



Distribution Options and Consequences

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To most people, it's just an old yellow pie plate. They don't see Grandma with flour on her cheek and apron as I do. They don't smell the apples and cinnamon, and hear the oven door shut.

Grandma's funeral was yesterday. I hear my aunts and uncles talking about dividing up her things. Someone mentioned the possibility of putting items in piles and then drawing numbers to see who gets what. If that happens, I know I will never end up with the yellow pie plate.

Grandma and I had such fun times together making those apple pies. I wish somehow they'd come up with another solution and maybe even let us grandkids pick some things we want. What are the odds?!?

Families use a variety of methods to distribute non-titled property. No method is "perfect" or "right" for all families. In order for families to find the best method for *their* situation, they need to first identify goals and then keep these goals in mind as they select the distribution method they will use. (See "Determining What You Want to Accomplish" in this series.)

It is important for the individuals involved to discuss, identify, and agree upon a method, or methods, of transfer before beginning the distribution process. Whether the goal of distribution is maintaining privacy and control, preserving memories, having good family relationships, or being fair to everyone involved, the method(s) used should help participants achieve the property distribution goals which have been identified.

While families should be creative as they seek solutions to any problems that arise, they also need to be aware of laws governing the transfer of non-titled property in their state, and work within the legal guidelines.

The time at which decisions are made will influence potential methods of distribution. Decisions about the transfer of non-titled property may be made:

1. Prior to death or other crisis by the property owner(s), or
2. After death by the relatives, friends, and/or legal representatives of the owner.

When decisions are made by property owners *prior to death*, it allows the person transferring the property to consider the wishes of the recipients and pay attention to special memories shared with the recipients. Doing so may help to eliminate misunderstandings about the owner's wishes. When decisions are made *after a death*, they may not accurately reflect the wishes of the owner. Very often more than one person feels they have been promised, or are entitled to, the same item.

Distribution methods that require planning prior to death include gifting, labeling items, making a will, and preparing lists of property specifying the intended recipient. Auctions and other types of sales held either within the family or for the general public, or an in-family distribution utilizing some kind of selection, such as a lottery, may occur either before or after the death of the property owner. These methods are frequently used when a person moves into smaller living quarters (for example, moving from a house to an apartment or long-term care facility), as well as after death. When owners fail to plan for non-titled property transfer prior to their death, distribution methods available for use become more limited.

Regardless of when the transfer decisions are made and what method of distribution is utilized, it is important to realize the potential consequences of each method.

Methods of Distribution	Things to Consider:
Wills: A will goes into effect when a person dies. It directs your personal representative to carry out your wishes. Listing one's personal property in a will can entail pages of detail if every item is listed. When writing a will, owners are encouraged to prepare a "separate writing identifying bequest of tangible property" as described in the next section, "Lists."	Wills: <ul style="list-style-type: none">● Require, to insure accuracy, that the actual will be updated as changes in ownership or transfer wishes occur.● Frequently use vague wording such as "divide evenly among the children," thus leaving the actual decision of who gets what personal property up to the family.

Methods of Distribution	Things to Consider
<p>Lists:</p> <p>Many states recognize lists, mentioned in a will, as a legal method to distribute non-titled property. (Ex: MN Statutes, Annotated 524.2-513 states a "separate writing identifying bequest of tangible property" may be made in conjunction with a will). A list such as this must be either in the hand-writing of the owner or signed by the owner. Property and people mentioned in the list must be clearly identified (for example, my cousin, Chris A. Anderson, the cut-glass bowl with the bird design, and so on). Lists may be prepared either before or after the will is written.</p> <p>Lists designating distribution of non-titled property need to be kept with personal papers, so the personal representative is able to distribute items to the intended recipients.</p> <p>An example of how to prepare a list can be found at the end of this resource.</p>	<p>Lists:</p> <ul style="list-style-type: none"> ● Must be mentioned in the will to be legally valid. ● Provide written documentation of the owner's wishes. ● May be prepared by the owner after receiving input from potential recipients. ● Need to be dated to insure it represents the most recent wishes of the property owner. ● Can be easily updated.
<p>Gifts:</p> <p>Property may be transferred to others by gifting it prior to death. While these gifts frequently take place at birthdays and holidays, they may occur at any time. One grandmother chose to give her grandson's fiancée a crystal bowl as a shower gift. She included a note explaining that originally the bowl was received as a gift when she and her husband were married 50 years earlier.</p> <p>Gifts of up to \$15,000, or \$30,000 (for married couples), or property equal to that amount, may be gifted annually without paying gift tax.</p>	<p>Gifts:</p> <ul style="list-style-type: none"> ● Allow you to pass on stories and special memories associated with specific items. ● May be given with the assumption they will be returned to the original giver. Not everyone gives gifts they would like to have returned. This assumption may make it difficult to compensate those who gave gifts such as money, clothes, or food. ● Reduce the size of your estate and possibly the taxes on it. ● May require filing of gift tax forms if amount exceeds limit.

