University of Idaho Extension

UNIVERSITY OF MINNESOTA EXTENSION

Transferring Non-Titled Property

Transferring Non-Titled Property

UNIVERSITY OF MINNESOTA EXTENSION

University of Idaho Extension

"You never really know a person until you share an inheritance with them!"

University of Idaho Extension

Everyone has property to transfer

University of Idaho Extension

Titled Property Ownership is:

- Identified on a written document

Titled Property Includes:

- Real estate
- Savings and checking accounts
- Motor vehicles
- Machinery
- Stocks and bonds

University of Idaho Extension

Non-Titled Property Ownership

Owner is not identified with a written document

University of Idaho Extension

Non-Titled Property Includes:

- **Guns**
- **Tools**
- **Furniture**
- **Photos**
- **Books & Printed Items**

- **Dishes**
- **Linens & Needlework**
- **Jewelry**
- **Collections**

University of Idaho Extension

When Transfer Decisions Are Frequently Made

- At any of the several transition points in a person's life
  - Moving from a house to an apartment
  - Moving into a LTC facility
- After a death or crisis

University of Idaho Extension

When Decisions Are Made

- Prior to Death
  - The owner decides who receives the property
  - Special memories and stories may be shared

University of Idaho Extension

When Decisions Are Made

- After a Death/Crisis
  - May not accurately reflect the owner's wishes
  - May cause problems and misunderstandings among heirs

University of Idaho Extension

Options for Distribution

- Wills
- Lists
- Gifts
- Verbal or "someday" promises
- Masking tape / Labeling items
- Private auctions
- Garage/yard sale
- Estate items
- Pilfer items
- Family distribution
- Removal of leftover property
- Throwing away
- Intestate

University of Idaho Extension

A Will

University of Idaho Extension

Decisions about the Transfer of Non-Titled Property may be Addressed in:

Specific Devise

" a separate writing identifying bequest of tangible property"

University of Idaho Extension

6 Factors to Consider

1. Recognize sensitivity of issue
2. Determine goals for transfer
3. Decide what's "fair"
4. Understand "meanings" of items
5. Consider different distribution options and consequences
6. Agree to manage conflicts

University of Idaho Extension

Sensitive Issues for Receivers

- Recognize the Sensitivity of the Issue
  - The Inability to deal with the death or loss of someone special
  - Potential for unwanted conflict with another family member
  - Family secrets?!?
  - Sibling rivalry

University of Idaho Extension

Sensitive Issues for Givers

- Know what your issue is, what you want to discuss and why?
- Determine who needs to be part of your discussion

University of Idaho Extension

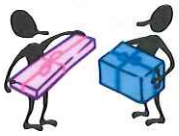
Determine Your Goals

Preserving memories?
Improving family relationships?
Maintaining privacy?
Being fair to all involved?
Contributing to society?

University of Idaho Extension

Perceptions Determine What's Considered to be Fair

Fair…
is not always equal.



Equal may mean an equal number of items, equal dollar value or equal in emotional value

University of Idaho Extension

The Meaning of Things Meanings Will Differ

- Age, gender, generations
- Spouses
- Husbands/wives name items, give different reasons for why special
- Mother/daughters more alike than fathers/sons in identifying special objects

University of Idaho Extension

Distribution Options and Consequences

- Equality rule
- Contributions rule
- Needs rule
- Family members rule

University of Idaho Extension

When a Process is Judged Unfair

- It lacks accuracy (information, value, meaning)
  - "Grandmother promised a certain rocker to a grandchild but an aunt insisted she was taking it no matter what."
- Moral or ethical standards are not followed
  - "One of my sisters took items when she thought none of us were looking."
- Not everyone has a voice in decisions
  - "The most dominant personalities walk off with everything they want and the others are left with things they don't want."

University of Idaho Extension

When a Process is Judged Unfair

- Rules are not consistently followed
  - "My brother was in the garage taking tools when we sisters returned from the church after the funeral."
- Sub-groups not represented
  - "I was sent to represent my husband when things were doled out before the sale and was told I wasn't included because I was an in-law."

University of Idaho Extension

Managing Conflict

- Discuss and clarify the problem
- Work on the problem
- State personal needs
- Consider alternatives
  - Select solutions
  - Evaluate choices

University of Idaho Extension

The "Talk"

- The Appointment
  - A meeting location
  - A time to meet
  - Your audience
  - No "Surprise Attacks"
  - A strong agenda
- Know your goals ahead of time
- Eliminate distractions
- Prepare for differences and conflicts
- Control stress before it happens
- Finish the conversation

University of Idaho Extension

Ground Rules… Or In Summary!

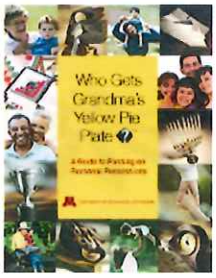
- Be supportive
- Let family know your feelings
- Express your feelings
- Talk about it
- Know your audience
- Plan prior to death
- Everything has a consequence
- Know your State laws

University of Idaho Extension

Transferring personal property can be a time to celebrate a person's life!

University of Idaho Extension

For More Information & Resources

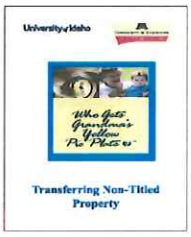


www.yellowpieplate.umn.edu

University of Idaho Extension

For More Information & Resources

http://www.uidaho.edu/extension/county/latah/family-finance

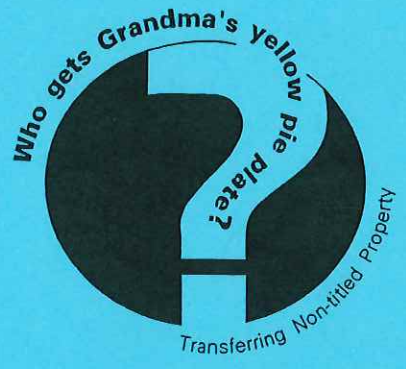


University of Idaho Extension

Questions???

Karen Richel
Extension Educator
University of Idaho
Latah County
(208) 883-2241 krichel@uidaho.edu

University of Idaho Extension



MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Understand the Sensitivity of Transferring Personal Property

Marlene S. Stum and Christy Bubolz, Minnesota Extension Service

It's Only a Pie Plate—Right?

Deciding who gets what non-titled personal property may appear minor and easy as decisions go. In reality, decisions about personal property can be extremely difficult and become major challenges for family members to face. Decisions about transferring personal property are too often avoided, often because the issue is too sensitive. This publication will help you understand why transferring non-titled property can be a sensitive issue. Strategies for dealing with the sensitivity are suggested to ease the transfer process and help minimize conflicts among family members.

While Grandma's yellow pie plate or Dad's hat collection are simply material possessions, memories, emotions, and feelings can be triggered by or attached to such personal belongings. It is important to recognize the sentimental value personal property may have for some individuals—both current owners and potential receivers. It's also critical to recognize that for others such items may not carry much meaning and indeed may be just "stuff." Decisions about personal property involve dealing with the emotions connected to objects accumulated over a lifetime or across generations. It is often the emotional value attached to personal belongings that makes talking about transfers challenging.

Facing Loss and Transitions

Decisions about personal belongings are not often made during ideal circumstances. Frequently these decisions are made in times of family crisis such as when a death has occurred or when an elderly family member is moving to a health care facility. Decision making becomes more challenging and sensitive when family members are in the process of grieving the loss of a family member, selling the home they grew up in, and/or facing the increasing dependence of an elder. While not easy, decisions about the transfer of personal property can be a time to reminisce, share memories, and work through the grieving process.

Different Perceptions of What's Fair

The challenge of how to divide personal property fairly when the value is not easily measured in dollars adds sensitivity to property transfers. Different ideas of what is fair can make the process and the results of property transfer decisions frustrating, hurtful, and damaging to relationships. On the other hand, taking time to understand the different perceptions of what's fair can reduce misunderstandings, help family members learn about each other's wishes, and strengthen relationships and bonds among family members.

Reality of Family Experiences

Attorneys who work with estate planning say that often the personal property, not the titled property, causes the most problems when settling an estate. Material possessions seem to become more valuable and bring a greater potential for conflict when titled property or the rest of the estate is not large in dollar value.

Adult siblings have been known to break off relationships with each other over how personal property was divided (Titus, Rosenblatt, & Anderson, 1979). Unresolved family issues and feelings of unfairness can continue to influence the transfer of personal property. Many people have stories about successful or unsuccessful transfers of personal belongings in their own family. These continue to be remembered and shared.

Avoiding the Issue

Sensitive issues, such as the transfer of personal belongings, are difficult not only to bring up but to talk about in any depth. It is hard to approach an issue calmly when there are strong feelings about what is important, what needs to happen, and how things should be done. Sometimes individuals may not see personal property as an issue to be addressed. They may refuse to talk about it. There may be great differences of opinion and conflicting views among family members. Have you used any of the following reasons to avoid the issue of transferring personal property? This review of the arguments for tackling sensitive issues might be helpful.

Reasons Used to Avoid Issues	Remember...
Bringing up death is disrespectful and uncomfortable	Few individuals want to give the impression that family members might die or that we want someone to die. While death is a difficult part of the life cycle for most people to accept and talk about, it will happen to each of us. Many people say they feel relieved and in control when such discussions take place and decisions are made.
It won't be a problem in my family	Most people like to believe their family will be the exception and are surprised when there are different perceptions of what's fair or when conflicts arise. If no problems are expected, communicating and planning ahead should go smoothly.
I don't have anything of value	Assumptions are too often made about the emotional value others might place on your personal property. Just because no one has asked about your property does not mean a lack of interest. Most people are surprised to learn what has meaning to others when they ask.

Reasons Used to Avoid Issues	Remember...
Others might think I'm greedy	Tell others your needs and intentions using "I" statements. Let others know why you think decisions should be made now. Getting the decision-making process started does not mean you will always get your way. Talk about how decisions will be made and carried out with all concerned.
It may not be my place or role	Even if you are an in-law, you are a member of the family—and since you came to the family as an adult, you may be in a better position to initiate the subject than other family members. In-laws are affected by decisions about personal property.
No one will listen anyway	Not speaking up means that others will not know your opinions and feelings. Tell them what you need and intend using "I" statements. Others may have similar concerns and fears.
I'm too young to worry about death	While death is hard for most to accept, it doesn't keep it from happening. Just as there are decisions that must go with living, there are decisions related to dying. If you choose not to make those decisions, others will be forced to make them for you. Family members, a personal representative, or the courts may have to deal with guilt, frustration, and lack of agreement because no one knew your intentions or goals.

Reasons Used to Avoid Issues	Remember...
Things will never be the same	Decisions about personal belongings often come at times of loss or transition. Such transitions may bring closure to a time past, but not to the memories attached to that time and place. Objects and the memories associated with them help keep memories alive and provide continuity. Recognize the importance of the grieving process—whether for persons or places.
There are too many other issues to cope with	There is never an ideal time to deal with property transfer issues. Such decisions are part of larger and more complex issues related to transitions and death—none of which will disappear.
Family members will never agree	Different perceptions and expectations are normal, especially in regard to what's fair. Taking time to understand the different viewpoints can help avoid misunderstandings and may lead to respectfully agreeing to disagree.
We don't talk about feelings in my family	Talking about sentimental value and feelings may be uncomfortable for some family members. Making assumptions can lead to conflicts and misunderstandings, which may lead to even greater problems.

Reasons Used to Avoid Issues	Remember...
Past conflicts and feelings between family members will create problems	Conflicts from past family history can emerge and influence decisions about property transfer. Avoiding the issue won't make your family history go away. Talking with each other and working out potential conflicts before a family crisis when immediate decisions are needed can help improve the decision making. Focus on the issue at hand instead of unrelated conflicts. Encourage the use of "I" statements to understand the needs and goals of all involved.

Tips on Talking About Sensitive Issues

The following are some tips to keep in mind when you are planning to talk about sensitive topics, such as transferring personal property.

- Know *what* you want to bring up. Outline the major points in writing. What role do you want the other person to play (for example, do you want them to listen, to act, to express ideas, or to just be there)?

- Know *why* you want to talk about transferring personal property. What are your concerns? What prompted the concern *now*? What is to be *gained* by discussing this? What could be *lost* by discussing this (the worst case scenario)?

- *Rehearse* or *practice* what you might say—even if it is just to yourself in the bathroom or car. You may have a close friend who can play the role of the other person to make it more realistic.

- Choose a *time* and *make an appointment* with the other person, making sure that you will not be distracted by telephone, television, radio, or visitors. If the time agreed upon for the discussion is changed because of outside circumstances, make another appointment.

Tips on Talking About Sensitive Issues (cont.)

- Use "I" messages to describe *how* you feel, *what* the sensitive issue is, and *what* you hope might happen as a result of the discussion. Avoid "you" messages that focus on what you want the other person to do, say, or feel.
- Stay focused on the topic of transferring personal property. Avoid bringing up other issues. If the other person brings up topics, gently (but firmly) return to the topic at hand.
- Be prepared to respond to questions. Attempt to *listen* to the other person's concerns, his or her interpretation of what you said, and reaction. Be able to clarify in case your intention was misinterpreted. Provide clear feedback.
- Ask questions to clarify what you heard.
- Finish the conversation when the issue you wanted discussed has been clarified, even though there may not be any resolution *at this time*. The more sensitive the issue, the more likely will be the need for some "thinking time" alone. Prepare to resume the discussion at a later time agreeable to all.

How to Begin...

For many people, beginning a conversation about a sensitive issue is the most difficult part of communicating. Here are several suggestions on ways to open a conversation about transferring personal property.

Ask "what ifs." For example, you might say, "Dad, what would you want to have happen with the things in the house if you and Mom were no longer able to live here? What concerns or special wishes would you have? What if we had to make decisions about what happens to some of your belongings, like your gun collection or family photographs?"

Any of these "what ifs" can create anxiety for both the person raising the questions and the person trying to answer. You can give some reassurances by saying something like, "Chances are you will be living here for a long time, but if this would be needed, I want to know what you want so your wishes can be carried out."

How to Begin... (cont.)

Look for "natural" opportunities to talk. When a friend or another relative is dealing with transferring personal belongings, you can use the situation to introduce a discussion. Or, describe a situation of a friend who recently experienced dividing up property. Follow up the story by asking, "What would you have done if you were in that situation?"

If the other person refuses to talk or denies the possibility of ever having to deal with the situation, you cannot force their involvement. You do have the right to share your feelings which have prompted the discussion. You can feel better because you made an effort.

References

Titus, S., Rosenblatt, P., & Anderson, R. (1979, July). Family conflict over inheritance of property. *The Family Coordinator*, 337-346.

Stum, M., & Meyers, S. (1991). Communicating with others. In M. Stum, *Taking control of life and death health care decisions*. St. Paul: Minnesota Extension Service.

