



## THE ESTATE PLANNING AFTERTHOUGHT – TACKLING YOUR TANGIBLE PERSONAL PROPERTY

You worked for months with your advisors on a carefully crafted estate plan that provides for the orderly division and administration of your family's wealth, customized to take into account tax planning priorities as well as family priorities. You are more than ready to take that neat binder filled with your signed documents and file it away with a sigh of relief. But you before you check this task off your list, one step remains.

And that step is to complete your "Separate Writing" to provide direction to your Personal Representative on the division of your tangible personal property. In addition to making up the "stuff" of our daily lives - such as household goods and furniture - tangible personal property also includes collections, jewelry, automobiles and even pets. These items often carry significant sentimental value within the family, and can also be significant in monetary value. So, how does your estate plan address the division of these items?

There are several ways that your estate plan can address your tangible personal property. The first is to include within the terms of your plan bequests of specific items to certain beneficiaries. For example, your estate plan may specifically devise your channel set diamond bracelet to your daughter or your collection of Lionel Trains to your grandson. The second, and far more common way, is to permit the preparation of a Separate Writing, with the balance of your tangible personal property distributed as determined appropriate by your Personal Representative.

For many families, the division of tangible personal property can be one of the most difficult and emotionally charged aspects of the estate administration process. Unlike liquid assets, such as cash, securities and even real estate, items of a personal nature can rarely be divided and often times cannot be replicated. After all, there is usually only one heirloom engagement ring or one Thanksgiving turkey platter! What steps can you take to make the process of dividing your tangible personal property a positive one for your family?

### Step #1 Make a List of "Significant Items" of Tangible Personal Property

This list of "significant" items should include those that have significant monetary value as well as those that have significant emotional value. Think, in particular, if there are items that have been "requested" by multiple beneficiaries. For example, do your daughters remark each Thanksgiving about how much they would love to have grandma's tea cup collection?

### Step #2 Complete Appraisals

In addition to providing valuable information for tax planning purposes (remember that your gross estate also includes tangible personal property for purposes of determining estate tax liability), appraisals can also assist in the process of making the Separate Writing. For example, referencing an appraisal description in the Separate Writing of a specific ring to be given to your daughter-in-law will make it much easier on the Personal Representative than trying to determine what was meant when the Separate Writing said "my diamond ring" to my daughter-in-law. Also, to the extent that you are trying to divide assets in equal monetary value among your children, appraisals can provide this helpful information in the planning process.

### Step #3 Make a List of Gifts Given During Lifetime

If your estate plan includes making gifts of your tangible personal property during your lifetime, be sure to make a list of what you gave (including specifics about the item), who you gave it to, and when. Not only is this helpful for transfer tax purposes (to document prior gifts), but it also avoids unnecessary searching by beneficiaries, potential hurt feelings, or confusion about whether an item was “a loan” or “a gift.”

### Step #4 Consider Special Circumstances

Consider any special circumstances that may come with an asset, such as transportation costs, license considerations, and caretaking needs. For example, how practical would it be to transport the baby grand piano across the ocean to your son’s small flat in France? Are there any special licenses that are required for a particular gun collection? How about caretaking needs for pets?

### Step #5 Direct the Personal Representative

Even once you complete your Separate Writing, there will still be much of your tangible personal property to be divided among beneficiaries. Generally, most estate planning documents provide default directions to the Personal Representative to “divide the remaining Tangible Personal Property in as nearly equal shares as possible.” But what does that mean? Should the beneficiaries be permitted to “pick” and if so, who gets first choice? What should the Personal Representative do when there is a dispute over an item? What about a Personal Representative who is also a beneficiary, should they have priority? Consider including a set process for selection, such as a rotating lottery, to ensure that the beneficiaries view the process as fair.

### Step #6 Communicate with your Family

If you have made decisions about your tangible personal property, communicate these decisions to your family as part of your estate planning discussion. You may be surprised to hear about the “stuff” most treasured by your family.

Have a question? Please contact us to discuss how we can work with you and your family to address your planning needs.

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