

## Who Gets My Good Stuff?

### Session 1 of a series **Putting My Affairs in Order**

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On the surface it seems like dispersing property is simply a matter of sorting through and giving or throwing away items. Paring down and transferring personal property are inevitable when owners die or move. Non-titled property may not have a great deal of financial value, but often what it lacks in financial value is immeasurable in emotional value.

Non-titled personal property transfers may offer these challenges

- Personal belongings have different meanings for each individual
- It is often very difficult to divide items with sentimental value in a way considered as fair by all parties
- It is often the sentimental value or meaning attached to the personal property that is important, not the financial value
- People commonly have different perceptions of what constitutes a fair process and fair results
- Talking about one's possessions is much more personal than talking about financial assets. It's a topic that means facing change and or death.

Research has identified six primary factors to consider:

1. Understand the sensitivity of the issue of transferring personal property
2. Determine what you want to accomplish in the transfer
3. Decide what is "fair in the context of your family
4. Understand that belongings have different meanings for different individuals
5. Consider distribution options and consequences
6. Agree to manage conflict if they arise.

As I begin this process I want to:

*Directions: read each item and check off those that are important to you.*

- ☐ Maintain harmony within my family
- ☐ Give myself peace of mind
- ☐ Initiate a difficult, but inevitable discussion in a less stressful manner
- ☐ Explore my goals and what I want to accomplish
- ☐ Understand the goals of others
- ☐ Decide what I think is a fair way to make these decisions
- ☐ Discover what my family thinks is a fair way to make the decisions
- ☐ Determine who will be involved in making the decisions
- ☐ Learn what items are important to members of my family
- ☐ Tell others why personal items have value to me
- ☐ Record personal and family history surrounding important keepsakes
- ☐ Learn strategies for passing on belongings
- ☐ Avoid unintended consequences in the distribution of my property
- ☐ Decide on the ground rules before beginning the transfer process
- ☐ Learn how to manage conflicts if they arise
- ☐ Learn how to put my plan into action

# 1: Understanding the sensitivity

It is difficult to face loss and transitions. There can be different perceptions of what is fair.

There are two ways to open a conversation about transferring personal property.

1. Ask “what if” questions. For example, “Mom, what would you want to have happen with the things in the house if you and Dad could no longer live here? What concerns or special wishes would you have?”
2. Look for natural opportunities to talk. When a friend or relative is dealing with transferring personal belongings, use the situation to introduce a discussion.

Avoiding the Issue may bring about unintended consequences.

Reasons Used to Avoid Issues	Remember
Bringing up death is disrespectful and uncomfortable	<i>Few individuals want to give the impression that they are thinking that someone might die. Death is a difficult part of life and it is a difficult reality to accept. Many people say they feel relieved and in control when such discussion takes place and decisions are made.</i>
It won't be a problem in my family. My kids all get along.	<i>Most people like to believe their family is the exception and are surprised when there are different perceptions of what's fair when conflicts arise. If no problems are expected, then communicating and planning should go smoothly.</i>
I don't have anything of value	<i>Just because no one has asked about your property does not indicate a lack of interest. Someone may have a very emotional connection to a piece of your property. When they ask, most people are surprised to learn what has meaning to others.</i>
Others might think I'm greedy	<i>Tell others your needs and intentions using “I” statements. Let others know why you think decisions should be made now. Getting the decision-making process started does not mean you will always get your way.</i>
It may not be my place or role	<i>In-laws are a member of the family---and since you came to the family as an adult, you may be in better positions to initiate the subject than other family members. In-laws are affected by decisions about personal property.</i>
No one will listen anyway	<i>Not speaking up means that others will not know your opinions and feelings. Tell them your needs using “I” statements. Others may have similar concerns and fears.</i>