Methods of Distribution	Things to Consider
<p>Gifts (cont.): Gifts may also be given to charities or museums. Check with the director or curator before gifting to these entities. Remember, once given, gifts are the permanent property of the receiver.</p>	<p>Gifts (cont.):</p> <ul style="list-style-type: none"> ● May provide you with tax deductions when gifts are made to non-profit groups. Check with your tax advisor. ● Provide for permanent transfer of property. Once a gift is given, it is no longer yours.
<p>Verbal or "Someday" Promises: A "someday you will receive this item" promise assumes the recipient will receive an item of property at a future point in time. For example, "After I die, I want you to have my wedding ring."</p>	<p>Verbal or "Someday" Promises:</p> <ul style="list-style-type: none"> ● May cause misunderstandings when more than one person feels they have been promised the same item. ● May cause problems when items break, are sold or lost, or are given to another person before "someday" arrives.
<p>Masking Tape/Labeling Items: Many people place masking tape or other labels on items to identify who should receive them. Labels are not a legally valid method of transfer.</p>	<p>Masking Tape/Labeling Items:</p> <ul style="list-style-type: none"> ● May fall off, be removed, or become illegible. ● Are not legally binding unless a valid list is also prepared.
<p>Private Auction: Family members buy items in open bidding. Families who choose this method may use real money or "funny money." If real money is used, the money generated will go to the owner or to the estate and may be subject to taxes. If "funny money" (marbles, poker chips, play money) is used, each qualified bidder receives an equal number of units for bidding.</p>	<p>Private Auction:</p> <ul style="list-style-type: none"> ● Allows special items to stay in the family and, thus, preserve memories. ● 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 income to go to the estate or to the property owner if s/he is still living. ● Allows the family to maintain control and privacy.
<p>Silent Auction with Family: Family members place written bids on items. High bidder gets the item. Money goes to the estate and may be subject to taxes.</p>	<p>Silent Auction with Family:</p> <ul style="list-style-type: none"> ● Allows more privacy in bidding. ● Allows quiet, less assertive people equal opportunity for securing items they want.

Methods of Distribution	Things to Consider
<p>Public Auction: Family members and the public bid for items. Proceeds from the auction will go to the owner or to the estate. Proceeds may be subject to state taxes.</p>	<p>Public Auction:</p> <ul style="list-style-type: none"> ● Allows items of sentimental value to go to individuals outside the family. ● Allows income to go to the estate or to the property owner if s/he is living.
<p>Garage/Yard Sale: A public sale of this type works well to distribute items of little emotional or financial value. Proceeds go to the owner or the estate and may be subject to taxes.</p>	<p>Garage/Yard Sale:</p> <ul style="list-style-type: none"> ● May require disposal of unsold items. ● May present a challenge to arrive at a "fair market value."
<p>Estate Sale: Property is sold to a liquidator and the money goes to the owner or the estate. Proceeds may be subject to taxes.</p>	<p>Estate Sale:</p> <ul style="list-style-type: none"> ● May require that fees or a percentage of the sale be paid to the liquidator. ● Allows items of sentimental value to transfer to people outside the family.
<p>Pilfer Items: When others aren't looking, heirs quietly remove items of special value.</p>	<p>Pilfer Items:</p> <ul style="list-style-type: none"> ● Can cause hurt feelings and anger which may last for years and for generations. ● May be contradictory to wishes of the owner. ● Means secrets are kept. This can be damaging to relationships.
<p>Family Distribution: Many families choose to distribute property privately within the family. When this is done, distribution may take place item by item, or items may be placed in groups of approximately equal monetary value and then selected as a group. Here are methods which have been used by families to determine the order of selection:</p>	<p>Family Distribution:</p> <ul style="list-style-type: none"> ● Allows the family to maintain control and privacy. ● May give all family members equal chance to receive prized items. ● Needs to recognize the difficulty of placing a dollar value on emotionally cherished items.

