

Personal Property and Estate Administration

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One of the hardest thing's families have to do when a parent passes is the distribution of their tangible personal property. This is especially true when there is more than one sibling or individual involved when trying to determine who should get what items of Mom and Dad's. Unless Mom or Dad have a left a list of who gets what, the outcome and selection of their tangible personal property can get ugly and cause future rifts within a family.

Tangible Personal property is generally defined as everything but Stocks, Bonds, Cash and Real Estate. Thus, Mom or Dad's car, boat, airplane, jewelry, clothing, furniture, tools, kitchen appliances, silverware and glasses are considered tangible personal property. From an inventory perspective, cash, stocks and bonds are considered personal property, but are not considered Tangible Personal Property.

Most Wills will have a statement about how a decedent's tangible personal property is to be divided up among the children (or other relatives). It will give options such as divided equally and if there is a dispute about a certain item, the Personal Representative is given the authority to sell the item or decide who is going to receive such item. The usual objective of the Will's maker is to make it as equal as possible among the beneficiaries. But what happens if one of the tangible items is a Picasso painting and the other item is an old car. Suddenly, the inequality of the two items causes sibling rivalry that leads to litigation and family disintegration.

The way to manage this is to first enter the decedent's residence and take pictures of the entire residence, including the inside of drawers while securing the residence. I can't overemphasize the need for this, it protects everyone. Next, is to procure the Personal Representative's Letters of Administration. You'll need to consult with an Attorney to help you petition a court of law to obtain the Letters of Administration. Without Letters of Administration, the Personal Representative has no authority to marshal, distribute or sell any of the decedent's property. Once Letters of Administration are issued by the court, the Personal Representative is in control of the assets.

Your next step is to secure property from being removed. This is done by changing the locks on the doors. Too often, family members will enter a residence following death (even while the funeral proceedings are taking place) and remove items under the illusion that Mom or Dad told them it was theirs and they could have it. Without something in writing signed by Mom or Dad, this argument fails.

The next thing to do is to marshal those items you (as personal representative) perceive are rare items (e.g. silverware, coins, paintings, jewelry), make certain you get those items appraised. Be sure the appraiser gives you the value that the item will fetch on the open market or what they would pay for it if they were to buy it. What you don't want are insurance appraisal values. Those tangible personal property items which are not rare items (commodity items),

establish a value for them. Consider what the items would receive at a yard sale. If you are not certain what that would be, go out on a Saturday to some yard sales and get an idea. Be sure to catalog those items generally or specifically (e.g. couch, glasses, dishes, everyday eating utensils).

Once you have successfully protected, secured and valued the tangible property, now is the time to begin distribution. Give the beneficiaries the appraised values of the valuable items and your judged values for the commodity items.

The simplest means of distribution is to have each beneficiary come to the residence and pick-out what they want. This can be done by having each person write down on paper what that item is. You would then need to compare the lists to see if there are any duplicates (two or more people want the same item). If this occurs, have each person consider what they are willing to pay for the item and pick the highest number. Be sure to catalog the purchase and the value willing to be paid. Alternatively, you could identify the item and sell it on the open market if no one is happy with the bidding process. The division of cash is much easier to divide.

If the beneficiaries are not local, send out the pictures you took and ask each non-local beneficiary to identify those items they would like to have. Once again where there are duplicates, offer the same resolution as bidding or selling.

After the selections are made, whatever items are left over try to have a yard sale or offer the items to a company who may purchase the remaining items in bulk. Whatever is left, following the yard sale or bulk purchase, make a final offering to the beneficiaries to see if they want anything that is left over. If there is no response, call the local charities and make the offer to them to pick up the remaining items. Whatever is left over can then go to the curb. Be sure to notify the beneficiaries of the abandonment of the left-over items.

When it's time to do the distribution and accounting, be sure to note what each beneficiary took and its value. This is the point where you'll have to balance out the values each beneficiary was granted according to the terms of the Will or intestate statutes. Your attorney will assist you in determining this number. Whatever the method that is used, the terms of the Will, Trust or intestate statutes will provide the guidance needed.

If you have a loved one that has passed or is approaching possible death, talk to the attorney of your choice about what to expect following death and how best to prevent inadvertent taking of property without the authority to do so. Something that seems so simple can get ugly quickly.

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