<b>I'm too young to worry about death</b>	<i>Being hard to accept does not keep death from happening. Just as there are decisions that go with living, there are decisions related to dying. If you choose not to make the decisions, others will be forced to make them for you.</i>
<b>Things will never be the same</b>	<i>Decisions about personal belongings often come at times of loss or transition—a time of closure to the past. Objects and the memories associated with them, help keep memories alive and provide continuity. Recognize the importance of the grieving process—whether for persons or places</i>
<b>There are too many other issues to deal with</b>	<i>There is never an ideal time to deal with dispersing personal property as a result of a transition. The issues of moving on and death don't disappear.</i>
<b>My family members will never agree</b>	<i>Different perceptions and expectations are normal, especially in regard to what's fair. Taking time to understand different viewpoints can help avoid misunderstandings and may lead to respectfully agreeing to disagree.</i>
<b>We don't talk about feelings in my family</b>	<i>Talking about the sentimental value and one's feelings may be uncomfortable for some family members. Making assumptions can lead to conflicts and misunderstandings, which may lead to even greater conflicts.</i>
<b>Past conflicts and bad feelings between family members will create problems</b>	<i>Avoiding the issue won't make your family history go away. Talking with each other and working out potential conflicts before the family crisis can help improve decision making. Talking with each other and working out potential conflicts before a family crisis can improve decision making in the time of crisis. Focus on the issue at hand instead of unrelated conflicts. Encourage the use of "I" statements to understand the needs and goals of all involved.</i>

#### **TALKING TIPS FOR SENSITIVE ISSUES:**

- Know the issue you want to bring up
- Why do you want to talk about this now
- Rehearse what you might say
- Choose a time and make an appointment
- Use "I" statements

## 2: Determine what you want to accomplish

What is it that you hope to accomplish when your non-titled property is transferred? What is most important to you? If you have a co-owner (spouse) what's most important to them? Not everyone has the same goals. Perhaps your goal is to maintain privacy, so you select a distribution method that keeps the decision among family members. Or you may want to have a discussion with the recipient of the property about what you are trying to accomplish. This can help avoid misunderstandings and assumptions about your intentions.

Possible Goals:

- Define My Legacy
- Maintaining privacy
- Improving family relationships
- Being fair to all involved
- Preserving memories
- Contributing to society

## Worksheet 1

*Directions: Read each statement. Indicate with a check on the continuum where this falls between not at all important and very important to you.*

### Potential Transfer Goals

#### Importance of Maintaining Privacy

		Not at all Important	Very Important
1	Keeping decisions about my personal property in the family	←	→
2	Avoiding public auctions or sales for distribution of my personal property	←	→
3	Avoiding court involvement in personal property distribution	←	→

#### Importance of Family Relationships

		Not at all Important	Very Important
1	Everyone in my family is still talking to each other after belongs are transferred	←	→
2	Feelings of resentment or anger are minimized among members of my family	←	→
3	Family members agree to work out disagreements and conflicts	←	→
4	Family members cooperate as decisions are made	←	→
5	Family members agree with what I want to do with family belongings	←	→
6	Family members can be honest and open about items received or to be received	←	→

## Importance of Being Fair to All Involved

		Not at all Important	Very Important
1	My personal property is transferred so that everyone is treated equally or the same, regardless of any differences (needs, contributions, status of family member)		
2	Differences among family members are taken into account when personal property is transferred so that family members are treated equitably		
3	All concerned family members have a chance for their point of view to be heard as decisions are made		
4	Decisions about "who gets what" are consistently applied to all involved		
5	The process of how decisions are made about transfers is consistent for all persons over time		

## Importance of Preserving Memories

		Not at all Important	Very Important
1	Belongings go to individuals in my family who will truly value and appreciate them		
2	Belongings go to individuals who are most likely to pass on items in the same spirit		
3	Belongings to people who will remember my family history and heritage		
4	Belongings are passed on to future generations who have a connection to me		

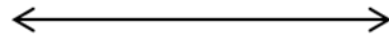
## Importance of Contributing to Society