Methods of Distribution	Things to Consider
<p>Family Distribution (cont.):</p> <ul style="list-style-type: none"> ● <i>Shake Dice:</i> Family members shake dice with the high roller receiving first choice, and so on. After the first round the selection order is reversed. After two rounds, family members shake again to determine a new order. ● <i>Draw Numbers, Straws, or Playing Cards.</i> ● <i>Birth Order Preference:</i> Selection goes from the oldest to youngest, or vice versa. ● <i>Gender Preference:</i> Selection begins with males before females, or vice versa. Birth order may also be integrated into this method. ● <i>Generation Preference:</i> Priority is given to parents, siblings, children, grandchildren, or blood kin. 	<p>Family Distribution (cont.):</p> <ul style="list-style-type: none"> ● Is often utilized immediately following a death while family members are still in the grieving process. This may be extremely difficult for some. ● Requires family members to be physically present to make decisions. ● May not reflect the property owner's wishes. ● May not enable the stories to be passed on with the items if it occurs after the owner's death. ● May choose to emphasize differences in family status. ● May make it difficult for everyone to agree on how to determine a value (financial or emotional) for items.
<p>Removal of Leftover/Unclaimed Property:</p> <p>One or more family members assume responsibility for removing all remaining property. This property may need to be gone through item by item to insure that valuable items aren't discarded. One family almost discarded a patent for a disposable baby bottle that had been granted to their mother.</p>	<p>Removal of Leftover/Unclaimed Property:</p> <ul style="list-style-type: none"> ● Once items are disposed of, they are gone forever. Items that may not seem to have value today, may be more appreciated tomorrow or next year.
<p>Throwing Away:</p> <p>While it may be necessary for some property to be taken to a landfill or burned, property owners are encouraged to consider donating items to such non-profits as the Salvation Army or a women's shelter. Environmentally appropriate practices are also encouraged.</p>	<p>Throwing Away:</p> <ul style="list-style-type: none"> ● May adversely affect the environment. ● Donating items to non-profit groups may qualify you or the estate for a tax benefit. Consult your tax advisor.

Methods of Distribution	Things to Consider
Intestate Transfers–Dying Without a Will: If you own property at the time of your death, and have not made a will, the state, through intestate succession laws, dictates how your titled and non-titled property will be distributed. Although states may differ, there is a planned, legal succession of levels of heirs documented in each state's statutes. An explanation of Minnesota's Intestate Succession can be found at the end of this resource as an example.	Intestate Transfers–Dying Without a Will: <ul style="list-style-type: none"> ● Gives equal amounts to heirs at the same level (that is, siblings) regardless of the owner's wishes or intentions. ● Does not allow for any special bequests.