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

Who gets Grandma's yellow pie plate?
Transferring Non-titled Property

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Determine What Fair Means

Marlene S. Stum, Family Social Science

Being Fair Is Often Important

Many people will say they want to be "fair" to all the members of their family when their belongings are transferred. What does "fair" mean? There can be many different ideas of what would make both the process and end result of who gets what personal belongings fair. What assumptions do members of your family have about what is fair when transferring non-titled personal property?

In some families it is considered fair when selected personal items are passed on to the oldest. In other families it is considered a fair process to allow only siblings to choose or receive items—no in-laws allowed. What unwritten rules or assumptions have been used to pass on non-titled personal property? Are there examples of times the process of transfer or who got what was considered unfair?

Does Fair Always Mean Equal?

No! Some family members consider the distribution of belongings to be fair when everyone has received an equal amount. In this case, differences among family members are not emphasized. When dealing with non-titled property challenges quickly arise about whether equal means an equal number of items, equal dollar value, or equal in terms of emotional value. What makes dividing equally even more difficult is that the sentimental meaning or value of items will differ for each individual. What one person considers of equal emotional value may not at all be what another would consider equal. Some personal belongings may or may not have a great deal of financial value. Who determines the value of an item and whether value is measured in emotional terms, dollars and cents, or some combination?

Some individuals prefer to take differences among family members into account with a desire to be "equitable" when transferring personal belongings. Things taken into account can include contributions over the years (care, gifts), needs (financial, emotional, physical), and other differences among family members such as age, birth order, or marital status.

A Fair Process Is Also Important

Some individuals may feel the process used to decide how transfers are done is more important than who actually gets what items. For example, family members may feel good about the end result if each person's viewpoint is heard and if the lottery system used to divide up important items is consistent for all involved. Different feelings about who should be involved and when transfers should occur can be the source of many disagreements. The issue of who is and isn't "family" can quickly arise. Is it fair if one daughter-in-law is involved and the sons-in-law are not? Is it fair that one son gets to receive items now, while other siblings have to wait?

Understand What "Fair" Means in Your Family

Different perceptions about what is "fair" are inevitable and normal. It can be extremely helpful to identify the "unwritten" rules or assumptions behind what is considered fair to members of your family. Worksheets A and B can help both owners and potential receivers of personal property clarify their assumptions about what "fair" means.

Using Worksheets:

- First, have each family member involved—either as an owner of non-titled property or as a potential receiver of non-titled property—answer the appropriate worksheet separately.
- Answers can then be compared to understand how beliefs are different or similar.
- Recognize that there are no right answers. Property owners have the legal right to decide when and how to transfer their non-titled property. However, understanding different perceptions about what is fair can help avoid making assumptions that are not necessarily true. It can be helpful for owners to let others know what rules they are using to decide who gets what and to communicate clearly what process is being used to decide. While others may see things differently, communicating can help reduce inaccurate assumptions, misunderstandings, and unnecessary tensions. Family members may also respectfully agree to disagree.
- Improving communication and agreeing to resolve conflicts if they arise can be helpful when talking about fairness. Suggestions are offered in "Managing Conflicts If They Arise," a part of this series.

Reference

Stum, M. S. "What research suggests about families and non-titled personal property inheritance," in *Who Gets Grandma's Yellow Pie Plate? Transferring Non-titled Property*, Minnesota Extension Service, University of Minnesota, St. Paul, 1996.

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Who gets Grandma's yellow pie plate?
Transferring Non-titled Property

Worksheet A

Owners of Non-titled Property Determine What Fair Means

Marlene S. Stum, Family Social Science

When transferring non-titled property, it is inevitable and normal that people will have different perceptions about what is "fair." This worksheet can help you become more aware of your assumptions and beliefs about what would make both the process and end result of who gets what belongings "fair." Individuals often think something is unfair when the rules they believe to be important are not followed.

Directions: Read each question and identify how important each rule is to you by placing a mark on the line indicating that it is "not at all important," somewhere in the middle, or "very important." If the question does not apply to you or your family situation, simply leave it blank. Add your own rules about what would make something fair as you go along. Answer the questions at the end of each section to summarize your perceptions of what is fair.

Who Should Get What: Rules for Deciding

Importance of Treating Everyone Equally

Not at all important — Very important

1. Family members are treated the same regardless of what they may have contributed to the family over the years

2. Family members are treated the same regardless of differences in needs

Importance of Treating Everyone Equally (cont.)

Not at all important — Very important

3. Family members are treated the same regardless of differences (such as birth order, gender, or marital status)
4. Family members receive equal numbers of items, regardless of sentimental meaning.
5. Family members receive equal numbers of items which have sentimental meaning to them
6. Family members receive equal dollar value of appraised items
7. Family members all have an equal chance of getting items that more than one might want regardless of financial resources (drawing names, lottery system, taking turns at selecting, using chips or pretend money)

Importance of Recognizing Different Contributions

Not at all important — Very important

1. Items received as gifts from family members be given back to the same giver
2. Family members who have helped do work around the home or business be rewarded
3. Family members who have helped me financially are rewarded
4. Family members who have helped provide care and support over the years are rewarded
5. Family members who have shown me the most love are rewarded
6. Organizations or individuals outside of family are rewarded

Importance of Recognizing Different Needs

		Not at all important	Very important
1	Family members with financial needs receive more	←—+—+—+—→	
2	Family members with physical or disability needs receive more	←—+—+—+—→	
3	Family members with greater emotional needs receive more	←—+—+—+—→	

Importance of Recognizing Differences Among Family Members

		Not at all important	Very important
1	Birth order (oldest, youngest) influences who receives specific items	←—+—+—+—→	
2	Current age influences who receives specific items	←—+—+—+—→	
3	Whether someone is male or female influences what they automatically receive	←—+—+—+—→	
4	Whether family members are married, widowed, divorced, or never married influences what they receive	←—+—+—+—→	
5	Whether family members have children by birth, adoption, or remarriage influences what they receive	←—+—+—+—→	
6	Whether family members live close or at a distance influences what they receive	←—+—+—+—→	
7	Whether family members have a personal interest in the item influences what they receive.	←—+—+—+—→	

What Did You Learn About Deciding Who Gets What?

Go back and review how important you said each of the questions was in each category.

- Is it more important to you to:

  _____ Treat everyone equally so that all get the same
  _____ Take into account differences among family members

- If treating everyone equally is important, what does "equal" really mean?

  _____ Equal financial value
  _____ Equal in emotional value
  _____ Equal numbers of items regardless of emotional value
  _____ Equal numbers of items that are meaningful

- If differences are taken into account, which types of differences are more important?

  _____ Differences in contributions
  _____ Differences in needs
  _____ Differences among family members such as birth order, marital status, or personal interests
  _____ Other *(list)*

- What items did you rate:

  Most important *(list)*

  Least important *(list)*

Deciding "How to Decide"

When Decisions Are Made

Not at all important — Very important

1. Determining who gets what now, while I am able to make decisions
2. Giving selected items away before my death to whom I choose
3. Putting my wishes in writing and mentioning in my will
4. Letting my personal representative decide what happens to my belongings after I die
5. Letting surviving family members decide what happens to my belongings after I die
6. Preventing family members from taking items without my knowing
7. Responding to requests for items from family members

Who Is Involved in Decisions

Not at all important — Very important

1. Asking my children what they would like to receive
2. Asking the spouses of my children what they would like to receive
3. Asking my grandchildren what they would like to receive
4. Having items of financial value appraised by someone outside the family
5. Informing family members what decisions I have made as the owner
6. Making decisions when all can be present

What Did You Learn About a Fair Transfer Process?

Go back and review how important you said each of the questions was in each category.

❓ *When* should transfer decisions be made and carried out? *(list)*

❓ *Who* do you believe should be involved in the process? *(list)*

Now That You Know Yourself...

- Compare your responses on this worksheet with those of your children or other possible receivers who have completed similar questions designed for potential receivers of your non-titled property (Worksheet B). Decisions legally rest with the property owners while alive; however, discussing and understanding the different ideas about what is fair can help avoid making assumptions that are not necessarily true.
- Compare your perceptions of what is fair with co-owners of the non-titled property. Are there major differences in what would be considered fair? Are the differences about who should get what or about the process of deciding? On what points do you agree? On what points can you reach a compromise? Are there points on which you can agree to disagree?
- Remember, different perceptions about what is fair are normal. There are no right answers.

Reference

Stum, M. S. "What research suggests about families and non-titled personal property inheritance," in *Who Gets Grandma's Yellow Pie Plate? Transferring Non-titled Property*, Minnesota Extension Service, University of Minnesota, St. Paul, 1996.

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Who gets Grandma's yellow pie plate?
Transferring Non-titled Property

Worksheet B

Potential Receivers of Non-titled Property Determine What Fair Means

Marlene S. Stum, Family Social Science

Many individuals hope to pass on or transfer some of their special non-titled personal property to family and friends. Non-titled personal property includes items that don't have a title (or a legal document indicating ownership) such as furniture, family photographs, fishing gear, tools, and yellow pie plates. All too often, family members involved in transfer decisions (often parents and their adult children) fail to learn about each other's perceptions of what would make the transfer process and end result fair. Assumptions can be made that are inaccurate. Misunderstandings and hurt feelings can result.

Different beliefs about what is "fair" are inevitable and normal when talking about transferring non-titled personal property. This worksheet can help you, as a potential receiver of another person's non-titled property, become more aware of your assumptions and beliefs about what would make both the process and end result of who gets what belongings "fair." People often think something is unfair when the rules they believe to be important are not followed.

Directions: Read each question and identify how important each rule is to you by placing a mark on the line indicating that it is "not at all important," somewhere in the middle, or "very important." If the question does not apply to you or your family situation, simply leave it blank. Add your own rules about what would make something fair as you go along. Answer the questions at the end of each section to summarize your viewpoint about what is fair.

Who Should Get What: Rules for Deciding

Importance of Treating Everyone Equally

		Not at all important	Very important
1	Family members are treated the same regardless of what they may have contributed to the family over the years		
2	Family members are treated the same regardless of differences in needs		
3	Family members are treated the same regardless of differences (such as birth order, gender, or marital status)		
4	Family members receive equal numbers of items, regardless of sentimental meaning.		
5	Family members receive equal numbers of items which have sentimental meaning to them		
6	Family members receive equal dollar value of appraised items		
7	Family members all have an equal chance of getting items that more than one might want regardless of financial resources (drawing names, lottery system, taking turns at selecting, using chips or pretend money)		

Importance of Recognizing Different Contributions

		Not at all important	Very important
1	Items received as gifts from family members be given back to the same giver		
2	Family members who have helped do work around the home or business be rewarded		
3	Family members who helped financially are rewarded		
4	Family members who helped provide care and support over the years are rewarded		

Importance of Recognizing Different Contributions (cont.)

Not at all important — Very important

5 Family members who have shown the most love are rewarded

6 Organizations or individuals outside of family are rewarded

Importance of Recognizing Different Needs

Not at all important — Very important

1 Family members with financial needs receive more

2 Family members with physical or disability needs receive more

3 Family members with greater emotional needs receive more

Importance of Recognizing Differences Among Family Members

Not at all important — Very important

1 Birth order (oldest, youngest) influences who receives specific items

2 Current age influences who receives specific items

3 Whether someone is male or female influences what they automatically receive

4 Whether family members are married, widowed, divorced, or never married influences what they receive

5 Whether family members have children by birth, adoption, or remarriage influences what they receive

6 Whether family members live close or at a distance influences what they receive

7 Whether family members have a personal interest in the item influences what they receive.

What Did You Learn About Deciding Who Gets What?

Go back and review how important you said each of the questions was in each category.

❓ Is it more important to you to:

_____ Treat everyone equally so that all get the same
_____ Take into account differences among family members

❓ If treating everyone equally is important, what does "equal" really mean to you?

_____ Equal financial value
_____ Equal in emotional value
_____ Equal numbers of items regardless of emotional value
_____ Equal numbers of items which are meaningful

❓ If differences are taken into account, which types of differences are more important?

_____ Differences in contributions
_____ Differences in needs
_____ Differences among family members such as birth order, marital status, or personal interests
_____ Other *(list)*

❓ What items did you rate:

Most important *(list)*

Least important *(list)*

Deciding "How to Decide"

When Decisions Are Made

Not at all important — Very important

1. Owners determine who gets what now while they are able to make decisions
2. Owners give selected items away before they die
3. Owners put wishes in writing and mention in their wills
4. Personal representative decides what happens to belongings at death
5. Surviving family members decide what happens to belongings at death
6. Family members are prevented from taking items without others knowing
7. Owners respond to requests for items from family members

Who Is Involved in Decisions

Not at all important — Very important

1. Children asked what they would like to receive
2. Spouses of children asked what they would like to receive
3. Grandchildren asked what they would like to receive
4. Having items of financial value appraised by someone outside the family
5. Family members informed what decisions owners have made
6. Making decisions when all can be present

What Did You Learn About a Fair Transfer Process?

Go back and review how important you said each of the questions was in each category.

❓ *When* should transfer decisions be made and carried out? *(list)*

❓ *Who* do you believe should be involved in the process? *(list)*

Now That You Know Yourself...

- Compare your responses with siblings or others who might also have a stake in how your parents' personal belongings are transferred. Are there major differences in what would be considered fair? Are the differences about who should get what or about the process of deciding? On what points do you agree? Are there points on which you can compromise?
- Compare your perceptions of what is fair with those of your parents or the owners of the non-titled property. Decisions legally rest with the property owners while alive; however, discussing and understanding the different viewpoints can help avoid making assumptions that are not necessarily true. When someone dies, personal belongings become part of the estate and decisions are carried out by a personal representative.
- Remember, different perceptions about what is fair are normal. There are no right answers.

Reference

Stum, M. S. "What research suggests about families and non-titled personal property inheritance," in *Who Gets Grandma's Yellow Pie Plate? Transferring Non-titled Property*, Minnesota Extension Service, University of Minnesota, St. Paul, 1996.

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Identify Special Objects to Transfer

Marlene S. Stum, Family Social Science

It's not just the objects themselves but the meanings and feelings that sustain one's life that are at issue. Family members need to be sensitive to and have respect for the feelings and meanings involved." (Csikszentmihalyi and Rochberg-Halton, 1981).

What special personal belongings or non-titled property are in your family? When different family members identify special items and explain their importance answers will vary. Have you thought about what special items you own and why? Do you know which of your belongings might be special to others and why?