		Not at all Important	Very Important
1	Selected belongings are given to benefit the public (museums, historical society, church)		
2	Collections are donated to benefit the public		
3	Selected belongings are sold with proceeds given to a chosen cause		

## My Other Goals


Not at all  
Important

Very  
Important



### 3: Determining what is fair.

People say they intend to be fair about the distribution of their belongings. What does fair mean? In some families it is considered fair to:

- Give everything to the oldest male
- Allow only siblings to choose or receive items
- Exclude step children

Fair does not always mean equal. Does equal mean the same number of items? Equal dollar value? Or equal in terms of emotional value?

Who determines the value of an item? How will the value be determined? Things taken into account can include contributions over the years (care, gifts), needs (financial, emotional, physical) and other differences among family members such as age, birth order, handicap or marital status.

Determine your definition of a “fair” process

## Worksheet 2

### Determining what fair means

Directions: Read each statement and identify how important it is to you by placing a mark on the line indicating where on the continuum of very important to not very important the statement is. If the statement does not apply to you or your family leave it blank. Add your own rules about what would make something fair as you go along. Answer the questions at the end of each section to summarize your perceptions of what is fair.



## Importance of Treating Everyone Equally

	Not at all Important	Very Important
1 Family members are treated the same regardless of what they may have contributed to the family over the years		
2 Family members are treated the same regardless of differences in needs		
3 Family members are treated the same regardless of differences (such as birth order, gender, or marital status)		
4 Family members receive equal numbers of items, regardless of sentimental meaning		
5 Family members receive equal numbers of items which have sentimental value to them		
6 Family members receive equal dollar value of appraised items		
7 Family members all have an equal chance of getting items that more than one might want regardless of financial resources (drawing names, taking turns at selected, using pretend money)		
8		

## Importance of Recognizing Different Contributions

	Not at all Important	Very Important
1 Items received as gifts from family members are given back to the same giver		
2 Family members who have helped do work around the home or business are rewarded		
3 Family members who have helped me financially are rewarded		
4 Family members who have helped provide care and support over the years are rewarded		
5 Family members who have shown me the most love are rewarded		
6 Organizations or individuals outside of family are rewarded		
7		

## Importance of Recognizing Different Needs

	Not at all Important	Very Important
1 Family members with financial needs receive more	←	→
2 Family members with disability needs receive more	←	→
3 Family members with greater emotional needs receive more	←	→
4	←	→

## Importance of Recognizing Differences Among Family Members

	Not at all Important	Very Important
1 Birth order (oldest, youngest) influences who receives specific item	←	→
2 Current age influences who receives specific item	←	→
3 Whether someone is male or female influences what they receive	←	→
4 Whether family members are married, widowed, divorced, or never married influences what they receive	←	→
5 Whether family members have children by birth, adoptions, or remarriage influences what they receive	←	→
6 Where family members live influences what they receive	←	→
7 Whether family members have a personal interest in the item influences what they receive	←	→
8	←	→

What does this exercise tell you? Go back and review your answers in each category.

◇ Is it more important to you to:

\_\_\_\_\_ Treat everyone equally so that all get the same

\_\_\_\_\_ Take into account differences among family members

◇ If treating people equally is important, what does “equal” mean to you?

\_\_\_\_\_ Equal financial value

\_\_\_\_\_ Equal in emotional value

\_\_\_\_\_ Equal numbers of items regardless of emotional value

\_\_\_\_\_ Equal numbers of items that are meaningful

◇ If differences are taken into account, which types of differences are more important to you?

\_\_\_\_\_ Differences in contributions

\_\_\_\_\_ Differences in needs

\_\_\_\_\_ Differences among family members such as birth order, marital status, gender

\_\_\_\_\_ Other (list)

◇ Rate each of these items. List the items that are most important.

◇ List the items that are least important to you.

