



## Elder law: How personal is your property?

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In light of the recent and ongoing battle over the contents of the home of comedian Robin Williams, who died eight months ago, among family members from his various marriages, we thought that this would be a good time to review some ways to help minimize the inter and intra family conflicts over tangible personal property that often arise after a loved one's death.

Tangible personal property refers to property, except land or buildings ("real property"), which can be defined as property that can be moved, seen, weighed, measured, felt, touched or otherwise perceived by the senses.

We also need to distinguish tangible personal property from "intangible" personal property, which usually derives its value from the paper it's recorded on and the rights it provides, which includes assets without a physical form such as stocks, bonds, copyrights, deeds, liquor licenses, etc.

Some of the worst estate administration nightmares have involved family free-for-alls over tangible personal property that, in and of itself, had no real monetary value, but certainly had deep sentimental value for those fighting over it. Then, you can add into the equation the tangible personal property that has actual monetary value.

While people may take great pains to pass on their house, stocks, mutual funds, IRA's, etc. at their death to the people they want to get these assets, they often give little thought as to the tangible items.

For example, some of our situations have involved the deceased mother's pots and pans fought over by two daughters, the guns of the deceased father fought over by three of the father's sons, the father's watch fought over by all five of the children and the doll collection of the mother fought over by not only her children, but, also by her grandchildren.

Let's also not forget the interplay by the spouses of the children. As lawyers, this sure makes for fun if we're billing by the hour, but it certainly is not a pleasant way to have fun. So, let's look at a few of the ways in which, dear reader, we will assume you are the one with the property which is to be handed down and how you can help ensure getting it where you want it to go.

First of all, decide who you want to get particular items which you know or think may be of sentimental (even monetary) value to the persons getting them. Draw up a list of such items and label the list "Tangible Personal Property" and keep it with your will or trust.

Or, give the list to the person you have named as the Executor of your estate. Doing the list in this manner means you can change it as often as you'd like (someone dies before you, falls out of favor with you, etc.). You may also want to consider putting tags on items with the recipients' names on the tags, evidencing to others your wishes as to where the item(s) are to go.

However, even before creating this list, talk with those who will be getting your stuff.

Maybe your daughter wants the rifle and your son the mirror in the dining room. Don't forget that what may be of sentimental value to one of them may be junk to the other.

And, maybe, keep their spouses out of the conversation.

If you're trying to equalize the value of these items for the kids, that's probably a losing battle as many of these items will have little or no intrinsic value. If something does have significant value (let's say an antique vase or painting), it would be well to have it appraised not only for tax purposes, but, also to equalize monetary distributions if that's one of your goals.

This property is yours and, one of the primary reasons for these suggestions is to help minimize the family conflicts which, unfortunately, can occur after your death over what are seemingly trivial items. And, it's not only your death that could trigger the need to make these decisions, but also the possible need to downsize your residence if you have to transfer to a long term care facility due to health issues.

In this context, remember the old Slovenian proverb: "What's mine is mine and what you think is going to be yours you won't get unless I say so." It's your property and it should go where you want it to and with, hopefully, minimal family conflict.

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