Example: Preparing a Separate List Identifying Transfer Wishes

Distribution of Personal Property According to Minnesota Statutes, Section 524.2-513

Page ____ of ____

To: My Family, Heirs, Executor or Personal Representative

This is the list that I referred to in my Last Will and Testament. Therefore, please distribute the items listed below to the persons I have named:

Item	To Be Distributed To
Grandfather's Clock (from the living room)	My Sister, Susan Anderson Jones
Grandfather's Woodworking Tools (from the basement)	My Brother, George J. Anderson
My collection of Flower Vases	My sister Susan's son, Bill A. Jones
_____	_____
_____	_____
_____	_____
_____	_____

Date: _____

(Testator)

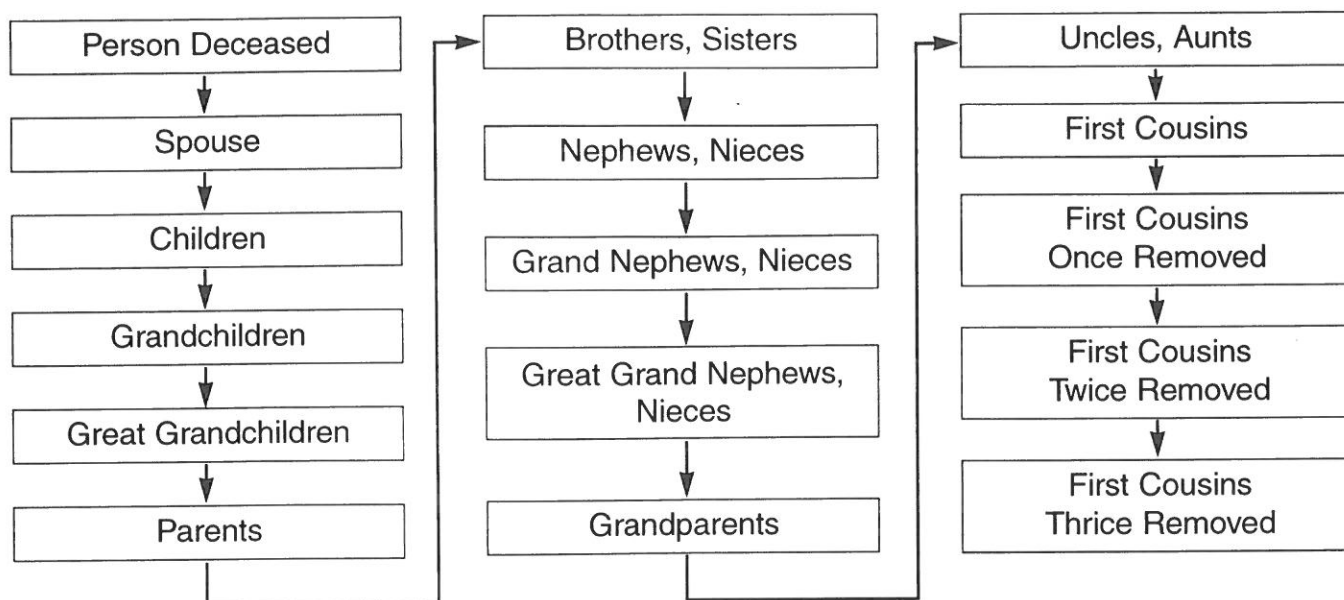
Note: Minnesota law allows you to distribute your tangible personal property in this manner. However, this method is not effective to distribute bank accounts, cash, evidences of indebtedness, documents of title, securities, and property used in trade or business.

Should you wish to make any changes to the above list, make and sign a new list.

Dying Without a Will—Examples of Minnesota Intestate Succession:

- ☑ The surviving spouse inherits all when there are no children.
- ☑ The surviving spouse inherits all if the living children are all children of both spouses.
- ☑ The spouse may receive up to as much as the first \$150,000 plus half the balance.
- ☑ As of 1995, the “elective share” of each spouse relates to the number of years spouses were married.
- ☑ Without a surviving spouse, all children divide the estate equally.
- ☑ Without a spouse or children, grandchildren or other equal levels of heirs are sought, such as parents, siblings, nieces and nephews, etc.

The first box containing heirs is the inheriting box in intestate succession. Follow the arrows in the chart below to understand the progression of heirs.



Reference

Stum, M. S. “What research suggests about families and non-titled personal property inheritance,” in *Who Gets Grandma’s Yellow Pie Plate? Transferring Non-titled Property*, Minnesota Extension Service, University of Minnesota, St. Paul, 1996.

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