



Avoiding Conflict Over Tangible Personal Property

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A decedent's tangible personal property typically consists of jewelry, clothing, automobiles, furniture, furnishings, silver, books, artwork, photographs, and similar items. In estate planning, clients sometimes overlook the difficulties and conflicts their children may face in dealing with their tangible personal property after their death.

One problem is the overwhelming task of sorting through tangible personal property that may have accumulated in a residence over many decades. On occasion, children are forced to obtain a dumpster and spend several weekends emptying a house of unwanted items that could have been thrown out years ago. A client's move from a large house to a smaller residence later in life often avoids this problem. However, a client who is fortunate enough to live at home until death may leave much work for those responsible for emptying the house of tangible personal property. Clients can assist their children by removing excessive items from their house during their lifetime through garage sales, donations to charity, or simply throwing things away.

Another problem encountered is conflict between children over the division of tangible personal property. Disputes over items of limited intrinsic value can lead to legal bills far in excess of the value of the items. You may reduce the likelihood of disputes over the division of your tangible personal property in a number of ways:

1. Identify and recognize the potential for conflict among your children, whether it is because of existing conflicts or because of the nature of the tangible personal property to be divided.
2. Take advantage of Michigan law, which allows you to leave a separate statement or list disposing of specified items of tangible personal property to designated recipients. This list should be signed and dated to ensure that it reflects your intent and so that the most recent list can be followed if more than one list is discovered after your death. This list need not be witnessed, which allows you to revise the list from time to time without incurring additional expense.

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3. To the extent possible, talk to your children to obtain their input on the division of your tangible personal property. This input may help you identify potential conflicts and avoid them through discussion with your children or modification of your estate plan.
4. If necessary, develop a clear procedure for the distribution of tangible personal property when your children are unable to agree. This could involve a direction that your children choose items in a specified order with or without taking into account the value of each item selected, or designating a third party to determine the distribution of items.

Tangible personal property does not usually constitute a significant percentage of the overall value of a decedent's estate. However, dealing with issues regarding the division and distribution of a decedent's tangible personal property can constitute a significant expense. Proper planning can minimize this possibility.