



Santa Barbara Museum of Natural History
Presented by Development Office – Legacy Giving
March 30, 2021 – Handout #2

PERSONAL PROPERTY DISPOSITION METHODS- Suggestions Concerning Ways to Pass On Your Non-Titled Personal Property

People have an initial choice to:

- Not address the issue at all (hoping heirs will get together and amicably agree on how to divide up non-titled personal effects), or
- Address the issue informally with a non-binding letter or other form which states their wishes (and trust that their heirs will honor their informal request), or
- Address the issue formally by including clear information in their legal estate documents. This will help ensure that specific people or organizations get specific items and is especially helpful if you have heirs who may disagree over distributions.

Distribution options include noting specific personal property bequests directly in your will, maintaining a separate list of personal property items along with designated heirs, making a charitable bequest, selling items with proceeds distributed as part your estate, etc. And remember, there is no one perfect method of distribution and every distribution option has certain consequences but here is a general list of some options:

1. General Gift in a Will – This is when an item is not described clearly enough in the will document to necessarily be associated with a specific item. For example, writing that you wish to give “one of my cars” to “my son Bob.” This is a general gift as any of your cars would satisfy the gift. Additional note: in equal shares language often just transfers the problem to your executor/trustee.
2. Specific Bequests in Your Will – This is when you more clearly identify/describe in enough detail to avoid confusion as to the tangible personal property item(s) being named for one or more persons. For example, I give “my blue 2019 Toyota Prius to my son Bob.”
3. Residue in Wills – This provision deals with the distribution of the property left over once specific and general gifts have all been distributed. For example, the will might state, “I leave the rest of my property to my Aunt Michelle.”
4. Memorandum or List - Under the laws of most states, you are permitted to make a list of property that may include jewelry, silver, china, furniture, collections of stamps, coins, art and other personal items that are movable. Such a personal property list should preferably be referenced in your will in order to make it binding. The list must describe each personal property item, identify

respective recipient name/address and be signed and dated by you. Advantages of such a list include the ability to update it more readily as you buy, sell, give away or change your mind about items. Only the last list you have completed before your demise will be valid.

- Make sure the list does not conflict with other written documents.
- If some items on your list are very valuable (especially art and other collections), it is important to discuss the transfer of these items with your professional advisor first.
- Anytime you update your list, make a copy for yourself and provide to your attorney and/or personal representative for safekeeping.

EXAMPLE LANGUAGE BUT ALWAYS CHECK WITH YOUR PROFESSIONAL

ADVISOR: "Under the laws of the State of ____, I may leave a written statement or a list, dated and signed by me, disposing of certain items of my tangible personal property. Any such list with date and signature shall be effective to transfer the named personal property. If no signed and dated list is identified by my Personal Representative within thirty days after his or her qualification, it shall be presumed that there is no statement or list and any subsequently discovered statement or list shall be ignored."

5. Living Trust - You can transfer personal property into your trust by executing a bill of sale listing the personal property being transferred to the trust. The property would then be owned by you as trustee of your trust instead of by you individually. To the extent any valuable personal property is being conveyed to the trust, consider providing a detailed description of the item and possibly include a picture of the item to minimize any ambiguity.
6. Gift now during your lifetime - You may want to downsize or give away certain items to individuals or organizations now before it becomes an estate matter. Giving personal items to heirs as gifts now, you have the chance to share your memories/experiences, adding to the understanding and appreciation of the gift. This can also minimize estate difficulties and streamline the process later but consult your advisors, especially with any valuable gift.
7. Auctions or sales now or later. This is a method to help create cash that is more easily divisible among heirs, etc. However, an auction or yard sale is less private and a legacy item may accidentally be included or someone may not get what they want most in a family item-by-item distribution and may need to negotiate.
8. Donate to a qualified charitable organization. However, be sure to discuss their ability to receive the gift and get proper bequest language and their tax ID from them in advance

AND HERE ARE A FEW IN-FAMILY DISTRIBUTION OPTION METHODS USED:

In some cases, you can use a combination of methods to come up with a fair system for your own family. As with all methods, these options also have consequences, and you need to consider what is fair/equitable and viable with those involved.

“Rotating Choice” approach – In some families, some items can be distributed in a plan where everyone meets together and each person takes a turn at selecting one item. Draw lots and take turns picking items. To make this method even fairer, change the order with each round of choosing. The person who went second in the first round goes first in the second round, and so on....

“Draft Pick” approach - beneficiaries might draw straws to determine the order in which they will select items, and then continue “rounds” of selection until no beneficiary wants any item that hasn’t yet been selected (these remaining items would probably be sold). The positives: easy to understand and implement. Negative - a very few items that are much more desirable than the others, the draft results can be very lopsided – and this might leave beneficiaries grouchy.

“Bidding” approach - give all the beneficiaries a certain number of points which they can apply towards various items on the list, so that everyone maximizes the value of what she gets. The problem with this is that the beneficiaries may be more or less lucky or astute in their bidding—one person getting most of what she wants and another getting virtually nothing. Another approach would be more like a silent auction, where the items are all on a Google doc permitting beneficiaries to adjust their bids right up to a set deadline.

“Colored Sticker” approach - use colored stickers for each person to indicate what he wants. Where there's more than one sticker, then the family may revert to taking turns on the contested items.

“Work it out among the family” approach - The executor or trustee might ask beneficiaries which items they want and see if a consensus appears. If a particular item is a focus for more than one family member, a bit of trading might occur, or (in extreme cases) those items might be sold or some form of financial adjustment made.

NOTE: using “Financial Adjustments” – for example, what happens if one person ends up getting items with a total market value of \$1,000 and someone else \$4,000? You could say that that doesn't matter because everyone still was able to maximize what is of most value to him or her. Or you could equalize the valuations at the end with the first person receiving an extra \$3,000 from the estate. That way, no one keeps choosing items



just to get the best market value. Make this part of the discussion on “fairness/equity.

Other options: Consider getting appraisals on some items in advance to categorize them separately or be able to agree on how to deal with the more valuable items. Use an online service like [FairSplit.com](https://www.fairsplit.com) or even bring in a mediator, if necessary.

It would be helpful to learn more about passing on personal possessions, speaking with your family members and your professional advisors and enacting more formal plans.

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