift brought her enormous pride and spared her children the burden of determining what to do with a relatively obscure and potentially valuable collection.
- **Heirs preselect items.** Some families use color-coded stickers on the underside of objects to identify who will eventually receive them. However, beware: We have seen cases of stickers falling off with no other record to guide the family. Instead, keeping a record, perhaps an album with photographs with an agreed-upon list of the items and recipients, may simplify the distribution later.

- **Identify in writing.** Although a Letter of Instruction may not be legally binding in every state, a list of testamentary gifts signed by the owner makes clear the intended recipients.

Implementing a course of action after death

Several actions occur following a parent's death: An executor is appointed, the assets collected, appraisals completed and perhaps a contract on the sale of the residence(s) signed.

When it's time to divide household items not specifically included in a will, the executor and family members will clean out the decedent's residence, focusing on the remaining contents. A key consideration is whether the outstanding items have value, sentimental or monetary. Securing outside appraisals for probate and tax purposes is a good step, and heirs should understand the valuation methodology. Heirs often agree on dividing up the assets. When it comes to selecting from the remaining pieces, more than one person may want the same item. This is when emotions tend to run high, so it's best to have an orderly and established plan in place. When family members cannot reach an agreement, keepsakes and treasures may need to be sold. Discussing these issues with your children during your lifetime may help safeguard against any unpleasant surprises when it comes time to distribute tangible assets. A will doesn't always specify which individuals will get which specific items of tangible personal property. In those cases, decisions are made by the executor working with the family.

Dividing remaining assets

The following methods may be useful in dividing the remaining assets:

- Create a spreadsheet or use an appraisal that lists all items. The heirs then indicate what they want, and an objective third party, usually the executor, reconciles them. Although some families divide the items with relative ease, others may need a third party to manage negotiations. In some cases, the will or revocable trust may direct items be sold if the family can't agree on their disposition.
- Hold a family auction. Using equal shares of play money, heirs bid for each object and the highest bid wins. This method can place a high value on sentimental items and may result in an unequal distribution based on monetary value.
- Draw straws to determine selection order. This is particularly useful in estates with large collections. The first round or two may reflect primarily sentimental picks, while later rounds adjust to allow some family members to make additional picks to achieve equal monetary value.

No matter the method, the most important outcome is to preserve family relationships, honor your legacy, capture memories and amicably divide tangible property.

Conclusion

Talking about the disposition of tangible property can help effectuate your wishes and assure those wishes are well understood by all family members. It also offers an opportunity for storytelling. Hearing how an object was found during a special trip or inherited from a beloved ancestor can infuse it with emotional value, a legacy in and of itself. The best outcome is when a family appreciates their legacy, preserves the memories and successfully divides the tangible property, while preserving harmonious relationships for years to come.

RESOURCES

Hall, Julie. *The Boomer Burden: Dealing with Parents' Lifetime Accumulation of Stuff* (Thomas Nelson, 2008).

Stum, Marlene S. *Who Gets Grandma's Yellow Pie Plate? Workbook: A Guide to Passing on Personal Possessions* (University of Minnesota Extension Services, 1999).

Sullivan, Paul. "When Dividing Assets, the Little Things Matter." *The New York Times*, April 16, 2016.

Taylor, B. "Who Gets My Personal Stuff? Transferring Personal Property." University of Wyoming White Paper. <https://www.uwyo.edu/uwe/passiton/passingitonchapter7n-personalproperty.pdf>

"Transferring Nontitled Property – Who Gets Grandma's Yellow Pie Plate™": www.yellowpieplate.umn.edu

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