## 4: Understand that belongings have different meanings for different individuals.

*A lesson I learned about the value of items related to a cat shaped pitcher that my mother had. I, as the oldest of nine children, was very surprised at the angst and distressed expressed by my two youngest siblings when my mother gifted the pitcher to one of my sister-in-laws. The sister-in-law had simply stated it was cute, and mom gave it to her. Mom was distressed at their response. I was surprised. But to them it represented the joy and safety of their youth. Mom used the pitcher to serve hot syrup for their favorite buttermilk pancake breakfasts. The pitcher represented their idyllic childhood. It had no emotional meaning to my mother, my sister-in-law, or myself.*

## 5: Distribution options and consequences

Distribution options	Considerations
<b>Will</b> The will goes into effect upon death and gives directions to your personal representative. In the will indicate that there is a separate listing of “bequest of tangible property”.	<b>Will</b> The will needs to be updated to ensure accuracy with the owner’s wishes. Using vague wording such as “distribute equally among..” leaves the actual decision to the family or personal representative.
<b>Lists</b> A list may be hand-written or typed and must be signed by the owner. The legal document is called a “Personal Property Memorandum” Property and people mentioned in the list must be clearly identified and each page must be signed and dated for it to be legally binding. For example, my cousin Mary Martin.. the Smith family bible. My brother Sam Martin.. all of my shop tools.	<b>Lists</b> Must be mentioned in the will Provide written documentation of owner’s wishes May be prepared by the owner after receiving input from potential recipients Need to be signed and dated and can be easily updated. This list must be referred to in the will. Share the list with those involved so they know one exists and where it is located. Children may be less conflicted if they hear the decision from you.
<b>Gifts</b> Property may be transferred to others by gifting prior to death. The tax code allows for gifts of property up to a specified amount annually without paying gift tax.	<b>Gifts</b> Allows for the passing on of the history and story of the item. May require filing of gift tax form if amount exceeds legal annual limit. May provide you with tax deductions if given to charity. Once given, the gift is permanently the property of the receiver.

<b>Verbal promises</b> A verbal promise, “someday, you’ll have this” assumes the recipient will receive the property at a future point in time.	<b>Verbal promises</b> May cause misunderstandings when more than one person feels they have been promised the same item.
<b>Labeling items</b> Many people place masking tape or other labels on items to identify who should receive them.	<b>Libeling Items</b> Labels are not legally binding, unless a valid list is also prepared. They may fall off, be removed, or become unreadable.
<b>Private Auction</b> There are a number of auction methods that families use to distribute property. If real money is used, the money generated will go to the owner or to the estate and may be subject to taxes. Or, funny money is equally distributed to family and a live or silent auction is held.	<b>Private Auction</b> May enable wealthier bidders to “outbid” others when real money is used. Hurt feelings and damaged relationships may result. Allows everyone to have equal purchasing power if “funny money” is used Allows the family to maintain control and privacy
<b>Public Distribution</b> A public auction Garage /Yard Sale The estate is sold to a liquidator and the money goes to the owner or estate.	<b>Public Distribution</b> May require fees or a percentage of the sale to be paid to auctioneer. Proceeds are subject to taxes
<b>Family Distribution</b> A method is determined either by the owner or the receivers and the family distributes the items within the family. Some methods used are: + Shake the dice: Family members shake the dice and the high roller receives first choice, and so on. After the first selection the order is reversed. After two rounds, family members shake again to determine new order. + Birth order preference. Selection is made by oldest to youngest or vice versa +Gender preference: Selection begins with males before females or vice versa. +Generation preference: Priority is given to parents, siblings, children, grandchildren, or blood kin.	<b>Family Distribution</b> Allows the family to maintain control and privacy. May give all members of the family equal chance to receive prized items. There is difficulty in placing a dollar value on emotionally cherished items. In that this often occurs immediately following a death while individuals are grieving, the process can be extremely difficult emotionally for some. May not reflect the property owners wishes. May make it difficult for everyone to agree on how to determine a value (financial or emotional) for items.