Meanings Will Differ

While Grandma's yellow pie plate might be important to you, it may not be at all to others in your family. Make no assumptions about what someone else might value or why. The value given belongings by someone who is 83 years old may be different from that of someone who is 57 or 23 years old. Grandpa's journal may seem like just a dust collector to a grandchild who is currently 17, but may be considered a treasure full of family history when that grandchild is 47 years of age, or vice versa. A husband and wife may name the same special objects, but give different reasons why the item is special to them. When naming special objects, mothers and daughters tend to be more alike in their answers than fathers and sons.

Identify Special Items

An important step in making decisions about transferring non-titled property is to make a list of special objects. Then share the meaning attached to each item. Tell what makes it special and share your feelings about who should receive the item and why. Worksheet A can help owners ask and answer these important questions.

Gather Input from Others

Many parents choose to gather information from their children, grandchildren, or others before deciding what to pass on to others. Worksheet B can be used by children, grandchildren, other family members, or friends to help gather information from potential receivers of your non-titled property.

Don't be surprised to find many differences and perhaps many similarities in the lists. One mother was very surprised when three of her seven adult children listed a 25¢ Christmas tree ornament that had special memories for each of them. The mother still has the challenge of deciding which one of the three should receive the decoration. However, without asking the mother would never have known that the Christmas decoration was special to any of her children.

Potential List of Cherished Objects

- Furniture
- Plates/dishes/utensils
- Handmade items (quilts, stitchery, tables and chairs)
- Antiques
- Jewelry
- Art pieces (pictures, vases)
- Photographs
- Written material (Bibles, book of poems written by Grandma, diaries, letters)
- Electronic equipment (TV, CDs)
- Musical instruments
- Plants
- Collections (coins, plates, guns, stamps)
- Documents or records (marriage certificates, awards, military discharge papers)

Tell the Stories

Special family belongings serve as props to telling family stories. No matter what your ethnic origin, no matter how recent family members may have arrived in the United States, do not assume that objects used every day have more (or less) importance than belongings of previous generations.

Objects add meaning to celebrations and events. It is impossible to remember events without recalling the objects involved with those

Tell the Stories (cont.)

events. Holiday dinner memories include the feel of the linen tablecloth, images of the china pattern and silverware, the butter dish with the missing cover, the wallpaper with smudges around the light-switch plate, and the glowing candles.

Sharing stories about special objects helps family members understand their past, discover another side of their family, and appreciate the real accomplishments of their ancestors. Without consciously asking about family history, a person may have a dim and distorted vision of the past. Sharing stories and meanings about significant belongings helps preserve family history, memories, and traditions. Sharing answers to the questions which follow can help tell the stories and preserve family legacies. Sharing can be done by talking, in writing, through cassettes or videotapes, or any combination of methods.

Use Your Belongings as Props for Telling Family Stories:

Name of item _____

When did you acquire it? _____

How did you acquire it? _____

When and how have you used it? _____

Who else owned it before you? _____

Who do you want to give it to when you no longer need it? _____

Why do you want this person to receive it? _____

What other memories do you have of this item? _____

_____

What memories do you have of the people who owned this before you? _____

_____

References

Blade, T. (1993, July). Objects as the anchor of memory. *The Old Times*, pp. 13a-13b.

Csikszentmihalyi, M., & Rochberg-Halton, E. (1981). *The meaning of things*. Cambridge, MA: Cambridge University Press.

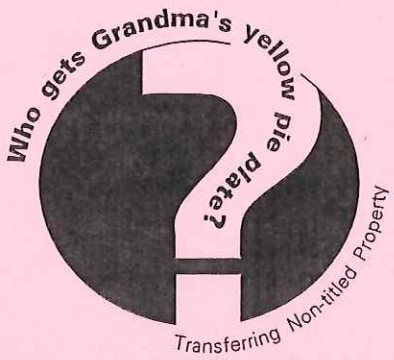
Lichtman, A. J. (1978). *Your family history*. New York, NY: Vintage Books.

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.



MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Distribution Options and Consequences

By Claire Althoff and Christy Bubolz, Minnesota Extension Service

---

To most people, it's just an old yellow pie plate. They don't see Grandma with flour on her cheek and apron as I do. They don't smell the apples and cinnamon, and hear the oven door shut.

Grandma's funeral was yesterday. I hear my aunts and uncles talking about dividing up her things. Someone mentioned the possibility of putting items in piles and then drawing numbers to see who gets what. If that happens, I know I will never end up with the yellow pie plate.

Grandma and I had such fun times together making those apple pies. I wish somehow they'd come up with another solution and maybe even let us grandkids pick some things we want. What are the odds?!?

Families use a variety of methods to distribute non-titled property. No method is "perfect" or "right" for all families. In order for families to find the best method for *their* situation, they need to first identify goals and then keep these goals in mind as they select the distribution method they will use. (See "Determining What You Want to Accomplish" in this series.)

It is important for the individuals involved to discuss, identify, and agree upon a method, or methods, of transfer before beginning the distribution process. Whether the goal of distribution is maintaining privacy and control, preserving memories, having good family relationships, or being fair to everyone involved, the method(s) used should help participants achieve the property distribution goals which have been identified.

While families should be creative as they seek solutions to any problems that arise, they also need to be aware of laws governing the transfer of non-titled property in their state, and work within the legal guidelines.

This publication offers educational information. It is not legal advice. If you have specific questions about this information, please see an attorney.

The time at which decisions are made will influence potential methods of distribution. Decisions about the transfer of non-titled property may be made:

1. Prior to death or other crisis by the property owner(s), or
2. After death by the relatives, friends, and/or legal representatives of the owner.

When decisions are made by property owners *prior to death*, it allows the person transferring the property to consider the wishes of the recipients and pay attention to special memories shared with the recipients. Doing so may help to eliminate misunderstandings about the owner's wishes. When decisions are made *after a death*, they may not accurately reflect the wishes of the owner. Very often more than one person feels they have been promised, or are entitled to, the same item.

Distribution methods that require planning prior to death include gifting, labeling items, making a will, and preparing lists of property specifying the intended recipient. Auctions and other types of sales held either within the family or for the general public, or an in-family distribution utilizing some kind of selection, such as a lottery, may occur either before or after the death of the property owner. These methods are frequently used when a person moves into smaller living quarters (for example, moving from a house to an apartment or long-term care facility), as well as after death. When owners fail to plan for non-titled property transfer prior to their death, distribution methods available for use become more limited.

Regardless of when the transfer decisions are made and what method of distribution is utilized, it is important to realize the potential consequences of each method.

Methods of Distribution	Things to Consider:
Wills: A will goes into effect when a person dies. It directs your personal representative to carry out your wishes. Listing one's personal property in a will can entail pages of detail if every item is listed. When writing a will, owners are encouraged to prepare a "separate writing identifying bequest of tangible property" as described in the next section, "Lists."	**Wills:** • Require, to insure accuracy, that the actual will be updated as changes in ownership or transfer wishes occur. • Frequently use vague wording such as "divide evenly among the children," thus leaving the actual decision of who gets what personal property up to the family.

Methods of Distribution	Things to Consider
Lists: Many states recognize lists, mentioned in a will, as a legal method to distribute non-titled property. (Ex: MN Statutes, Annotated 524.2-513 states a "separate writing identifying bequest of tangible property" may be made in conjunction with a will). A list such as this must be either in the handwriting of the owner or signed by the owner. Property and people mentioned in the list must be clearly identified (for example, my cousin, Chris A. Anderson, the cut-glass bowl with the bird design, and so on). Lists may be prepared either before or after the will is written. Lists designating distribution of non-titled property need to be kept with personal papers, so the personal representative is able to distribute items to the intended recipients. An example of how to prepare a list can be found at the end of this resource.	**Lists:** • Must be mentioned in the will to be legally valid. • Provide written documentation of the owner's wishes. • May be prepared by the owner after receiving input from potential recipients. • Need to be dated to insure it represents the most recent wishes of the property owner. • Can be easily updated.
Gifts: Property may be transferred to others by gifting it prior to death. While these gifts frequently take place at birthdays and holidays, they may occur at any time. One grandmother chose to give her grandson's fiancée a crystal bowl as a shower gift. She included a note explaining that originally the bowl was received as a gift when she and her husband were married 50 years earlier. Gifts of up to $10,000 ($20,000 for married couples), or property equal to that amount, may be gifted annually without paying gift tax.	**Gifts:** • Allow you to pass on stories and special memories associated with specific items. • May be given with the assumption they will be returned to the original giver. Not everyone gives gifts they would like to have returned. This assumption may make it difficult to compensate those who gave gifts such as money, clothes, or food. • Reduce the size of your estate and possibly the taxes on it. • May require filing of gift tax forms if amount exceeds limit.

Methods of Distribution	Things to Consider
Gifts (cont.): Gifts may also be given to charities or museums. Check with the director or curator before gifting to these entities. Remember, once given, gifts are the permanent property of the receiver.	**Gifts (cont.):** • May provide you with tax deductions when gifts are made to non-profit groups. Check with your tax advisor. • Provide for permanent transfer of property. Once a gift is given, it is no longer yours.
Verbal or "Someday" Promises: A "someday you will receive this item" promise assumes the recipient will receive an item of property at a future point in time. For example, "After I die, I want you to have my wedding ring."	**Verbal or "Someday" Promises:** • May cause misunderstandings when more than one person feels they have been promised the same item. • May cause problems when items break, are sold or lost, or are given to another person before "someday" arrives.
Masking Tape/Labeling Items: Many people place masking tape or other labels on items to identify who should receive them. Labels are not a legally valid method of transfer.	**Masking Tape/Labeling Items:** • May fall off, be removed, or become illegible. • Are not legally binding unless a valid list is also prepared.
Private Auction: Family members buy items in open bidding. Families who choose this method may use real money or "funny money." If real money is used, the money generated will go to the owner or to the estate and may be subject to taxes. If "funny money" (marbles, poker chips, play money) is used, each qualified bidder receives an equal number of units for bidding.	**Private Auction:** • Allows special items to stay in the family and, thus, preserve memories. • May enable wealthier bidders to "outbid" others when real money is used. Hurt feelings and damaged relationships may result. • Allows everyone to have equal purchasing power if "funny money" is used. • Allows income to go to the estate or to the property owner if s/he is still living. • Allows the family to maintain control and privacy.
Silent Auction with Family: Family members place written bids on items. High bidder gets the item. Money goes to the estate and may be subject to taxes.	**Silent Auction with Family:** • Allows more privacy in bidding. • Allows quiet, less assertive people equal opportunity for securing items they want.

Methods of Distribution	Things to Consider
Public Auction: Family members and the public bid for items. Proceeds from the auction will go to the owner or to the estate. Proceeds may be subject to state taxes.	**Public Auction:** • Allows items of sentimental value to go to individuals outside the family. • Allows income to go to the estate or to the property owner if s/he is living.
Garage/Yard Sale: A public sale of this type works well to distribute items of little emotional or financial value. Proceeds go to the owner or the estate and may be subject to taxes.	**Garage/Yard Sale:** • May require disposal of unsold items. • May present a challenge to arrive at a "fair market value."
Estate Sale: Property is sold to a liquidator and the money goes to the owner or the estate. Proceeds may be subject to taxes.	**Estate Sale:** • May require that fees or a percentage of the sale be paid to the liquidator. • Allows items of sentimental value to transfer to people outside the family.
Pilfer Items: When others aren't looking, heirs quietly remove items of special value.	**Pilfer Items:** • Can cause hurt feelings and anger which may last for years and for generations. • May be contradictory to wishes of the owner. • Means secrets are kept. This can be damaging to relationships.
Family Distribution: Many families choose to distribute property privately within the family. When this is done, distribution may take place item by item, or items may be placed in groups of approximately equal monetary value and then selected as a group. Here are methods which have been used by families to determine the order of selection:	**Family Distribution:** • Allows the family to maintain control and privacy. • May give all family members equal chance to receive prized items. • Needs to recognize the difficulty of placing a dollar value on emotionally cherished items.

Methods of Distribution	Things to Consider
Family Distribution (cont.): • *Shake Dice:* Family members shake dice with the high roller receiving first choice, and so on. After the first round the selection order is reversed. After two rounds, family members shake again to determine a new order. • *Draw Numbers, Straws, or Playing Cards.* • *Birth Order Preference:* Selection goes from the oldest to youngest, or vice versa. • *Gender Preference:* Selection begins with males before females, or vice versa. Birth order may also be integrated into this method. • *Generation Preference:* Priority is given to parents, siblings, children, grandchildren, or blood kin.	**Family Distribution (cont.):** • Is often utilized immediately following a death while family members are still in the grieving process. This may be extremely difficult for some. • Requires family members to be physically present to make decisions. • May not reflect the property owner's wishes. • May not enable the stories to be passed on with the items if it occurs after the owner's death. • May choose to emphasize differences in family status. • May make it difficult for everyone to agree on how to determine a value (financial or emotional) for items.
Removal of Leftover/Unclaimed Property: One or more family members assume responsibility for removing all remaining property. This property may need to be gone through item by item to insure that valuable items aren't discarded. One family almost discarded a patent for a disposable baby bottle that had been granted to their mother.	**Removal of Leftover/Unclaimed Property:** • Once items are disposed of, they are gone forever. Items that may not seem to have value today, may be more appreciated tomorrow or next year.
Throwing Away: While it may be necessary for some property to be taken to a landfill or burned, property owners are encouraged to consider donating items to such non-profits as the Salvation Army or a women's shelter. Environmentally appropriate practices are also encouraged.	**Throwing Away:** • May adversely affect the environment. • Donating items to non-profit groups may qualify you or the estate for a tax benefit. Consult your tax advisor.

Methods of Distribution	Things to Consider
Intestate Transfers–Dying Without a Will: If you own property at the time of your death, and have not made a will, the state, through intestate succession laws, dictates how your titled and non-titled property will be distributed. Although states may differ, there is a planned, legal succession of levels of heirs documented in each state's statutes. An explanation of Minnesota's Intestate Succession can be found at the end of this resource as an example.	**Intestate Transfers–Dying Without a Will:** • Gives equal amounts to heirs at the same level (that is, siblings) regardless of the owner's wishes or intentions. • Does not allow for any special bequests.

