

Who Gets the Sofa? Dividing Up Your Stuff Without Drama

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Benjamin Franklin famously said that the only two certainties in life are death and taxes. A close third would be family squabbles over who gets the personal property when someone dies.

Even a well-thought-out estate plan may leave room for disagreements. For example, if Mom leaves everything to her children “in equal shares,” assets like investment accounts and real estate can simply be liquidated and divided up. But when it comes to household items like photos and family heirlooms, each item is unique — and sometimes holds deep sentimental value.

What’s the value of the old sofa where Dad used to read to the kids versus the cake plate Mom used to pull out for each child’s birthday? These can be difficult questions to grapple with, especially in the emotionally fraught time after a profound loss. With a little extra planning, however, you can help head off a family row over who gets what.

The first step is to choose a personal representative (“executor”) with experience in settling estates and distributing personal property. In many cases, a lawyer or other third party who is not a family member can be the best choice. This person has no personal stake in the matter and can remain above the fray of family politics.

Regardless of whom you appoint, your personal representative can choose from several methods of administering your tangible property. The beneficiaries can draw numbers and then, in the order of the numbers they chose, take turns picking one item each from the estate until everything has been selected. A similar approach is to have the children take turns choosing an item, starting with the oldest child and working down to the youngest.

If the beneficiaries get along well, each can simply be given a pad of Post-its in a different color to place on the items he or she wants. If more than one sticker appears on an item, the beneficiaries who placed them can negotiate who should get the piece, perhaps in exchange for allowing the other person to receive another item that is in dispute.

Having all the beneficiaries agree to the process beforehand is the best first step. There may still be grumblings among those who don’t get something they wanted, but at least they can agree that the process was fair.

An even better approach is to say who gets what *before* anyone dies. Specific bequests of tangible personal property can be included in your will. Naming the individual who is to receive an item, whether it’s a laptop, a ginger jar, or an Ikea sofa, will help keep disputes to a minimum. A “catchall” clause can state that any property not specifically named is to be sold, with the proceeds of the sale to become part of the remainder of your estate.

Alternatively, many wills allow the testator to write a memo that says that certain items go to certain people. It’s important to verify first that the will allows for such a memo, and the memo should reference the section of the will that does this. The

benefit of writing a memo is that it doesn't need to involve a lawyer or notary. If you decide to sell an item on eBay, or if the relative who was supposed to receive it has fallen out of favor, you can simply tear up the memo and write a new one.

A well-drafted will should also allow for the estate to pay for the cost of insuring and shipping any items that go to beneficiaries who live out of the area.

"A cynic," said Oscar Wilde, is someone who knows "the price of everything, and the value of nothing." Accounting for the sentimental value of your personal property can help prevent an outbreak of cynicism after you are gone. If you're not sure where to start, call an estates and trusts attorney for help.