

Trust Connection

A Monthly Report of Trust News and Information

August 2021

Smith Salley

PRIVATE TRUST

ABOUT US

Smith Salley Private Trust provides trust solutions for clients who want the peace of mind that their estate will be protected and distributed according to their wishes. Our clients don't need to change their investment philosophy, asset management style, or portfolio holdings, because our trust services integrate seamlessly with the same comprehensive financial planning approach they already enjoy.

Dividing Tangible Personal Property in an Estate

Most people are likely to leave behind tangible personal property when they die. This property typically includes jewelry, clothes, vehicles, furniture, household furnishings, silver, books, art, photos and anything else you can touch. Distributing the property can be difficult since it can rarely be done equally. In addition, many items may have little or no monetary value but significant sentimental value. It is often not easy to foresee conflicts family members might face when dealing with your personal property after your death. Sorting through a life's worth of personal items can be overwhelming, unpleasant and time-consuming. Given the complexities, how can tangible personal property be divided fairly while minimizing conflicts?

Here are some suggestions:

1. Give away items during your lifetime.

The first thing you can do to help your family members who will eventually be tasked with the overwhelming responsibility of sifting through your personal items is to start giving away your assets during your life. Declutter. Sell. Donate. Give away to friends or family. You can even give away items to your beneficiaries now.

2. Direct the sale in your will or trust.

When the estate includes a few items of significant financial worth that can't be equally distributed among heirs, the property might be sold and the proceeds distributed equally as cash. Assuming items of sentimental value will be divided by some other method, other items can simply be liquidated.

3. Write down who should receive specific items of personal property.

Another thing you can do is spell out whom you wish to receive what either in your will or in a separate written memorandum of gifts of tangible personal property, which is a document where you list specific items in one column and the recipients in a second column. An important benefit of a side memorandum is that it doesn't have to involve a lawyer, it does not need to be witnessed, and it can be changed and updated as you wish. It's best to start by asking your children or other beneficiaries what they may want. That way you can maximize the value of what each person receives, rather than making assumptions that could be inaccurate.

If a side memorandum is revised over time, it's important that you sign and date it. The most recent list will be followed if more than one list is discovered after your death. Note that for items of high value or other significance, identifying and distributing those items should be done in the will, because the memorandum is not binding.

4. Spell out a procedure for dividing personal property items in your will.

In the absence of any specific direction in the memorandum of gifts of tangible personal property,

Continued>>



A Local Trust Solution

Call us today at
(336) 379-7556 to learn more
about working with Smith Salley
Private Trust.

For information and assistance,
please feel free to contact one of
our Trust Advisors:

- Andrew Donovan, CFP®
adonovan@smith-salley.com
- Scott Batchelor, CFP®
scott@smith-salley.com
- Gregory Smith
gregory@smith-salley.com

324 W Wendover Ave, Suite 301
Greensboro, NC 27408
www.smith-salley.com
(336) 379-7556

Let us protect and preserve
your wealth so you can remain
confident about the future of
your estate.

or to the extent this memorandum does not address certain items, the items will be divided among your beneficiaries. If you anticipate conflicts among your family and friends around your personal property, you can spell out a method for distribution in your will or trust. Here are just a few examples:

- To be divided in the absolute discretion of your personal representative/executor or trustee.
- To be divided equally among your beneficiaries in as equal shares as they agree. To the extent there is disagreement, the personal representative/executor or trustee shall sell or distribute any items over which there is disagreement.
- To be divided and distributed as an independent third-party determines, after giving consideration to any preferences of the beneficiaries.
- To be divided and distributed in accordance with a lottery system.
- To be divided by taking turns by drawing lots to see who goes first, second, third, etc., and continuing to circle through the list, or those who went first go last in the second round, or a progression from round to round. These choices will look as follows when there are four beneficiaries, which we have named A, B, C and D:
 1. A, B, C, D, A, B, C, D, A, B, C, D
 2. A, B, C, D, D, C, B, A, A, B, C, D
 3. A, B, C, D, B, C, D, A, C, D, A, B

It can help to facilitate the process if the personal representative makes a list of the items with their appraised or estimated monetary values.

5. Utilize a bidding system.

Another approach is to give all the beneficiaries a certain number of points, which can be applied toward various items on the list. This could be done blindly with each person making bids and the personal representative/executor simply awarding the items at the end. A drawback to this approach is that some beneficiaries may be luckier or more astute in their bidding—one person getting most of what she wants and another getting virtually nothing. Another approach would be more like a silent auction, permitting beneficiaries to adjust their bids right up to a set deadline.

6. Implement a financial adjustment after items are distributed.

What happens if one person ends up getting items with a total market value of \$10,000 and someone else gets items worth \$14,000? You could say that it doesn't matter, because everyone still was able to maximize what is of most value to them. Or, you could equalize the valuations at the end with the first person receiving an extra \$4,000 from the estate. That way, no one keeps choosing items just to get the best market value. It may be that one person really only wants a few items and someone else is selecting items to give to his/her children. Should the first person, who may not have children, be compensated in some way? There's no wrong or right answer that applies in all cases. It's worth polling the beneficiaries to see if anyone cares.

Whatever methodology is chosen, it's always a good idea to keep the beneficiaries informed. This can be done by the grantor during life, explicitly in the will, or in a memorandum, to minimize any chance of conflict among the beneficiaries.

This publication contains general information only, and National Advisors Trust Company is not, by this publication, rendering accounting, financial, investment, legal, tax or other professional advice or services. Smith Salley Private Trust is a Trust Representative Office of National Advisors Trust Company.