Example: Preparing a Separate List Identifying Transfer Wishes

Distribution of Personal Property According to Minnesota Statutes, Section 524.2-513

Page _____ of _____

To: My Family, Heirs, Executor or Personal Representative

This is the list that I referred to in my Last Will and Testament. Therefore, please distribute the items listed below to the persons I have named:

Item	To Be Distributed To
Grandfather's Clock (from the living room)	My Sister, Susan Anderson Jones
Grandfather's Woodworking Tools (from the basement)	My Brother, George J. Anderson
My collection of Flower Vases	My sister Susan's son, Bill A. Jones

Date: _____ _____

(Testator)

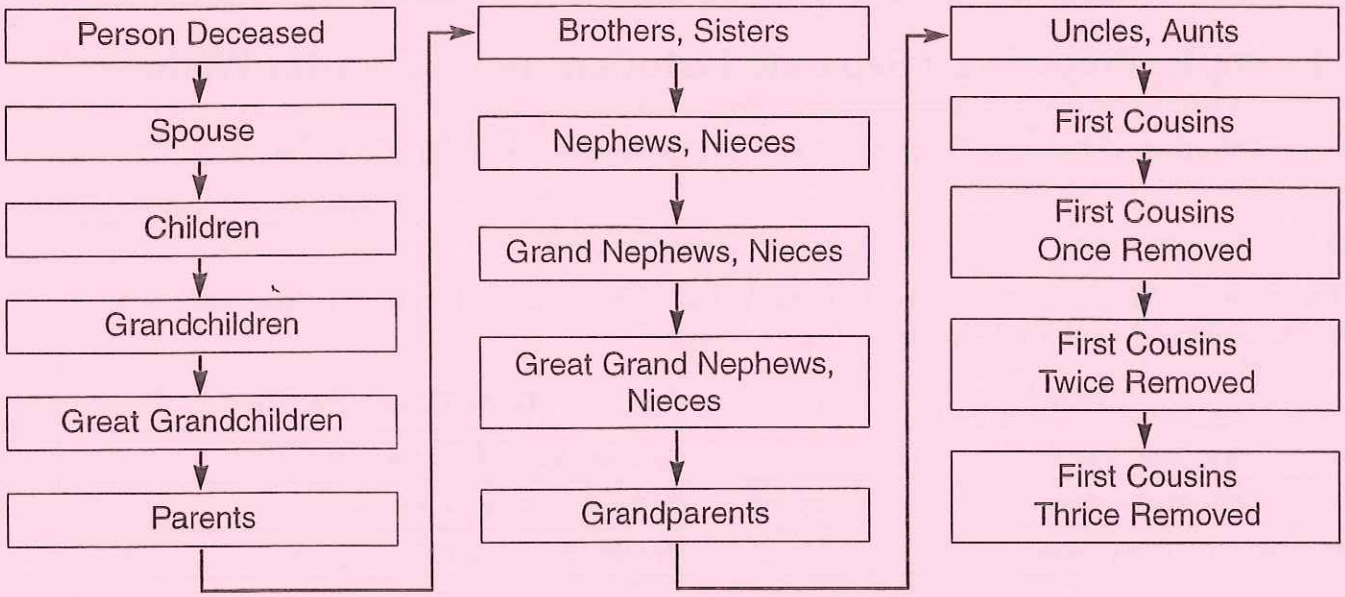
Note: Minnesota law allows you to distribute your tangible personal property in this manner. However, this method is not effective to distribute bank accounts, cash, evidences of indebtedness, documents of title, securities, and property used in trade or business.

Should you wish to make any changes to the above list, make and sign a new list.

Dying Without a Will—Examples of Minnesota Intestate Succession:

- The surviving spouse inherits all when there are no children.
- The surviving spouse inherits all if the living children are all children of both spouses.
- The spouse may receive up to as much as the first $150,000 plus half the balance.
- As of 1995, the "elective share" of each spouse relates to the number of years spouses were married.
- Without a surviving spouse, all children divide the estate equally.
- Without a spouse or children, grandchildren or other equal levels of heirs are sought, such as parents, siblings, nieces and nephews, etc.

The first box containing heirs is the inheriting box in intestate succession. Follow the arrows in the chart below to understand the progression of heirs.

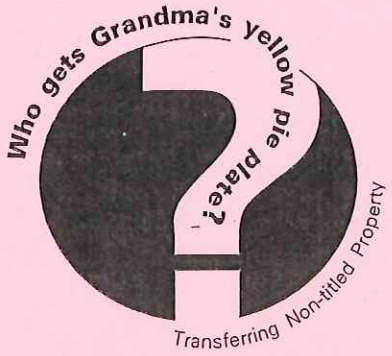


Reference

Stum, M. S. "What research suggests about families and non-titled personal property inheritance," in *Who Gets Grandma's Yellow Pie Plate? Transferring Non-titled Property*, Minnesota Extension Service, University of Minnesota, St. Paul, 1996.

Produced by the Educational Development System, Minnesota Extension Service.
In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.
The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.



MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Determine Distribution Options: Establish Ground Rules

Claire Althoff, Minnesota Extension Service

I am so overwhelmingly sad. When Mom died, my three older sisters took it upon themselves to divide up Mom's dishes and household items. They assumed that as a guy I wouldn't want any of these things. At the time, it was easy enough not to object. I was used to having them boss me around. Now I have two beautiful daughters who will never have a special remembrance from their Grandmother. At times I become almost bitter; but most of the time I am just plain sad. I wish I had something of Mom's to give my daughters. Who should get to make the rules? What would have happened if I had stood up to them?

Agree on a Process

Transferring non-titled personal property, such as Grandma's yellow pie plate and Uncle Harry's gold watch, will take time as well as physical and emotional energy. When families begin the distribution process, there are sure to be different assumptions, questions, and opinions on how the process should be handled. Establishing ground rules prior to beginning distribution may help the process go more smoothly. The suggestions which follow can help your family begin this process, ideally before a death occurs.

Suggestion	Have You Considered...
Plan carefully where you will meet	• Is the location large enough to accommodate the number of people who will be present or involved in the process? Will young children be present or will other arrangements be made for childcare? • Will the location hinder or encourage open discussion of feelings and ideas? • Does the location accommodate health restrictions and physical comfort of the people who will be there (that is, "smoke free" for those with allergies; handicap accessible for those with limitations on mobility; access to food, restrooms, and space to stretch)?
Think before selecting a time for distribution. The distribution process may be a stressful time for families. Often families begin this process shortly after a funeral or crisis. Depending on family circumstances and places of residence, you may want to consider delaying the property distribution temporarily.	• What is the best time for family members to convene for property distribution? When is the least stressful time to distribute the property?
Decide who to include in discussions and decisions • Property owner(s)	• Making decisions prior to death or other crisis, allows property owners to ask others for input.

Suggestion	Have You Considered...
Decide who to include in discussions and decisions (cont.)	
• Personal representative(s)/Executor/Executrix	• Will the personal representative accept input from others in the distribution process?
• Children/Grandchildren/Relatives	• Will children/grandchildren be given preference based on age, gender, or other factors? • Will adopted, step, or foster children be involved in the discussions? • How will children/grandchildren from distant locations be included?
• In-laws	• Will children's spouses (in-laws) be included in the distribution? Will the couple be viewed as "one" or "two"? • Does including in-laws make the group too large? • What skills (mediation, clearer perspectives) might in-laws add to the group?
• Friends/Significant Others/Ex-spouses	• Are there close friends who should be included in the distribution process?
• Caregiver(s)	• Are there caregivers, either family members or non-related individuals, who have had a significant role in the life of the property owner?
• Attorneys	• Are there attorneys named or appointed who should legally be involved? • Would it be beneficial to involve legal representatives in the decision-making process? Will additional fees be charged for having their involvement?

Suggestion	Have You Considered...
Decide who to include in discussions and decisions (cont.) • Mediator(s)—Professional mediators or individuals with training and/or experience in mediation	• Does the family need help defining common goals and keeping discussions focused? • Would it be beneficial for a professional mediator to serve as a neutral third party to help keep discussions orderly, fair, and focused?
Discuss and determine goals Individuals may have varying goals for the distribution process. Discuss individual goals and identify group priorities. Focusing on common goals may help reduce conflict.	• Using the worksheets available in this series to identify goals (see "Determine What You Want to Accomplish").
Determine a process for resolving conflicts before they occur	• Will the group look for a simple majority when settling differences or will the group try to find a compromise that is tolerable for everyone?
Recognize differences Some people make decisions very quickly, while others need more time to process information. Some people make significant sacrifices in order to prevent damage to relationships, while others thrive on having power over people, regardless of the cost to the relationships.	• Determine how different personalities and decision styles can be blended to negotiate compromises.
Designate a recorder This person should record decisions accurately. Individuals involved with the process should "sign off" on agreements at the conclusion of the distribution.	• By having people sign off on the agreement, you may eliminate the problem of people coming back at a later time to disagree on the way property was distributed. Decide as a group when or if negotiations may be re-opened.

Suggestion	Have You Considered...
Pay attention to basic stress management strategies Distributing non-titled property may cause stress in the lives of those involved. Be aware of signs of stress such as irritability, overwhelming sadness, explosive arguments, back pain, high blood pressure, and disturbed sleep patterns.	• Get physical exercise. Remember your mind and body work together. Exercise will help you release pressure when you are angry, nervous, or upset. • Get plenty of rest. Property distribution is hard work. Lack of sleep can quickly make people irritable and/or overly sensitive. Adequate rest may help alleviate this problem. • Consider making a "no alcohol and drugs" rule. Self-medication and alcohol may add additional stress to an already tense situation. As a family you know your situation best and may want to consider this option. • Establish a schedule. Distribution takes time. Set up meeting dates and times, both starting and ending. Be sure to plan for "think" time, "cool down" time, and breaks. • Balance nutritious eating with the need for "comfort foods."

Reference

Stum, M. S. "What research suggests about families and non-titled personal property inheritance," in *Who Gets Grandma's Yellow Pie Plate? Transferring Non-titled Property*, Minnesota Extension Service, University of Minnesota, St. Paul, 1996.

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Who gets Grandma's yellow pie plate?
Transferring Non-titled Property

Worksheet A

For Owners/Givers of Non-Titled Property Identify Special Objects to Transfer

Marlene S. Stum, Family Social Science

What special belongings or non-titled property do you have which you hope to pass on or transfer to others?

Describe Item	Why Is This Item Special?	Who Should Receive It? Why?

Describe Item	Why Is This Item Special?	Who Should Receive It? Why?

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request.
Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Worksheet B

For Children or Other Potential Receivers Identify Special Objects to Transfer

Marlene S. Stum, Family Social Science

What special personal belongings or non-titled property do your parents have which you hope they will pass on or transfer to you?

Describe Item	This Item Is Special To Me Because...	If Someone Else Received This Item I Would Feel...

Are there special objects/possessions your parent(s) have which you hope they will pass on or transfer to family members other than yourself?

Describe Item	This Item Should Go To... Because...

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request.
Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Determine What You Want to Accomplish

Marlene S. Stum, Family Social Science

"Objects provide continuity in one's life and across generations"
(Csikszentmihalyi and Rochberg-Halton, 1981.)

Sorting Out Goals

What is it that you hope to accomplish when your non-titled property is transferred? Have you thought about what's most important to you? If you have a co-owner, such as a spouse, do you know what is most important to them when transferring personal property? Have you really taken time to think about, share, and discuss your transfer goals? Do people who will receive your personal property know what you are hoping to accomplish?

An important part of transferring personal property is identifying your goals and coming to an agreement on what you want to accomplish with other owners. Many people feel tempted to skip this part of the transfer process. Why do goals need to be identified? Goals need to be identified to determine what you and other co-owners want to happen. Not everyone has the same goals. Once goals are identified it is easier to decide how to best accomplish them. For example, if one of your goals in transferring possessions is to maintain privacy, you can select property distribution methods that keep decisions among family members. Another benefit of identifying goals is being able to let potential receivers know what you are trying to do. This can help avoid misunderstandings and assumptions about your intentions.

The following goals are frequently identified as important when transferring non-titled property:

- Maintaining privacy
- Improving family relationships
- Being fair to all involved
- Preserving memories
- Contributing to society

A Tool to Help

The following questions will help you identify which, if any, of these goals seem to be a priority for you. There may be other goals you want to accomplish that need to be added. In most cases, not all goals can be accomplished at the same time and decisions must be made about which goals are more important than others.

Directions: Read each question and identify how important each goal is to you by placing a mark on the line indicating that it is "not at all important," somewhere in the middle, or "very important." If the goal or question does not seem to apply to you or your situation, simply leave it blank. There is room to add goals important to you but not already listed. It is best if you answer the questions on your own before doing so with others in the family.

Potential Transfer Goals

Importance of Maintaining Privacy

Not at all important — Very important

1. Keeping decisions about my personal property in the family
2. Avoiding public auctions or sales for distribution of personal property
3. Avoiding court involvement in personal property distribution

Importance of Family Relationships

Not at all important — Very important

1. Everyone in my family is still talking to each other after belongings are transferred
2. Feelings of resentment or anger are minimized among members of my family
3. Family members agree to work out disagreements and conflicts
4. Family members cooperate as decisions are made
5. Family members agree with what I want to do with my belongings
6. Family members can be honest and open about items received or to be received

Potential Transfer Goals (cont.)

Importance of Being Fair to All Involved

Not at all important — Very important

1. My personal property is transferred so that everyone is treated equally or the same, regardless of any differences (needs, contributions, status of family member)
2. Differences among family members are taken into account when personal property is transferred so that family members are treated equitably
3. All concerned family members have a chance for their point of view to be heard as decisions are made
4. Decisions about "who gets what" are consistently applied to all involved
5. The process of how decisions are made about transfers is consistent for all persons and over time

Importance of Preserving Memories

Not at all important — Very important

1. Belongings go to individuals in my family who will truly value and appreciate them
2. Belongings go to individuals who are most likely to pass on items in the same spirit
3. Belongings go to people who will remember my family history and heritage
4. Belongings are passed on to future generations who have a connection to me

Importance of Contributing to Society

Not at all important — Very important

1. Selected belongings are given to benefit the public (museums, historical society)
2. Collections are donated to benefit the public (museums)
3. Selected belongings are sold with proceeds given to a chosen cause

What Did You Learn About What Is Most Important?

- Are there goals other than those just mentioned that you would like to accomplish when transferring your non-titled property? List them here.

- Go back and review how important you said each of the questions was in each category. Which categories of goals (for example, preserving memories, being fair, or one listed above) are:

  Most important to accomplish? *(list)*

  1.

  2.

  Least important to accomplish? *(list)*

  1.

  2.

Now That You Know What You Want to Accomplish...

- If there are co-owners of the non-titled property, ask them to complete the worksheet on their own and then compare answers. Where do you agree or disagree about what you hope to accomplish? Differences in goals are normal. Strategies for improving communication and resolving conflicts may be helpful (See "Managing Conflicts If They Arise" in this series)
- Let your list of goals—both most and least important—help guide your decisions through the rest of the personal property transfer process.
- If you ranked being fair to all as an important goal, it is especially important that you move on to the "Determine What Fair Means" part of this series. Additional worksheets can help both owners and potential receivers of property clarify what they think is fair.
- Communicate what you hope to accomplish to those who will receive your personal property as well as to those who may be responsible for carrying out your wishes (such as a personal representative). Doing this will help others understand your intentions and reduce misunderstandings.

