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## A GUIDE TO ESTATE PLANNING FOR TANGIBLE ASSETS

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Navigating the emotional and logistical complexities of administering a loved one's estate after their death can be difficult. The additional burden of having to decide what to do with all of their *stuff* (also known as tangible property) highlights the critical role of effective estate planning. The clarity and directives provided by a well-structured estate plan can significantly alleviate the challenges families face in connection with their personal property. This article addresses these challenges, focusing on estate planning solutions that facilitate smoother administration.

### CHALLENGES AND SOLUTIONS

Below are several challenges individuals may face when addressing the disposition of tangible property, as well as some proposed solutions.

**1. Unclear Planning Documents:** When the estate planning documents lack specificity regarding tangible property disposition, it can create potential disputes and emotional strife among heirs.

**Solution:** Creating a comprehensive estate plan that includes detailed instructions for the distribution of tangible assets can prevent ambiguity. Incorporating a specific bequest in a will or revocable trust can provide clear directives for these items. Effective estate plans may also reference a separate personal property memorandum, where the decedent sets forth his or her wishes for the disposition of such property. A personal property memorandum is not always binding but can be helpful for the executors or trustees and family members to reference.

Executors and trustees can also be given ultimate discretion to dispose of personal property as they see fit, although that can give rise to disputes between parties. In such cases, executor or trustees may utilize an auction, draft, lottery or other mechanism to sort and distribute tangible property among heirs. Sometimes, specific language can be added to the planning documents, like the requirement to draw straws, which may not result in an equitable distribution (in terms of monetary or emotional value) but does help alleviate concerns about fairness.

Further, assigning tangible property to a revocable trust during an individual's lifetime can have the added benefit of avoiding the probate process and maintaining privacy. In many states, a will becomes a publicly available document after a person's death and the provisions of the will, as well as the specific assets owned at death, become part of the public record. On the other hand, a revocable trust is not made public upon an individual's death. To learn more about funding a revocable trust, click [here](#) to read an advisory on commonly asked questions on funding revocable trusts.

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**2. Valuation Disputes:** Often, disputes arise over the valuation of tangible assets, from family heirlooms to artwork, complicating equitable distribution.

**Solution:** The estate plan may direct the executor or trustee, as the case may be, to hire a neutral appraiser specializing in the relevant type of property to determine fair market values. The appraisal process will normally be thoroughly documented, including detailed descriptions, photographs, and any provenance information, to support the valuations. This impartial assessment can serve as a basis for equitable distribution or sale.

Moreover, the estate plan can include provisions for mediation or arbitration to resolve any disagreements over valuations or distribution. Such mechanisms can expedite the resolution process and minimize familial conflicts, preserving relationships while ensuring fairness.

Overall, incorporating a structured and transparent process for valuing and distributing tangible assets can significantly reduce the potential for disputes and ensure that the estate is settled in an orderly and harmonious manner.

**3. Lack of Liquidity for Estate Expenses:** Tangible property is inherently illiquid and may not be easily liquidated and used for settling debts, taxes, or maintenance costs associated with the estate.

**Solution:** Estate plans can include life insurance policies or designated savings to cover anticipated expenses, ensuring that tangible assets do not need to be hastily liquidated under financial pressure. By carefully planning and allocating resources for estate expenses, individuals can safeguard their tangible assets for future generations while also meeting their financial obligations.

**4. Emotional Attachment to Property:** Emotional attachments can make it difficult for heirs to part with items, even when keeping them is impractical. Although emotional attachment is hard to quantify, it cannot be overlooked.

**Solution:** Encouraging pre-planning discussions about tangible property can help. An earlier advisory on the importance of having estate planning family meetings (click [here](#) to read) noted that these discussions should be structured properly to mitigate strife during the administration of an estate. Individuals can also express their wishes or attach stories and sentiments to certain items through their will, revocable trust or separate writing, making it easier for heirs to understand their desires.

**5. Distribution Logistics:** The physical task of sorting, distributing, or disposing of items can be daunting for grieving families.

**Solution:** The estate plan can specify arrangements for professional estate clearing services or auction houses to manage the distribution and disposal of tangible property, easing the burden on the family.

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*This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.*

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These services can provide comprehensive support, including cataloging items, determining their value, and facilitating the sale or donation process. By employing professionals, families can ensure that the distribution is conducted fairly and efficiently, minimizing potential conflicts and preserving the sentimental value of heirlooms. Additionally, these experts are adept at handling delicate items, ensuring their preservation throughout the transition process.

Ultimately, incorporating professional estate clearing services into the estate plan not only streamlines the logistical aspects but also honors the individual's wishes, providing peace of mind for all parties involved.

### IMPLEMENTING ESTATE PLANNING STRATEGIES

Estate planning strategies that address these challenges can be implemented by following these steps:

- 1. Consultation with Estate Planning Professionals:** Engaging with qualified estate planning attorneys ensures that all aspects of estate planning, including the distribution of tangible property, are legally sound and reflect the individual's wishes.
- 2. Regular Updates:** Estate plans should be reviewed and updated regularly, especially after acquiring significant assets or undergoing major life changes. Click [here](#) to read an advisory on reasons to update your estate plan.
- 3. Communication:** Discussing estate planning decisions with family members can prepare them for the eventualities and potentially reduce conflicts. Click [here](#) to read an advisory on setting up family meetings to discuss estate planning.
- 4. Documentation and Ownership:** Keeping detailed records and instructions regarding the disposition of tangible assets can facilitate smoother execution of the estate plan. Funding a revocable trust with tangible property can have added benefits during the administration of the estate. Click [here](#) to read an advisory on common questions on funding revocable trusts.

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Effective estate planning can bridge the gap between assigning an emotional value of tangible property and its practical handling after a loved one's death. By addressing potential challenges through strategic planning, individuals can ensure that their legacy is honored and their families are supported during difficult times.

If you would like to discuss the information provided in this publication and ask any questions on this or other estate planning topics, please reach out to your Wiggin and Dana attorney.