A distribution process will occur. When families begin the process different assumptions, questions and opinions on how the process should be handled will surface. If you are going to seek the input of family members in the distribution plan establishing the ground rules prior this meeting may help. Decide who you want to be included in the discussions and decisions. Some people make decisions very quickly; others need more time to process the information. There are individuals who thrive on having power over people, regardless of the cost to the

relationship. Would it be beneficial for a professional mediator to serve as a neutral third party to help keep the discussions orderly, fair and focused?

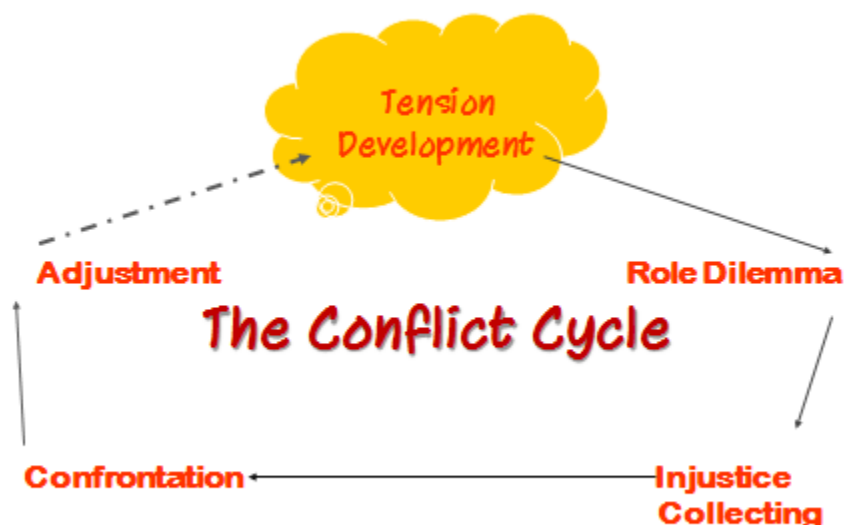
If someone dies without a will, he or she is considered “intestate,” and their property will pass according to the default rules formula created determined by the Wyoming legislature. These rules state that, if the deceased has a spouse and children, the spouse inherits half of the estate. The surviving children and descendants of non-surviving children inherit the other half. If, on the other hand, the deceased has a spouse, but no children nor descendants of any children, the spouse inherits all of the deceased’s property. Otherwise, property passes in the following order:

- Surviving children and the descendants of deceased children.
- Surviving parents, siblings, and descendants of deceased siblings.
- Grandparents, uncles, aunts, and their descendants.

If the deceased leaves no heirs, his or her property will go to the State of Wyoming (a very rare process known as “escheat”).

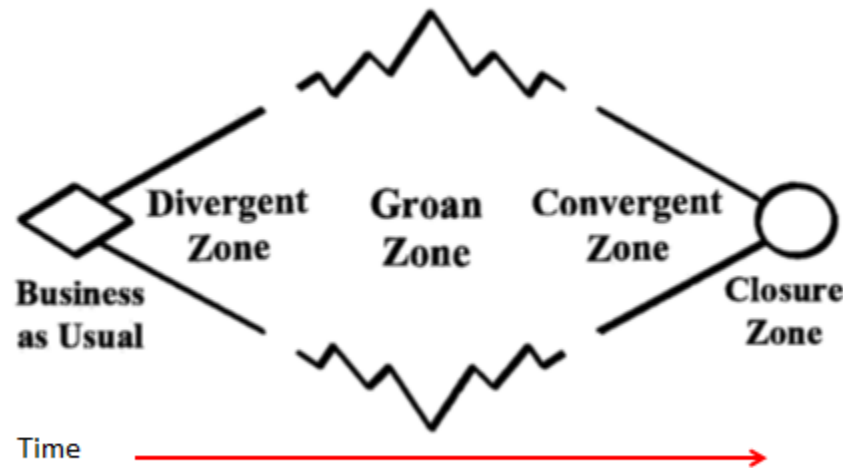
## 6: Agree to manage conflict.