References

Csikszentmihalyi, M. and Rochberg-Halton, E. *The Meaning of Things*, Cambridge, MA: Cambridge University Press, 1981.

Stum, M. S. "What research suggests about families and non-titled personal property inheritance,:" in *Who Gets Grandma's Yellow Pie Plate? Transferring Non-titled Property*, Minnesota Extension Service, University of Minnesota, St. Paul, 1996.

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Managing Conflicts If They Arise

Christy Bubolz, Minnesota Extension Service

Everyone, including my second cousin, thinks they should get Grandma's yellow pie plate! How can they possibly think that when they know Grandma wanted me to have it! What's wrong with everyone? The yellow pie plate is mine! While I don't want to make everyone angry, they do need to understand what is fair. What am I going to say? How can this be worked out without causing a "tiff" where some of us never speak to each other again...all because of Grandma's yellow pie plate!

While no one single communication strategy will insure you are going to "get your own way," the following suggestions may help work through differences and conflicts if they arise. Improving communication can help family members deal more effectively with the problems and issues related to transferring non-titled property. Ideas on improving communication, listening, speaking, and working on conflicts follow.

Just Listen!

Listen before you try to figure out what to say. Listening is the part of communication we often forget. While we are worrying about what to say, we may miss what the other person said, meant, and felt. Meanwhile, that person is doing the same. Listening doesn't mean agreeing! You can listen to others without adopting their ideas or agreeing with them.

Listening can give family members the message you respect and care about their ideas and thoughts. Listening for the content, meanings, and feelings behind the words will give you a much better understanding of others and their thoughts. Listening helps others more fully express their thoughts and feelings. When they know they are being heard and respected, individuals can in turn become better listeners.

Tips for Better Listening

To be a better listener, think about how you behave while someone is talking. Try to hear the meanings and feelings behind the words. To be a better listener:

- Recognize that listening takes a lot of energy and cannot be maintained for long time periods. Set your limits—15 minutes, a half hour, or whatever works well for you.
- Shut out distractions such as fidgeting, TV, looking out the window, or playing with a pencil. It is harder to listen when people are paying more attention to their surroundings than to the people in the room.
- Maintain good eye contact. Look the person in the eye, but don't stare. Recognize that emotions are expressed in face and body language.
- "Square up" to the person talking. For direct communication, align your shoulders with theirs. This will help you shut out other distractions.
- Lean toward the speaker. Give the message you are trying to get closer to their thoughts.
- Keep distance to a minimum. Don't talk across a room; sit or stand a comfortable distance apart.

Listen for Feelings

Emotions may run high when you are talking about the transfer of personal property. At times like these, reflective listening is important. Reflective listening brings emotions and feelings out in the open. It helps to clarify problems and keeps communication going. For reflective listening you continue using the skills of a good listener, but you go further to catch feelings and say back to people what you think you hear them saying.

Reflective listening means paying close attention to the feelings behind the words. In reflective listening you listen for the feelings and reflect those feelings back to the person speaking in your own words. For example: "Am I right that you feel disappointed with what is going on?" or "You sound angry with Dad for dying." Reflect back your perception of what the problem is, what the feelings are, and leave an opening for the person to correct your perception.

How Do I Say What I Need to Say?

Listening is one part of good communication; speaking is the second part of the process. When you have strong feelings, it is important that you express yourself so others don't take offense. Put together your thoughts and feelings about the events that are occurring. The way you state your thoughts and feelings should be non-threatening and non-blaming. This will help others listen without taking offense and works well in emotional settings. This is often done with "I" messages.

"I" messages contain three parts:

1. State the problem, issue, or unacceptable behavior;
2. Describe your feelings as a result of the behavior;
3. Express the effect of the behavior.

"I" messages take thought and practice. Just having "I" in a statement doesn't make it an "I" message if it is still sending blaming messages about "you." "I" messages are personal expressions of feelings, concerns, and needs. Such messages need to be very specific and identify exact behavior and situations of concern.

Working on Conflicts

Decisions about the transfer of personal property are often frustrating because of different values and perceptions of what is "right." Many people are uncomfortable making decisions involving people who have conflicting values or roles. This may be especially true when people have a continuing relationship. Having a conflict with a store clerk over one item is much different from having one with a relative to whom you will be connected for the rest of your life.

Managing family conflicts includes having family members:

1. Discuss and clarify the problem.

   Are there common goals those involved hope to accomplish in the transfer of personal property?

   Are there common ideas about what a fair process of transfer would be like?

   What about common viewpoints about who gets what items?

Working on Conflicts (cont.)

2. Make a commitment to work on the problem and toward a solution.

   — exclude personal opinions

   — focus on the problem/issue, not on the person talking

   — listen for the feelings behind the words spoken

   — think before speaking

   — respect the views of others

   — bring feelings out into the open

3. State personal needs.

   Use "I" statements to convey your feelings and needs. Take responsibility for yourself.

4. Consider alternatives, select a solution, and evaluate the choices.

   Which of the alternatives being considered will promote your common goals? Which alternatives will achieve the most important goals? Selecting an alternative is not the end. You may want to re-evaluate the choice as you work with it. New information may surface that will make another alternative better fit the priorities of family members.

Can You Agree to Disagree?

Even when those involved don't agree, they can still show respect for the opinions and decisions of others. Remember that different ideas about what's fair regarding personal property transfer should be expected. While families can work through sensitive issues on their own, some may benefit from a professional mediator. A mediator can provide an impartial, more objective perspective. Certified mediators are trained to provide a process or method to help you come to a decision.

Watch for Blaming

One barrier to setting aside personal feelings and dealing with the problem at hand is blaming. Blaming may occur when family members struggle to deal with the difficult situation of the death of a loved family member and the need to disperse memory-laden

Watch for Blaming (cont.)

objects at the same time. Blaming is an attempt to find a reason or a scapegoat. Blaming may be viewed as a problem because it oversimplifies the situation and makes people into "good guys" and "bad guys."

Blaming often stands directly in the way of moving forward. While it is a natural emotion and reaction, it doesn't help solve the problem. When transfer decisions are made during a family crisis, people can be more vulnerable to blaming others. Individuals are also more likely to blame themselves and others during the anger and depression stages of the grief cycle. "If only" does not help solve problems. Since family members may be at different stages of the grief process, it is easy to think that others don't care about your feelings or that others aren't trying hard enough to handle the situation. It is easy to blame family members who feel differently than you do.

Blaming can be reduced by:

- Being supportive and understanding of the feelings of others;
- Letting family members know if you feel blamed;
- Expressing your feelings at the situation, not at the individuals;
- Talking about what is happening and how you feel.

References

Bubolz, C. (1994). *Partners in parenting*. Minnesota Extension Service—Koochiching County.

Gibbon, T., & Small, S. (1987). *Helping others help themselves*. Madison: University of Wisconsin—Extension.

Molgaard, V. *Family stress: Dealing with blame*. Iowa State University Extension Service.

Reilly, D. (1988). *Exercises for active listening*. Madison: University of Wisconsin—Extension.

Rettig, K. (1986). *Social decision making*. Minnesota Extension Service.

Produced by the Educational Development System, Minnesota Extension Service.

In accordance with the Americans with Disabilities Act, this material is available in alternative formats upon request. Contact your Minnesota county extension office or, outside of Minnesota, contact the Distribution Center at (612) 625-8173.

Printed on recycled paper with minimum 10% postconsumer waste, using agribased inks.

The University, including the Minnesota Extension Service, is an equal opportunity educator and employer.

University of Idaho Extension

eXtension more mind reach

Prepare Your Estate Plan: Print this Lesson

Last Updated: August 18, 2008

This page contains the entire *Prepare Your Estate Plan* lesson to make it easier for you to print the lesson contents. For best results, view and print the lesson using the Internet Explorer browser.

Return to the Prepare Your Estate Plan learning lesson.

1. Prepare Your Estate Plan -- Introduction

How will your assets be distributed upon your death? Have you prepared for the distribution of your estate for the loved ones you will leave behind? Perhaps you have made plans to distribute your estate, and they need to be reviewed and updated. In any case, you can proceed through this lesson and learn more.

This lesson has unique sections that lead you through the learning process and can be viewed sequentially or in a random order. Select a unit to view from the "Lesson Contents" list on the right. You can also progress through the lesson by clicking the "Next" or "Previous" links at the bottom of each page.

Use the case studies in this lesson to apply what you have learned. For definitions of terms used in this lesson, go to the Financial Security Glossary.

IMPORTANT NOTE: The information on this Website is not legal advice. The information in this lesson will provide general information and help to make you a better informed consumer of legal services. It is designed to help families become better acquainted with some of the concepts and tools used in estate planning and to create an awareness of the need for such planning. Laws vary dramatically from state to state, and future changes in laws cannot be predicted. The statements within this lesson, facts sheets, and learning activities are based on general concepts as of the last revised date of the Web publication. If you have questions, you should seek the assistance of an attorney in your state, who can give you advice based on local laws and your facts and circumstances.

1.a. Lesson Objectives

In this lesson you will:

- Learn what is included in an estate plan
- Gain a basic understanding of estate-planning tools:

- Power of Attorney
- Property Ownership

- Wills
- Probate
- Estate Taxes/Gifts
- Trusts
- Receive suggestions for hiring and working with an attorney
- Increase your knowledge by reviewing several case studies

Have you put off making plans to distribute your property when you die?

There are many financial and emotional reasons for having an estate plan. Just think about the suffering and expense family and loved ones could be spared if plans are made in advance. Now is the time to get started! If you already have a plan, this lesson will help you review or modify it, if necessary.

An AARP survey (2000) about the general use of estate-planning tools found that among Americans age 50 and older:

- 60% had a will
- 45% had a durable power of attorney
- 23% had created a living trust
- 36% had none of these legal documents
- 17% had a will, durable power of attorney, and living trust

2. Planning for Your Estate

Estate planning is arranging for the orderly transfer of your property and resources to other people during life and after death. Your estate is essentially everything that you own. Your property and resources can be transferred through beneficiaries identified in documents (i.e., pensions and life insurance policies), wills, trusts, gifts, and joint ownership of property—all of which can be part of an estate plan.

Since you may accumulate many resources during your lifetime, you will probably want to decide to whom you wish to transfer your possessions upon your death. Everyone needs an estate plan. If you do nothing, the state will decide through state law how to transfer your property after your death.

How would you answer the following questions?

If I were to die tomorrow...

- Who would get my property?
- Who would care for minor children, parents, and/ or a spouse?
- Would the family business continue?
- Would the estate be settled according to my wishes?
- Would taxes, fees, and costs be held to a minimum?
- Would a trust have been appropriate for me?
- Would my estate be settled in an appropriate and timely manner?

Plan to have your wishes carried out by taking action to develop an estate plan now.

3. Power of Attorney: Planning for Incapacity

A durable power of attorney for financial matters is an effective way to arrange the handling of your business and personal affairs if you become unable to do so.

Our ability to handle financial affairs can be diminished by degenerative diseases such as Alzheimer's, dementia, or serious accidents. It can happen to the young or the elderly. We never know if or when tragedy might strike.

A durable power of attorney is a simple, inexpensive, and reliable way to arrange for the handling of your financial affairs. It allows the designated person to pay bills and file taxes in addition to handling other financial matters. Both a durable power of attorney for health care and a durable power of attorney for finances are needed.

3.a. Common Types of Powers of Attorney

Power of Attorney: This document is commonly known as a financial power of attorney and gives one person (the agent) authority to act on behalf of another person (the principal). Full power or limited power can be granted in the document.

Attorney-in-fact: A person who is given authority by a power of attorney; sometimes called an agent. This person does not have to be a lawyer. It could be your spouse, an adult child, or close friend.

Durable Power of Attorney: While similar to a general power of attorney, a durable power of attorney continues after a person becomes disabled, incapacitated, or incompetent. This is a time when the power is most needed. In most states, it must be signed and notarized to indicate that it is "durable." *(Note: Many states require that a power of attorney contain specific words to create a durable power of attorney. Consult an attorney to see what language must be included to create a durable power of attorney in your state.)* It permits the person you appoint to handle your financial affairs and can be flexible by allowing the agent as many powers or as few powers as you wish.

Springing Durable Power of Attorney: The power-of-attorney document can specify when the document goes into effect. If it specifies that a doctor must certify that you have become incapacitated in order for it to take effect, it is called a "springing" durable power of attorney and allows you to remain in control of your financial affairs until you become incapacitated. Note that it cannot take effect unless it is "durable." *(Caution: Today's medical privacy laws have made it difficult or impossible for doctors to sign statements that patients are mentally or physically incapable of managing their personal affairs. Unless the condition that "springs" the power of attorney into effect is specified in the document, it will be defined by state law.)*

3.b. Duties of and Selection Criteria for the Attorney-in-Fact

Duties of the Power of Attorney: A power of attorney gives a broad range of business and financial powers as specified in the document. Some typical powers in a very broad power of attorney might include powers to:

- Do many personal business transactions or other acts that you could otherwise do
- Sue in your name and collect money owed you from any source

- Make gifts of real or personal property
- Buy or sell property (of any type) owned in your name
- Maintain, improve, rent, or lease any of your property
- Establish or terminate any financial accounts in your name
- Sign any contract in your name
- Sign your name to any tax returns

A power of attorney can be either full or limited as outlined in the legal document. There are some things that the holder of a power of attorney cannot do on your behalf; these include:

- Fulfilling a contract that requires your personal services
- Completing a legal affidavit that requires your personal knowledge
- Making a will for you
- Voting in an election for you

A power of attorney becomes void upon the signer's death.

Selection Criteria for the Attorney-in-Fact: Choose your agent carefully. You are giving this individual the power to perform important financial transactions outlined in the legal document. If given full power, your financial agent/attorney-in-fact can transfer assets into a trust while you are alive and do anything that you could do, if you were still able.

- Your agent—or agents—may be a relative or friend, or you may want to hire an accountant, trust officer, or banker.
- For convenience, it is helpful if your agent lives in close proximity to you.
- Choose a person who is trustworthy, has good financial management skills, and has earned your utmost confidence in his or her judgment and ability.
- Because handling the financial affairs of another can be a time-consuming job, be certain that the person you designate is willing to take on the responsibilities, if necessary.

If you become unable to make your own decisions and have not prepared this document, it is likely that your family will have to seek a guardianship or conservatorship action from the court in order to have the legal authority to manage your financial affairs. This can be inconvenient, costly, and cause delays. This is an important document; don't delay in getting it prepared.

4. Property Transfer: Documents and Legal Arrangements

Several tools and planning options are available to ensure that your money, possessions, and real estate are passed on as you would like. All of these legal arrangements have advantages and disadvantages. Use of one or a combination of these tools will be based on your circumstances, your wishes, and the way in which you want to protect your loved ones after death.

