

ESTATE PLANNING POINTERS: PERSONAL PROPERTY, PART 1



HOW TO SUCCESSFULLY PLAN FOR WHAT HAPPENS TO YOUR “STUFF” WHEN YOU “ARE NO LONGER WITH US.”

All too often advisors focus on the big picture of estate planning without digging into the details. Estate plans (including Wills and Trusts) identify beneficiaries, plan for the needs of spouses, children, partners and charities, and address tax concerns. Tax planning gets a glamorous spotlight in the estate planning world, with articles, seminars, and a marquee presence as a talking point. But to many, after they figure out the big things - their tax status, their advisory team, the percentages, what they really worry about is their personal property.

* Tangible personal property or “personalty,” as it’s often referred to in a Will or Trust document, is just that - personal property that you can touch, meaning art, furnishings, jewelry, cars, clothing and anything else in your house. It generally does not mean cash found in your house or uncirculated coins or gold or silver bars kept as investments.

* What happens to that stuff, once you’re no longer with us (as my beloved Southern mother refers to the post-death period), really matters to a lot of people. More often than not, you lovingly collected things over a lifetime or safeguarded a family collection. Your children played on those vintage rugs, you may have proposed with a family ring, your family photos always include a fabulous painting, and Christmas dinner has been served countless times on that beautiful set of china.

And a lot of the time, personal property doesn't even merit a long conversation when it comes to estate planning - it gets a few minutes at most, and a lot of generic language in documents - all to a spouse, or shared among adult children, or all-too-often, the common "I may leave a list" clause with a request that an Executor or Trustee follow it...with no list to be found with the document when someone is no longer with us.

Advisors tend to gloss over personal property when in reality it's a very critical issue that creates family conflict and causes all sorts of stress. Depending on the personal property's value, it can also be a large part or a minor part of your whole estate.

Below are some specific ways to make your planning more productive when it comes to thinking through what happens to your personal property, and in Part II, we'll provide a list of actionable items to consider.

1. Understand your personal property and what it is really worth. Don't depend on outdated appraisals or 'what you paid for' something. The furniture, jewelry and art markets are constantly changing. If you're not sure, consider an updated household appraisal, which will also serve as an inventory. While this can be expensive, it's time well-spent to make sure your items are adequately insured and you know what it would cost to replace them. Keep in mind that a replacement value appraisal (an insurance value appraisal, or the cost to replace something) is going to result in higher values than a Fair Market Value appraisal (what things are worth today to a non-arm's-length purchaser.) Don't forget personal property in guest houses, second homes or on boats.
2. Gather and save the stories. Have you thought about compiling a short photo book of family furnishings and how they've been used over the years from your grandparents' home to your parents' home to your house, with images of each? A visual record and a short description can create a meaningful and personal family history document and help your younger beneficiaries understand that furnishings and art don't just sprout up in houses. The continuum can help tell your family's story and create a solid sense of personal history and stability.
3. Find out who wants what. You may have a budding book dealer grandson, or a niece who's wild about jewelry and vintage fashion. Ask younger family members about their personal taste and style and what they like. Dark, moody library-style Empire furniture, or sleek Danish modern? Maybe scrubbed pine? You might be surprised at the daughter-in-law who loves using silver and is willing to lovingly polish it and wants to use it at her family's home when everyone else has no interest in cleaning it. Listen and sleuth and you'll learn who may be interested in the vintage garden tools, for instance.

4. Understand your plan and how the personal property is divided, including who makes the final decision if there's a tie, and what if nobody wants anything. If you don't know right now how your Will or Trust treats your personal property take the time to review it or ask your attorney. If your children don't share things naturally right now, they are not going to magically start sharing. And if your children don't like your spouse right now, they are not going to 'play nice' when it comes to dividing personal property. Being realistic is a big first step to creating a functional plan.
5. Keep in mind your Executor or your Trustee will have an important job when it comes to your personal property, and you can make that easier or harder. Your trusted fiduciary (Executor of your Will or Trustee of your Trust, depending on how your personal property is titled) will need to identify and deliver items that are specific bequests, so be specific. For instance, don't let each grandchild just pick a piece of jewelry they want. What if someone wants a \$400 bracelet and the mother of another steers them toward a \$10,000 ring? Think about how the plan is going to really work. Consider a clause that makes packing, shipping and storing an estate expense or trust expense - so your Executor or Trustee can efficiently handle things for your beneficiaries across the country or across the globe without having to factor the cost of getting a beloved item to their home. For youngsters, it can be a wonderful thing for a trust to store personal property until they are able to have a home of their own.



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