More Than Money: Planning for Jewelry, China, and Sentimental Belongings

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When most people think about estate planning, their minds often go straight to the big-ticket items: the family home, retirement accounts, life insurance, and investments. In reality, it is almost always the personal belongings—jewelry, family heirlooms, artwork, collections, and sentimental items—that cause the most conflict among loved ones after someone passes away. If anyone followed the news surrounding the highly contested estates of Robin Williams, Aretha Franklin, or Casey Kasem, most of the strife related to the decedent's personal property and how it should be distributed.

The days of itemizing every item that you own in your Will are gone; nonetheless, it is still vital to thoughtfully address personal property in your estate plan. A well-drafted plan ensures that your wishes are clear, disputes are prevented, and your loved ones are provided guidance during a time when tensions often run high.

Why Personal Belongings Matter in Estate Planning

Personal belongings often symbolize a connection to the person who died or even to an entire family legacy. While these items may not always have a significant monetary value, they often carry deep sentimental significance. Who inherits your grandmother's wedding ring, your father's guitar, or the family photo albums may matter more than who receives a brokerage account. Unfortunately, without clear instructions, these items can spark tension, disagreements, and litigation.

How New York Law Treats Personal Property

Under New York law, your personal belongings (referred to as "tangible personal property") are part of your estate, just like your financial accounts and real estate. Unless you provide specific instructions in your Last Will and Testament, tangible personal property will be distributed under the general terms of your Will. If you do not have a Will or another estate planning document, those items are then distributed pursuant to New York's intestacy rules.

That means:

- If you simply leave "all of my tangible personal property" to a beneficiary, the beneficiary is entitled to keep all of it or decide how to divide or distribute those items to others
- If you leave the distribution to the discretion of the executor, then the executor can distribute it as equitably as possible to your beneficiaries – no easy feat
- If there's no Will, New York's intestacy laws determine distribution, which may not reflect your wishes and can lead to further discord

Using a Separate Personal Property Memorandum

One estate planning tool used in many states is a personal property memorandum (sometimes called a "memorandum of personal property"). This is a separate list where you detail who should receive specific items, such as a watch, artwork, or family china.

In some states, these memorandums are legally binding if referenced in the Will. In New York, however, the law does *not* automatically recognize a memorandum as enforceable unless strict requirements are met.

That means:

- It is recommended that you instead list items directly in your Will, which can make updating the list more cumbersome since it requires executing a new Will or codicil in New York
- Alternatively, you can create a revocable trust, which permits a "pour-over" bequest in your Will to a trust. The trust must be executed and acknowledged by the parties, prior to or contemporaneously with the execution of the Will, and the trust must be identified in the Will.

Practical Tips for New Yorkers

- **Be specific in your Will.** If you know who should inherit a particular item, name the person and the item directly in your Will.
- **Work with your attorney on a memorandum.** Ask your estate planning attorney if incorporating a personal property memorandum into your Will makes sense for you.
- **Keep the list updated.** Life changes and so do dispositions of your belongings. Review your instructions periodically.
- **Communicate with your loved ones.** Talking about sentimental items in advance can help avoid surprises or conflicts later.
- **Don't overlook digital property.** Photos, social media accounts, and digital collections are increasingly valuable and should be addressed in your estate plan as well.

Thoughtfully considering your personal belongings in your estate plan is not just about protecting financial value, it is about protecting relationships and honoring memories. By thoughtfully planning for your tangible personal property, you will prevent disputes, provide clarity, and ensure that the items that matter most are passed on with intention. If you live in New York and are updating or creating your estate plan, be sure to discuss with your attorney the best way to handle your personal belongings. A little foresight can bring a lot of peace of mind.