Beneficiary Designation: Some assets pass by means other than a will; these include insurance policies, Individual Retirement Accounts, 401(k) plans, pension plans, and profit-sharing plans. Beneficiaries and payable-on-death (POD) or transferable-on-death (TOD) designations are named on the contract, and—unless you designate "my estate" or make no choice at all—the transfer takes place directly upon death without involving the probate court. You can change your beneficiaries as the need arises by completing the required paperwork with the account holder—a bank or brokerage company. You cannot change them using a will or other estate-planning method. It is important to review beneficiary designations annually or when

circumstances change to make sure that your assets will be distributed as you desire.

Gifts: Gifts are voluntary transfers of property without receiving payment before you die. Examples include stocks, cash, real estate, equipment, and personal property. Gifts can reduce the size of your taxable estate. However, if deathbed gifts leave the estate without funds to pay creditors, the probate court can order the property to be paid back to the estate. Gifting law is complex. Gifts can have an impact on taxes and eligibility for public benefits such as Medicaid to pay for nursing home care. Consult experts before making any substantial gifts.

Property Ownership: Property ownership involves tangible, intangible, and real property (possessions) to which its owner has legal title. The way in which you own property or the way it is titled (such as single or joint ownership) will determine how it is distributed upon death. Moreover, ownership is defined by state laws. It is important to make wise decisions about how property will be transferred to insure that it gets to the intended party. Careful consideration in planning and titling property will help avoid unintended consequences.

Will: A will serves as a written document that provides instructions on how you want your assets distributed after your death. It is often the easiest and least expensive estate-planning document to prepare. Also, it will permit you to name a guardian for your minor children. The main disadvantage of a will is that it must go through the probate process when you die. There are costs and delays associated with probate, which vary widely from state to state. Consult an attorney to determine the impact of probate in your state.

Probate: Probate is a court-supervised legal process that proves the validity of a will and oversees the administration of an estate with or without a will. It involves the procedure of gathering the decedent's assets; paying debts, taxes, and expenses of the administration, and distributing assets to the heirs or beneficiaries of your estate.

Trust: Assets can be transferred through a trust. When you transfer property to a trust you have created, you make a gift to the beneficiaries of that trust. Trusts can help avoid expenses and time involved in the probate process, and can help eliminate and reduce estate taxes. Assets in a trust can also be managed and distributed according to a predetermined schedule.

4.a. Property Ownership

When you begin estate planning, it is important to understand property and the property rights associated with its ownership. The form of property ownership has an important impact on the degree of control during life, as well as how property will be taxed and distributed after death.

All estates are made up of property. It may be tangible property, intangible property, real property, or a combination of the three.

Tangible personal property is property that can be touched or felt, such as cars, stereo equipment, television sets, furniture, silver, china, clothing, or furs. Tangible personal property is often called personal effects or household goods.

Intangible personal property might include stock certificates, bond certificates, patents, trademarks, or

copyrights. Cash, checking accounts, savings accounts, money market accounts, and certificates of deposit (often referred to as liquid assets) are also part of your property.

Real property is real estate and land and anything that is affixed or erected upon the land. It can include fences, barns, mineral or oil rights, and crops or timber, to name a few.

4.b. How Property is Titled

There are several ways you may own real and personal property. The way in which you own property will determine what part of it—if any—you may give away. Moreover, state law defines the types of ownership. If you own property (i.e., real estate) in another state, the laws of that state will apply. For personal property, the laws of the state in which you claim residency will apply.

Joint ownership is a popular way to leave property to loved ones; however, it is not always the best way. There are advantages and disadvantages to joint ownership in an estate plan. In general, the primary advantage of owning property jointly is that your property passes automatically to the surviving joint tenant (s) when you die and probate is avoided. One disadvantage to joint ownership is that the decision is irrevocable unless you get the permission of the joint tenant(s). Another is that, in many instances, you have made a taxable gift to that person or those persons.

An exception to the rule of joint ownership is when adding a joint tenant to a bank account. Adding a person's name to your account is not an irrevocable decision indicating that you made a gift to that person. It is, however, a decision to take seriously, as the person can withdraw all of the money from your account. It is important to check with the financial institution to determine the rights created when you add a person as a joint tenant to a bank account.

See Prepare Your Estate Plan Case Study 3: The Dangers of Making Someone a Co-owner of a Bank Account as Joint Tenants with Right of Survivorship

4.c. Types of Joint Ownership

Several types of joint ownership are described below:

Community Property: The laws of some states specify that most property acquired by either spouse during a marriage is held equally by husband and wife as community property. Laws in a community property state provide that any property purchased or salary earned by a married couple during the course of their marriage is owned equally by each.

Joint Tenancy with Rights of Survivorship: This type of joint ownership states that, upon death, an owner's share goes to the other joint owner. Joint tenancy is created when two or more persons purchase or are given property at the same time. Each joint tenant owns an undivided interest in the whole property, and each has the right to possess, occupy, enjoy, use, or rent the property. The right of survivorship means that upon the death of one of the joint tenants, by law, the property automatically belongs to the surviving tenant and does not pass through probate. Therefore, upon the death of a tenant, property held by joint tenancy with rights of survivorship cannot be transferred or given away by a will.

Tenancy-In-Common: Ownership of property in which, upon death, each owner's share goes to his/her heirs or beneficiaries is known as Tenancy-In-Common. It is created when two or more persons own property together but also own separate titles to the property. Property owners may or may not own the same percentage of the property. For example, one may own 25% while the other owns 75%. Each owner may do as he or she wishes with his or her interest in the property, such as give it away, sell it, or mortgage it without the consent or knowledge of the other owner. With tenancy-in-common, upon death, one person's share passes as provided in his or her will or trust. Probate or other consequences are possible.

Tenancy-By-The-Entirety: This form of joint tenancy between a husband and wife is valid in a few states. Tenancy-by-the-entirety provides extra protections to real property owned by a married couple. One spouse owning property as tenants-by-the-entirety cannot mortgage, transfer, or otherwise deal with the property in any way that would affect the rights of the other spouse without the latter's consent. When one spouse dies, the other still owns the entire property.

There are some important things to consider about joint tenancy:

- Joint tenancy can have some advantages over other ways of transferring property, but there are dangers and unintended consequences. It is wise to check with a lawyer before entering into an agreement.
- Generally speaking, if you have doubts about your co-owner, avoid joint-tenancy agreements.
- If you are over the tax threshold, joint-tenancy agreements can cause real problems by transferring ownership to the wrong co-owner or making it harder to transfer property to minimize taxes. If the gross value of your estate is likely to exceed $1 million at the time of your death, it is a good idea to seek expert tax advice. With increasing real estate values, this amount is becoming more and more common.
- Coordinate joint tenancies with your will, trust, or other parts of your estate plan. You need a will and/or trust with a joint-tenancy agreement; it is not a substitute for a will.

5. A Will: Who Needs One?

A will is an estate-planning tool that serves as your set of instructions regarding who gets your property and resources when you die. At a minimum, everyone needs a simple will. It is the document that most people use for transferring their property, and it is often the choice of young families and of others whose situations involve neither complex tax planning nor resource management for incapacitated family members. After death, the will is settled through the probate process.

To appreciate the terminology used in a will, select Prepare Your Estate Plan Case Study 4: How Much Will Each Heir Inherit? Remember to access the Financial Security Glossary for an understanding of the terms used.

Why have a will?

- It allows you to decide how to distribute your assets after death.
- It lets your wishes—rather than state law—determine how to distribute your resources to your heirs.
- It allows you to appoint a guardian of your choice for minor children.
- It allows you to name important people (an executor/executrix or personal representative) who will carry out your wishes.

5.a. What Constitutes a Valid Will?

Factors that must be present in a valid will vary from state to state, so it is wise to check your own state's requirements. Certain elements are often necessary:

- *Legal age:* You must meet your state's age requirements to make a will. Some states have exceptions for married minors and parents.
- *Sound mind:* You must know that you are making a will, how much property you have, and the names of the descendents or relatives who should share in your estate.
- *Intention to transfer property:* You must have a statement intentionally leaving some or all of your property to specific persons or entities.
- *Written:* Your will must be written.
- *Properly signed:* You must voluntarily sign your will, unless unusual circumstances such as illiteracy, illness, or accident prompt your lawyer to make alternative provisions.
- *Properly witnessed:* In most states, the signing of a formal will must be witnessed by at least two adults who understand that they are witnessing, are competent to testify in court, and are not receiving anything through the will.
- *Properly executed:* Your will must include a statement attesting that it is your will and a date and place of signing. It must be signed before witnesses in your presence and certify that all parties watched each other sign the document.

5.b. Types of Wills

There are several types of wills:

Attested wills are the most common type of wills. An attested will is usually prepared by a lawyer in typewritten form and signed in front of several witnesses who have no benefit in the will. All of the witnesses must sign it in front of one another and in front of the person making the will. The will-maker must also sign it in front of all of the witnesses. All of the previously mentioned signatures occur at one time in the same place.

Holographic wills are hand-written wills. State laws vary regarding their validity. Holographic wills must be signed by the writer and are unwitnessed. They are often ambiguous or defective and may cause delay, expense, and litigation. It is wise to consult an attorney before writing your own will.

Oral wills are also called nuncupative wills. An oral will is spoken and not written down. Only permitted by a few states, oral wills are typically made during a last illness and for personal property that is small in value.

Self-proving affidavits or *self-proving wills* are legal in some states. A self-proving will is one that has been properly notarized and includes certification by the notary that it was properly signed by the witnesses and testator (will-maker). A self-proving affidavit serves as testimony, thereby avoiding the delay and expense associated with locating witnesses at the time of probate.

5.c. Will Kits and Forms

A will is not a good do-it-yourself project. The cost of working around a minor mistake in a will can far exceed the cost of having a will properly prepared by an attorney.

Nevertheless, will kits and forms are widely available on the Internet, in bookstores, office supply stores, and other places. People can be attracted to these products by their apparent simplicity and low cost, but it's important to use them with caution. Always have an attorney review any will that you prepare yourself.

Some disadvantages of generic will kits and forms:

- Some situations are more complicated and may require an attorney's expertise.
- Materials are often condensed and simplified, leaving out details for unusual situations.
- Materials are written to cover laws for an entire nation but cannot cover every jurisdiction.
- Laws are constantly being revised and may require a different form of information
- The legal requirements for a valid will can be arcane and very difficult to follow. One minor deviation from what your state requires can invalidate the entire will.

To understand the importance of getting legal help in writing a will, see Prepare Your Estate Plan Case Study 5: The Disadvantages of Writing Your Own Will.

5.d. Assets in a Will

Assets in a will, such as property, can be listed simply or detailed. They may include such non-titled property as family heirlooms and keepsakes, which have much more sentimental than financial value. Oftentimes, distributing family heirlooms and keepsakes presents greater challenges for family members than transferring titled property.

It is important to learn your state's laws regarding non-titled property transfer. The law varies widely from state to state on what is required to make wishes regarding personal property binding on the heirs of an estate. If you anticipate disputes over who gets what, talk to an attorney in your state to find out what you need to do to properly plan for personal property in your state. What worked for a loved one in another state may not work for you.

For ideas on discussing the distribution of non-titled property with sentimental value, see "Who Gets Grandma's Yellow Pie Plate?" http://www.yellowpieplate.umn.edu/indexB.html

Remember that some assets with beneficiaries—which may include life insurance policies, pension funds, and Individual Retirement Accounts—pass outside of a will.

5.e. Changing a Will

It is sometimes necessary to change a will. A codicil is a legal document that amends a will. You might find it necessary to make changes when the following events occur:

- Marriage, remarriage, or divorce
- Birth of a child
- Move to another state
- Acquisition of additional assets
- Changes in federal and state laws

Divorce and separation can affect a will. In some states, divorce can revoke the entire will. In other states, it revokes only those provisions in the will that favor the former spouse.

For more information on wills, visit the FindLaw estate-planning page at http://www.public.findlaw.com/estate_planning/

5.f. Dying Without a Will

Dying without a valid will is called dying "intestate." If you die without a will, the laws of your state will govern how your assets are distributed. Whether you are single or married, it will be the laws of your state that determine how your property is transferred. You may also pay more in taxes for large estates.

To find an example of Kentucky's property-distribution laws, go to http://www.ca.uky.edu/agc/pubs/fcs5/fcs5425/fcs5425.pdf and access the article "Estate Planning: Wills and Probate in Kentucky." See page 2 for diagrams of "Property distribution for a person with a surviving spouse who dies without a will in Kentucky" and "Property distribution for a person with no spouse who dies without a will in Kentucky." To review your own state laws regarding property distribution, check with your state bar association.

6. The Probate Process

When someone dies owning property (real property as well as tangible and intangible personal property), the law provides a legal procedure for settling the estate. This procedure, commonly called "probate," involves:

- determining what property the person owned and its value
- determining what debts the person owed
- distributing or assigning title of the person's property to its new rightful owners

Federal and state estate taxes are also determined, although these must be paid even if no probate procedure is required.

Not all property is subject to the probate process. Examples include:

- property held in a living trust (although similar steps are generally followed by the trustee—but without court supervision)
- property held in joint tenancy with rights of survivorship
- property with a named beneficiary (unless the estate is the beneficiary); for example, life insurance cash value, Individual Retirement Accounts, U.S. savings bonds

After notice is given, state law will allow a period of time—varying from state to state—for creditors to make claims against the estate for debts owed them by the decedent (the person who died). The estate must remain open at least as long as the time allowed for filing claims against it. In certain circumstances, with court approval, an estate may be administered as a "simplified estate" for which direct court supervision of the personal representative's activities is not generally required, except to open and close the estate.

In a few cases, no probate proceeding is required. An example is if the decedent had no outstanding debts (or if any debts are assumed and paid by other people) and had no interest in property subject to the probate process. Another example is if the value of the estate is under a specified monetary amount.

6.a. Steps in the Probate Process

Steps in the probate process include:

- Petition for probate of the will or administration of the estate

- Appointment of a personal representative
- Notice to creditors
- Assembly, inventory, and appraisal of property
- Classification and payment of demands against the estate (such as debts of the decedent and liens against his or her property)
- Determination of homestead rights and family allowances
- Management (and sale, if necessary) of property
- Payment of state and federal taxes
- Accounting to the court and distribution of property

7. Personal Representative: To Carry Out Your Wishes

The person who carries out the plan for settlement of an estate is called a "personal representative." This can be a family member or trusted friend, a bank with trust authority, or a trust company.

The court determines whether a proposed personal representative named in a will or trust is legally competent to serve. If legally competent, the court will appoint that person. If there is no will or trust naming a personal representative, a personal representative is named by the court.