Disagreements and conflicts in families are a normal course of everyday life. If determining the emotional value for personal items is a goal, reflective listening skills are important. Determine to be a great listener. Try to hear the meanings and feelings behind the words.



Reflective listening brings emotions and feelings in the open. It helps to clarify problems. In reflective listening you listen for the feelings and reflect those feelings back to the person

speaking in your own words. Reflect back your perception of what the problem is what the feelings are, and leave an opening for the person to correct your perceptions. Some examples: “Am I right that you feel left out?” “Or, you sound angry with Mom for dying?”



Listening is one part of communication; speaking is the second part. In this conversation it is important to express yourself so others don't take offense. The way you state your thoughts and feelings should be non-threatening and non-blaming. This helps others listen without taking offense. Using "I" messages helps with this type of conversation. "I" messages enable you to own your message and are delivered without placing blame. Here are three steps for delivering a difficult observation using "I" message.

- State the problem, issue or unacceptable behavior
- Describe your feelings as a result of the behavior
- Express the effect of the behavior

Remember that different ideas about what's fair regarding personal property transfer should be expected. When those involved don't agree, they can still show respect for the opinions and decisions of others.

*Avoid Blaming. Blaming can be viewed as a problem because it makes people into "good guys" and "bad guys." It also stands directly in the way of moving forward. While it is a natural emotion and reaction, it doesn't solve the problem. Individuals are likely to blame themselves and others during the anger and depression stages of the grief cycle. "If only" does not help solve problems. To reduce blaming: Express your feelings at the situation, not at the individuals; Talk about what is happening and how you feel.*

Managing family conflicts includes having family members:

1. Discuss and clarify the problem
  - Are there common goals those involved hope to accomplish in the transfer of personal property?
  - Are there common ideas about what is a fair process?
  - Are there common viewpoints about who should get what items?
2. Make a commitment to work toward a solution.
  - Exclude personal opinion
  - Focus on the issue or interest, not the person talking
  - Listen for the feelings behind the words spoken
  - Think before speaking
  - Respect the views of others
  - Bring feelings out into the open
3. State personal needs/interests
  - Use “I” statements to convey your feelings and needs
  - Take responsibility for yourself
4. Consider alternatives, select a solution and evaluate the choices
  - What are your goals?
  - Which of the alternatives being considered will promote the goal?
  - Selecting an alternative is not the end. You may want to reevaluate the choice as you work with it. New information may surface that is a better fit

Now that you have thought through the process of *Who Gets My Good Stuff* communicate your decisions to others. Take the steps to be sure the legal documents are completed that will ensure your wishes are carried out as intended.



**PERSONAL PROPERTY MEMORANDUM**  
**OF \_\_\_\_\_**

Article \_\_\_\_\_ of my Will dated \_\_\_\_\_ refers to the disposition at my death of certain items of tangible personal property in accordance with a memorandum signed by me. I, \_\_\_\_\_, do hereby make this memorandum for that purpose and to comply with the provisions of Wyoming Law (Wyo. Stat. §2-6-124).

If the recipient of a particular item of personal property does not survive me, such item shall be disposed of as though it had not been listed in this memorandum.

If an item is marked with a checkmark (✓) or (X) it is to be distributed to the person designated to receive the item only if my spouse predeceases me.

DESCRIPTION OF TANGIBLE PERSONAL PROPERTY	PERSON TO RECEIVE PROPERTY ADDRESS AND RELATIONSHIP	(✓) or (X)

Dated: \_\_\_\_\_

Signature \_\_\_\_\_

Page \_\_\_\_\_

[illegible]

Dated: \_\_\_\_\_

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Signature

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