Settlement of a decedent's estate involves continual contact with the court. Various legal rights and responsibilities must be determined. For that reason, the personal representative should hire an attorney for assistance. The choice of an attorney is made by the personal representative, although a person can state in his or her will or trust a preference for a particular attorney to help in administration of the estate. If the decedent's debts exceed the estate's assets, you should consult an attorney before taking any action with the estate.

7.a. Duties of and Selection Criteria for the Personal Representative

The personal representative:

- Proves the will in probate court
- Collects and inventories property
- Pays bills and collects debts
- Files tax returns
- Manages probate property
- Defends or brings lawsuits, if needed
- Distributes property

Choose your personal representative carefully. The person you select must be:

- Able to do the job
- Willing
- Able to keep peace among family members
- Able to meet legal requirements
- Conveniently located nearby, if possible

8. Gifting and Tax Strategies

It is important to evaluate the effects of federal and estate taxes on estate planning. An estate may be subject to taxes before it is distributed to beneficiaries.

A specified portion of an estate is exempt from estate taxes. During 2004 and 2005, the first $1.5 million of an estate could be distributed to children or others tax-free. The Tax Relief Act of 2001 increased the tax-exempt level to $2 million for the years 2006 to 2008 and $3.5 million for 2009. Federal taxes are imposed when your estate exceeds the limits mentioned.

Federal estate taxes on the taxable portion of the estate range from 45% to 48%. The Tax Relief Act gradually reduces the maximum tax rate to 45%.

While most gifts or estates are not large enough to pay federal tax, you should estimate your estate taxes based on your net worth. If your net worth is at or above the federal taxable limits, you can use strategies such as trusts, gifts, and contributions to minimize your tax liability. To assess your estate's value, add all assets, subtract any liabilities (including your mortgage), and also deduct funeral and administrative expenses. Do this periodically, as persons who have saved or invested for many years can have larger estates than they anticipated.

Keep in mind that if your estate's value exceeds the exemption, the assets subject to tax upon your death may include cash, life insurance policies you owned, stocks and bonds, the family home, the family farm, tangible personal property (such as jewelry, clothing, art, furniture, china, computers, power tools, etc.), benefits under employee benefit plans, and retirement assets such as Individual Retirement Accounts.

8.a. Gifts and Unlimited Marital Deduction

A gift is a tax-free distribution of funds from one person to another. The 2006 Internal Revenue Service code allows you to give cash and/or property valued up to $12,000 to each of an unlimited number of recipients per year without tax consequences. A married couple can give up to $24,000 per year, per recipient.

Gifts made to recipients over time can help reduce a large estate, and the gifts are tax-free to recipients. The unlimited marital deduction permits gifts of any size to your spouse during life or at death without tax consequences.

More details can be found in IRS Publication 950, "Introduction to Estate and Gift Taxes," at http://www.irs.gov/publications/p950/index.html.

A word of caution: gift and transfer rules for Medicaid are much more restrictive than tax rules. The rules for Medicaid—which pays for 70% of all nursing home care—vary widely from state to state. If a nursing home stay is likely in the next five years, consult an elder-law expert before making any significant gifts.

9. A Trust: Who Needs One?

Reasons for Having a Trust: A trust is a property arrangement whereby a trustee (such as a bank trust department or a person) takes care of, holds title to, and, in most cases, manages property for the benefit of someone else. Trusts are not for everyone but can fit the needs of certain people, including those whose estates approach or exceed the federal tax limit and those with young children or disabled family members who are unable to manage their own affairs. Various types of trusts are designed for different situations and circumstances.

It is important to understand terms related to trusts:

- *Grantor, settlor,* or *trustor* is the person who creates the trust
- *Trustee* is the person or entity named to carry out the instructions contained in the trust document; he/she also holds legal title to and manages the trust property
- *Beneficiary* is the person who benefits from the trust
- *Revocable* trusts allow you or someone you name to make changes in the document
- *Irrevocable* trusts cannot be made void, rescinded, cancelled, or reversed by anyone

Your personal circumstances will determine whether it is beneficial to establish a trust. Among the reasons commonly cited for setting up a trust are that it can:

- Provide payment for or reduce the amount of estate taxes
- Avoid probate and transfer your assets to your beneficiaries immediately
- Provide income for beneficiaries and a surviving spouse
- Free you from managing your assets while allowing you to receive a regular income from the trust
- Have your property serve a desired purpose after your death

A will is also needed to transfer any assets that have not been transferred before death and to nominate a personal guardian for children.

9.a. Types of Trusts: Testamentary and Living Trusts

Each of the various types of trusts available has particular advantages. An estate attorney can advise you about the type of trust that is most appropriate for you and your family situation. The testamentary trust and living trust will be discussed here.

A *testamentary trust* is a legal instrument contained in the will that sets up the management of assets for one or more beneficiaries following the death of the person creating the trust (grantor). This type of trust is created by the will and a trustee is named in the will. A testamentary trust is revocable until death or incapacity and has no effect until death and admission of the will to probate. This type of trust is generally used for minor beneficiaries or when you do not want beneficiaries to inherit the estate outright.

A *living trust* (also known as an intervivos trust) is a form of a contract entered into during the lifetime of the person creating the trust. It is established during the grantor's (creator's) life and may continue after the grantor's death. A living trust transfers property to heirs at the grantor's death without that property being subject to probate. A trustee manages the property and distributes the income and principal according to the grantor's instructions in the trust document. You will need a simple will to dispose of property that you did not put in the trust. You must remember to put property into the trust and to transfer title to the name of your trustee. A living trust should be accompanied by a pour-over will. This document will allow any assets that were not formally transferred to the trust during the life of the decedent to be "poured over" into the trust. These assets will then become part of the trust principal when the decedent dies. A living trust is a separate document and may have provisions that only take effect at the death of the grantor.

Living trusts can be revocable or irrevocable. With revocable trusts, you have control of the trust and can change the beneficiary, trustee, or other terms and can dissolve or revoke it. The person making the trust retains the right to use the property. The trust is used to manage assets and to avoid probate. Generally, assets still can be included in your gross estate for tax purposes.

Irrevocable trusts are permanent and cannot be revoked or changed. The grantor relinquishes all control over the disposition of the property placed in the trust and the income from it. This type of trust can have enormous tax advantages when the trust is not considered a part of your estate for tax purposes.

9.b. Advantages and Disadvantages of a Living Trust

Advantages:

- Avoids probate but not necessarily estate taxes
- Administers property in different states with one document
- Manages business and personal affairs during your life
- Manages assets if you become incapacitated
- Depending on state law, may protect separate assets in case of divorce
- Can pay medical and other bills and provide for scholarships
- Distributes assets faster to beneficiaries
- Provides privacy

Disadvantages:

- Expensive to draft
- Involves costs to update
- Expenses can outweigh benefits
- Not court-supervised
- To protect assets, the trust must be funded with them
- The need to update and fund the trust is ongoing

9.c. Is a Trust the Right Planning Device for You?

The decision to create a trust is a complex one. You will want to discuss your personal needs with financial and legal experts. It is not uncommon for an individual who owns a small parcel of land, a home, and a few investments to have an estate that exceeds the federal estate-tax limits, resulting in large tax implications. In addition, if you own assets that require ongoing management, such as rental property, a trust may help facilitate their management in the event of incapacity.

Individual situations and the purposes of your estate plan will determine the best strategies for you. However, unless you have an estate that exceeds the federal tax threshold, own complex assets, or are providing for a minor child or disabled person, under most circumstances you are not likely to need a living trust.

10. How to Hire and Work with an Attorney

If you want to draft a will, create a trust, or prepare a power of attorney, you will need to work with an attorney. An attorney is the only professional licensed to write legal documents. Look for one who specializes in estate planning or elder law. Complex estates such as those with investments, real estate, and/or business assets may require consultation with family members and financial management, tax, and legal experts.

Finding an Attorney

- Ask people you know if they can refer you to a good attorney. Friends, local business owners, or

professionals such as accountants, financial planners, or bankers may be able to recommend attorneys who specialize in estate planning.
- Ask for referrals from lawyers. Most lawyers specialize in several areas of law. If a lawyer tells you he/she does not handle estate planning, ask him/her to refer you to someone who specializes in it.
- Look for duplicate referrals—that is, attorneys who are recommended to you by more than one source.

Another way to locate an attorney is to contact your state's bar association and request a lawyer referral. Bar associations do not rate attorneys, but they exclude from their lists lawyers who have had excessive complaints about them. You can find members of the American and state bar associations on the American Bar Association's Lawyer Locator Website, http://www.abanet.org/lawyerlocator/searchlawyer.html.

10.a. Attorney Ratings

Once you have the names of several lawyers, you can find additional information about them in the Martindale-Hubbell Law Directory, available in many libraries and on the Internet (see http://www.martindale.com/). The directory contains biographical information, experience, specialties, education, and other professional information. Some attorneys are not listed because they are new to the profession or practice in a rural location where there are too few other attorneys or judges to rate them.

Almost every attorney listed in the directory is rated AV, BV, or CV. The ratings are a compilation of confidential opinions that Martindale-Hubbell solicits from lawyers and judges. There are two components to each Martindale-Hubbell peer review rating. The first letter is for "Legal Ability," which is rated as follows:

- A—very high to preeminent
- B—high to very high
- C—fair to high

The second letter, V, stands for "Very High General Recommendation," meaning that the rated lawyer adheres to professional standards of conduct and ethics.

A Martindale-Hubbell rating should not be your only criterion for deciding on a potential lawyer. However, you can be reasonably confident that a lawyer who gets high marks from other clients and an AV rating from Martindale-Hubbell is knowledgeable and credible.

10.b. Interviewing Prospective Attorney Candidates

After narrowing the attorney list to two or three, contact the attorneys and request a face-to-face meeting. If you outline your needs in advance, many lawyers are willing to meet with you for a half-hour consultation at no charge. You should ask the attorney whether he or she charges a fee for an initial consultation. During this meeting, pay attention to your comfort level with the attorney. Ask all prospective lawyers:

- What is your experience in this area of law?
- How will I be able to contact you?
- To whom in your office can I talk if you are not available?
- How long will it take you to return my communication?
- Approximately how long will it take to complete my legal work?
- What are your rates and how often will you bill me?
- What can I do to reduce legal fees?

Many people are uncomfortable talking about fees, but these must be discussed early in an attorney-client relationship. Legal advice does not come cheaply. Lawyers commonly charge for their work on an hourly basis. Fees vary by region, by the complexity of the case, and by the experience of the lawyer. Rates may range from $60 to $300+ per hour. Attorneys may also offer a "flat rate" for certain types of work, such as drafting a will or trust. After selecting an attorney and before beginning legal work, get an agreement in writing.

One final question that is helpful is to ask is "What would you like to know about me?" More than any other, this question will tell you whether this legal adviser is a true pro. If he or she is not interested enough in you to probe now for full answers to critical questions, say good-bye. You may never get the treatment you deserve from a professional who shows little interest.

10.c. Deciding What to Include in Your Estate Plan

Once you have selected an attorney, decide what you want your estate plan to achieve before scheduling a second, longer meeting. Determine:

- Do you want to make sure that your spouse/partner is financially secure?
- What do you want to happen to the property you have accumulated?
- Who will care for your minor children or aging parents?
- Do you want your spouse and children to be provided for in an equitable manner?
- Who will settle your estate in a timely and fair way?
- If you own a business, do you want one or more family members to inherit and manage it?
- Do you want to keep estate taxes, probate fees, and other administrative and legal costs to a minimum?

Organize and prepare important lists and inventories. You will need many of these papers to complete your estate plan. See the lesson Organize Your Important Papers for forms that you will find useful.

10.d. Preparing a Checklist for Meeting with an Attorney

As you begin your estate plan and before you meet with attorneys and other financial advisers, it is helpful to assemble the following information. Having this information readily available will save you time and money in legal fees. It will also help you think through your wishes for distributing your estate. Use the Record of Important Papers, Household Inventory, and other forms in the Organize Your Important Papers lesson to assist you. Include in your list:

- Names, addresses, and birthdates of your spouse, children, and other loved ones whom you wish to include in your will; if applicable, list any disabilities or special needs
- Names, addresses, and phone numbers of possible executors, trustees, and guardians of young children
- Amounts and sources of income, including interest, dividends, and other household income
- Amounts and sources of debt, including business debt, mortgage(s), leases, and outstanding loans
- Amounts, sources, and beneficiaries of retirement benefits, such as pensions, Individual Retirement Accounts, Keogh accounts, government benefits, and profit-sharing plans
- Amounts, sources, account numbers, and other information related to financial assets, such as bank accounts, annuities, joint owners, and payable-on-death designees
- Life insurance policies, including issuer, owner, beneficiaries, account balances, and amounts borrowed against the policies
- Valuable property you own, its approximate value, and the names of the people to whom you wish

to leave these items; include such property as real estate, furniture, jewelry, collections, and heirlooms
- Names of trustees, assets, and trusts held for your benefit
- Other documents that might affect your estate plan, such as divorce decrees, tax returns, pre-nuptial agreements, marriage certificates, wills, trusts, and property deeds

Case Studies and Resources

Initiating Discussions about Property Distributions

Do you have concerns about property-distribution issues? Discuss these particular situations with your adult children, trusted friends, or parent/guardian. The correct responses are provided for residents of Idaho, Iowa, Kentucky, North Dakota, and South Dakota.

- Prepare Your Estate Plan Case Study 3: The disadvantages of writing your own will
- Prepare Your Estate Plan Case Study 4: The surviving spouse's share
- Prepare Your Estate Plan Case Study 5: How much will each heir inherit?
- Prepare Your Estate Plan Case Study 6: The dangers of making someone a co-owner of a bank account as joint tenants with right of survivorship

Resources

- "Critical Conversations about Financing Long Term Care" (about long-term care concerns that could affect property inheritance): http://www.financinglongtermcare.umn.edu/pdfs/conversationstarters/criticalconversations.pdf
- "Talking with Aging Parents about Finances" (see "Family Finance Discussion Points": http://www.montana.edu/wwwpb/pubs/mt9324.html
- About Health Care Advance Directives [Link to Communicate]
- "Who Gets Grandma's Yellow Pie Plate?" (provides methods and discussion for distributing untitled property): http://www.yellowpieplate.umn.edu/indexB.html
- "Estate Planning: Wills and Probate in Kentucky," Suzanne Badenhop, Ph.D., Extension Specialist, Family and Consumer Sciences (provides a Kentucky example of how property is distributed with or without a will). Download a copy at http://www.ca.uky.edu/agc/pubs/fcs5/fcs5425/fcs5425.pdf

Return to the Prepare Your Estate Plan learning lesson.

This resource area was created by the: Financial Security for All community

---

These resources are brought to you by the Cooperative Extension System and your Local Institution. eXtension provides objective and research-based information and learning opportunities that help people improve their lives. eXtension is an educational partnership of 74 universities in the United States.

© 2008 eXtension. All rights reserved.

A letter of last instruction: Everybody needs one

A letter of last instruction is an organized way for you to give your family all the facts about your finances—and have a basic tool for your own money management.

A letter isn't a will or a substitute for one. A will is a *legal document* telling an executor how to dispose of property and personal effects. Attorneys describe the letter as a *personal document*, usually written to a member of the family.

The letter does two big jobs:

1. It outlines the location of all your important papers; and
2. It contains information about your personal desires—how you would like your personal affairs handled when you die or are incapacitated.

People often put off writing the letter. It is, frankly, a big job of organizing and detail gathering. The worksheet pages in this publication are for you to fill in, as applicable. The worksheet can serve as a model for writing a complete and orderly letter of last instruction.

You should write the letter to the person most likely to take over your accounts. Generally, this means you would address the letter to your spouse, adult child, or other relative or to your attorney or other executor. You may choose to go over the letter with a family member or close friend. Couples can prepare the letter together.

You probably won't be able to write the letter all at once. Try tackling it one section at a time, allowing yourself a month or so to complete it. The object is to get as much detail down on paper as you possibly can.

Some additional pointers:

- While it is usually addressed to a spouse or relative, the letter should also be clear to any third person who may have to find and work with your papers.
- Be specific about locations—"in my safe deposit box" or "in the bottom left-hand drawer of my desk" or "in the blue file of the basement file cabinet."
- If you have certain special wishes, for instance about the education of your children or the care of your pet, be sure to add these sections to the worksheet.
- You can use the worksheet as a checklist or fill in the blanks. Consider attaching copies of documents you reference.

Once your letter is complete, make several copies of it. Send one to your attorney or executor, clip another to your copy of your will, and keep one copy in the place your family would look first. Update your letter periodically. This is much easier than writing the first letter.

Topic	Section no.
Attorney	2
Cemetery information	22
Checking accounts	5
Credit cards	11
Doctors/physicians	17
Durable power of attorney	3
First things to do	2
Funeral preferences	23
House	16
Income tax returns	14
Investments	13
Lease	16
Life insurance	8
Living will	3
Loans	12
Money you can expect	1
Other insurance (homeowner's and auto)	9
People to inform	18
Personal effects	19
Personal papers	3
Pets	20
Safe deposit box	7
Savings accounts and certificates of deposit	4
Social Security	1,6
Special wishes	21
Veterans' benefits	1,16
Warranties	15

University of Idaho
College of Agriculture

Cooperative Extension System ☐ Agricultural Experiment Station

1 Money you can expect

From my employer

Name of employer _____
Person to contact _____
Phone _____
Life insurance _____
Profit sharing _____
Accident insurance _____
Pension plan _____
Thrift saving plan _____
Unused annual and sick leave _____
Other employee benefits _____

From insurance companies

Name of company _____
Person to contact _____
Phone _____
Total amount _____

Name of company _____
Person to contact _____
Phone _____
Total amount _____

Name of company _____
Person to contact _____
Phone _____
Total amount _____

From Social Security (1-800-772-1213)

Lump sum (if eligible) ____**Yes** ____**No**
Monthly benefit _____

From Veterans' Administration

(You must contact VA to receive benefits) _____

From other sources

_____ _____
_____ _____

First things to do

2

Call friend, neighbor, or relative (name) _____

(phone) _____

Notify my employer (name) _____

(phone) _____

Call my attorney (name) _____

(phone) _____

Make arrangements with funeral home _____

(see section 22)

Request several certified copies of the death certificate.

Contact Social Security office.

Get and process insurance policies.

Notify bank that holds home mortgage.

Location of personal papers

3

Write in the locations of the following personal papers. Cross out the items that do not apply to you.

Birth and baptismal certificates _____

Communion and confirmation certificates _____

Divorce decree _____

Durable power of attorney _____

Inventory of personal property _____

Inventory of contents of safe deposit box _____

Last will and testament _____

Living will _____

Marriage certificate _____

Military records _____

Naturalization papers _____

School diplomas _____

Other (adoption papers, etc.) _____

_____

_____

_____

4 Savings accounts and certificates of deposit

Fill in the following information for each account.

Bank _____
Address _____
Type of account _____
Name(s) on account _____
Type of ownership _____
Account number _____
Location of passbook _____
Any special instructions _____

Bank _____
Address _____
Type of account _____
Name(s) on account _____
Type of ownership _____
Account number _____
Location of passbook _____
Any special instructions _____
_____

5 Checking accounts

Fill in the following information for each account.

Bank _____
Address _____
Type of account _____
Name(s) on account _____
Type of ownership _____
Account number _____
Location of canceled checks and statements _____
Any special instructions _____
_____

Social Security

6

Social Security number _____
Location of card _____
Other names under which you had _____
Social Security earnings reported _____

Safe deposit box

7

Bank _____
Address _____
Box number _____
In whose name(s) _____
Location of key(s) _____
Location of a list of contents _____
(or attach a list of contents to this letter)

Life insurance

8

Fill in the information below for each policy.

Location of all policies _____

To collect benefits, a certified copy of the death certificate may be required by each company.

Policy number _____
Whose life is insured _____
Company _____
Company address _____
Name of agent _____
Kind of policy _____
Beneficiary _____
Cash value _____
Issue date _____
Maturity date _____
How it is paid out _____
Other payout options _____

9 Other insurance

Accident insurance

Coverage _____
Company _____
Address _____
Policy number _____
Beneficiary _____
Location of policy _____
Agent, if any _____

Auto insurance

Coverage _____
Company _____
Address _____
Policy number _____
Location of policy _____
Term (when to renew) _____
Agent, if any _____

Homeowner's insurance

Coverage _____
Company _____
Address _____
Policy number _____
Location of policy _____
Term (when to renew) _____
Agent, if any _____

Other insurance (cont'd)

9

Medical insurance

Coverage _____
Company _____
Address _____
Policy number _____
Location of policy _____
Term (when to renew) _____
Agent, if any _____

Mortgage insurance

Company _____
Address _____
Policy number _____
Location of policy _____

Car

10

Fill in the following information for each car.

Year, make, and model _____
Body type _____
License number _____
Identification number _____
Location of title _____

Year, make, and model _____
Body type _____
License number _____
Identification number _____
Location of title _____

11 Credit cards

All credit cards should be canceled or converted to the name remaining on joint accounts.

Location of cards _____

Fill in the following information for each card.

Company _____
Phone _____
Name(s) on card _____
Account number _____

Company _____
Phone _____
Name(s) on card _____
Account number _____

Company _____
Phone _____
Name(s) on card _____
Account number _____

Company _____
Phone _____
Name(s) on card _____
Account number _____

Company _____
Phone _____
Name(s) on card _____
Account number _____

Loans outstanding (other than mortgage) 12

Fill in the following information for each loan.

Bank or mortgage holding company _____
Address _____
Name(s) on loan _____
Account number _____
Monthly payment _____
Location of papers _____
Collateral, if any _____
Life insurance on loan _____ Yes _____ No

Bank or mortgage holding company _____
Address _____
Name(s) on loan _____
Account number _____
Monthly payment _____
Location of papers _____
Collateral, if any _____
Life insurance on loan _____ Yes _____ No

Bank or mortgage holding company _____
Address _____
Name(s) on loan _____
Account number _____
Monthly payment _____
Location of papers _____
Collateral, if any _____
Life insurance on loan _____ Yes _____ No

13 Investments

Fill in the following information for each investment.

Stocks

Company _____
Name on certificate(s) _____
Number of shares _____
Certificate number(s) _____
Purchase price and date _____
Location of certificates _____

Company _____
Name on certificate(s) _____
Number of shares _____
Certificate number(s) _____
Purchase price and date _____
Location of certificates _____

Bonds/notes/bills

Issuer _____
Issued to _____
Face amount _____
Bond number _____
Purchase price and date _____
Maturity date _____
Location of certificate _____

Issuer _____
Issued to _____
Face amount _____
Bond number _____
Purchase price and date _____
Maturity date _____
Location of certificate _____

Income tax returns

14

Location of all previous returns (federal, state, local) _____

Name of tax preparer _____

Address _____

Phone _____

Important warranties, receipts

15

Names of items and locations of documents _____

_____

_____

_____

_____

House, condominium, cooperative

16

In whose name(s) _____

Address _____

Lot _____ Block _____ On map called _____

Other descriptions _____

The attorney at closing _____

Location of statement of closing, policy of title insurance, deed, land survey, appraisal, inspection, etc. _____

Mortgage

Held by _____

Amount of original mortgage _____

Date mortgage taken out _____

Amount owed now _____

Method of payment _____

Location of payment _____

Life insurance on mortgage _____ Yes _____ No

16 House, condominium, cooperative (cont'd)

Veterans' exemption claim

Location of documentation papers _____

Annual amount _____

Contact local tax assessor for documentation needed or more information.

Property taxes

Amount _____

Location of receipts _____

Cost of house

Initial buying price _____

Purchase closing fee _____

Other costs to buy (real estate agent, legal fees, etc.) _____

Improvements as of _____ total $ _____

Itemized house improvements

Improvement _____

Cost _____

Location of bills _____

If renting

Lease _____ Yes _____ No

Lease expires (date) _____

Landlord's name _____

Landlord's phone number _____

Doctors/physicians

17

Doctor/physician

Name _____

Address _____

Phone _____

Doctor/physician

Name _____

Address _____

Phone _____

Dentist

Name _____

Address _____

Phone _____

Pediatrician

Name _____

Address _____

Phone _____

Children's dentist

Name _____

Address _____

Phone _____

Specialists

Name _____

Address _____

Phone _____

18 Relatives, friends to inform

Name _____
Address _____
Phone _____

Name _____
Address _____
Phone _____

Name _____
Address _____
Phone _____

Name _____
Address _____
Phone _____

Name _____
Address _____
Phone _____

Name _____
Address _____
Phone _____

Personal effects

19

I would like certain people to be given these personal effects:

Item	Person

Pets

20

Veterinarian

Name _____

Address _____

Phone _____

Special dietary needs _____

Person(s) who will care for pet(s)

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

Special wishes

21

_____

_____

_____

_____

_____

22 Cemetery and funeral

Cemetery plot

Location _____

When purchased _____

Deed number _____

Location of deed _____

Choice of location to be buried _____

Facts for funeral director

This information and cemetery plot deed should be given to funeral director.

My full name _____

Residence _____

Marital status _____

Spouse _____

Date of birth _____ Birthplace _____

Father's name and birthplace _____

Mother's maiden name _____

Length of residence in state _____ In USA _____

Military service Yes _____ No _____ When _____

Social Security number _____

23 Funeral preferences

My choice of funeral home (if any) _____

Type of funeral preferred _____

Other (cremation or other instructions) _____

The author—Linda K. Fox, former Extension family economics specialist, Margaret Ritchie School of Home Economics, University of Idaho, Moscow.

Acknowledgment—The author gratefully acknowledges input provided by Marsha Goetting, Montana State University; Darlene Moss, University of Idaho; and Diane Schmerbauch, University of Idaho.

Updated _____
(today's date)

Issued in furtherance of cooperative extension work in agriculture and home economics, Acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture, LeRoy D. Luft, Director of Cooperative Extension System, University of Idaho, Moscow, Idaho 83843. We offer educational programs, activities, and materials without regard to race, color, religion, national origin, sex, age, or disability, in accordance with state and federal laws.

2,000 9-92

75 cents

Ways to liquidate personal property.
NONE OF THESE ARE RECOMMENDED

Do it yourself

Be sure to have a knowledgeable person look at your items before you sell them.

Sell one item at a time :

Newspaper classifieds
- Daily News
- Money Saver

Internet
- eBay
- Craig's List
- Palouse Ads

Other
- Bulletin Boards
- Signs
- Private Party (unadvertised)
- Pawn Shops
- Antique Stores
- Traveling "Roadshows"

Sell in large specialty lots:

Wholesale in lots to specialty dealers:

- Books
- Coins
- Furniture
- Antiques
- Guns
- Jewelry
- Vintage clothing

Consign with dealer

Same categories as above

Sell in mixed large amount

- Yard sale
- Flea market

Using a professional service to liquidate large amounts of items.

There are pros and cons to every approach and no way of making a direct comparison between methods. No matter which approach you take, get letters of recommendation, compare with others offering the same service, be sure to consider more than price in your decision.

Tag Sale (all items are priced and sold on-site)

Pros

Every item priced and displayed
Considerable value can be received from small value items
Format may attract a large number of buyers (compared to auction)
May include clean-up

Cons

Ethical issues with pricing/damage/theft
Not everything sells (more ethical issues)
Seller pays sales commission (25% - 50%)
Requires knowledge of values
Return is speculative

Auction (items are sold in a verbal auction, may be on or off site)

Pros

Items sold in a competitive format, some returns may exceed presumed value
Expensive items may do better than when "tagged" or sold outright
May include internet/phone bidders
Does not require knowledge of values (determined by crowd)

Cons

Ethical issues with damage/theft
Many items will not be included in the sale
Format may attract a limited number of buyers (compared to tag sale)
Very limited return from small value items
Seller pays commission (25% - 50%) plus advertising costs and other fees
Clean-up not provided (clean-up cost may be a large percentage of the return)
Return is speculative

Outright Purchase (all items sold to a single party)

Pros

Considerable value can be received from small value items
Can (usually does) include clean-up
No ethical issues with pricing/damage/theft
Return is guaranteed and received prior to sale

Cons

Difficult to know if price offered is fair
No excitement of speculative return

DO and DON'T

Whether you are tasked with liquidating the personal property of a loved one, or having to dispose of a large volume of personal property in order to move to smaller quarters, here is what you should and should not do.

DO: Make sure that everyone involved has kept everything that they want (this is the "Grandma's yellow pie plate" portion of the class). You will find this to be enough work, without making all of the following mistakes.

DO NOT: Order a dumpster

DO NOT: Haul stuff to the dump

DO NOT: Hire someone to haul stuff to the dump

DO NOT: Get an extra garbage can

DO NOT: Box up everything you don't want

DO NOT: Haul stuff to charity (or have them come and get it)

DO NOT: Haul stuff to the recycling center

DO NOT: Spend hours shedding non-critical documents

DO NOT: Burn stuff in the fire place or burn barrel

DO NOT: Give stuff away just to "be rid of it"

DO NOT: Put stuff in long term storage

DO NOT: Let the house full of personal property sit vacant

DO NOT: Let anyone "high grade" your items (this removes many of your options)

DO NOT: Let your realtor, repairman, housekeeper, neighbors, etc "help" by taking things away

DO NOT: Put stuff in a yard sale (without first finding out if it is valuable)

DO NOT: Sell the house for less money if the buyer will "take all that stuff with it"