



# Transferring Cherished Possessions: Where Do I Start?

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Look around your home. You may have a table passed down to you from a grandparent or a well-worn baseball glove from an uncle. You may own sentimental jewelry, a treasured collection of keepsakes, or an antique that has been in your family for years. Have you ever wondered how you came to inherit these items? Were they given to you directly by a loved one, or did you receive them when the estate was settled after that person's death? Cherished possessions can provide a sense of comfort while grieving the passing of loved ones and can represent a continuation of their legacy for those who inherit the items.

## Estate Planning for Non-Titled Property

The distribution of smaller assets after a person passes—those everyday items not necessarily detailed in a will or estate plan—can often be a source of stress or contention in families if not well planned for. When everyone cherishes

and possibly wants the same possession from a loved one (say Granddad's lucky fishing hat), emotions can interfere with the peaceful settlement of affairs upon a person's death.

These types of cherished possessions are known as *non-titled property* because there are no legal documents, titles, named beneficiaries, or estimated financial value as there would be for items like a home, car, bank account, or insurance policy. The sentimental value of non-titled items, however, can sometimes mean as much or more to a recipient than titled property.

Despite the personal meaning of cherished possessions and other household items, they are often overlooked when creating a will. Even if a will is in place, it may simply state, "Distribute all property equally among my children." When an item has a different sentimental value to each heir, it isn't always easy to estimate what is equal or fair. Therefore, it is important to make an estate plan for all your belongings.

## Legal Considerations

Creating a plan for your possessions is important from a legal standpoint. Even if you have an estate plan for your titled property, your executor may not know how to best distribute the full contents of your estate. This includes all the items you cherished within it (and even some you didn't cherish) from closets to cupboards, attics to basements, clothes to clutter, furniture to décor. Below are some legal considerations when crafting an estate plan for your possessions.

### Writing a Letter of Last Instructions

You may have started labeling items around your house, perhaps with sticky notes or by keeping a running list in a notepad. While these methods may help you think through a distribution plan, they are not legally binding. Consider attaching to your will a handwritten list of possessions and their intended recipients or writing a *Letter of Last Instructions* to include with your will. Review Kentucky Extension publication *Wills and Probate in Kentucky* (FCS5-425) for more information on what wills are legal in Kentucky. A trusted attorney can also help you navigate this process.

A Letter of Last Instructions is an informal letter providing instructions to your family, executor, or attorney about your final wishes for the settlement of your estate upon your death. You can use this letter to let your heirs know the location of important documents like your insurance policies, will, or bank documents; instructions for funeral arrangements; and your wishes for the distribution of your non-titled assets. After completing a Letter of Last Instructions, be sure your executor has a copy or knows where to locate it quickly. If your letter includes time-sensitive items like funeral arrangements, you'll want them to have access to your wishes immediately after your death.

### Including Non-Family Members

Family structures can be complex. You may have stepchildren or perhaps foster children with whom you have created a strong bond. However, in Kentucky, probate law does not consider stepchildren or foster children as legal heirs unless you have formally adopted them. Without a written will, they will not have automatic rights to an inheritance even if you intended to leave them certain items. If you plan to transfer any possessions to non-legal family members, extended family members, or close friends, make sure to put the details in writing and include them with your will and Letter of Last Instructions.

### Managing Estate Taxes

All property belonging to Kentucky residents is subject to estate taxes, including household goods. However, the estate tax may be smaller depending on level of kinship. For example, your spouse, child, sibling, or parents may be exempt from estate taxes, but a son- or daughter-in-law

may not. Estate tax laws can be complicated to understand. While gifts given "with a living reason" or given at least three years prior to death are not subject to estate tax, gifts given in contemplation of death or within three years of death are subject to estate tax. You should discuss tax implications with an accountant or attorney when crafting your estate plans. For more information on estate taxes, refer to the Kentucky Department of Revenue publication *A Guide to Kentucky Inheritance and Estate Taxes* and Kentucky Extension publication *Federal and State Estate Taxes* (FCS5-427).

## Establishment of Family Goals

As you begin to plan for the distribution of your possessions, consider the goals you have for your belongings as they relate to your legacy and your loved ones. Maybe you'd like to preserve family stories or would like antiques and heirlooms to stay within your family. Perhaps you want to donate items to a local museum for the community to enjoy.

While some family members may share the same vision, others may not. Further, some may prioritize the potential monetary value over sentimental or historical value. There also can be instances in which the potential recipient prefers a different keepsake than what you intended to give and may get upset if that item is gifted to someone else.

Uncertainty surrounding family goals can be a major contributor to family conflict when settling an estate. To reduce this stress, it can be helpful when creating an estate plan to first reflect on your personal goals for your belongings and then to discuss the hopes, preferences, and expectations of potential heirs.

Your personal property goals can vary for each item or for each recipient and may include the following examples:

- **Support family members.** You may choose to distribute items such as a bedroom set, a kitchen table, or small appliances to a grandchild who is facing financial hardship or to a family member who recently moved to a new home.
- **Preserve family history.** Perhaps you want to preserve important stories connected to your cherished items. For example, you may want your middle child to inherit your cedar chest because they value the story of how your father made it for you when you left home after graduation.
- **Make a donation.** You may decide to donate artwork to a local museum or an antique map collection to a university library. If your heirs are aware of this goal, it can comfort them to know others in your community or state will benefit from your treasures.
- **Respect family relationships.** Consider gifting an item to the person most connected to its meaning. For instance, if you remarried after a divorce, it may be most meaningful for a child from your first marriage to inherit your first set of wedding rings.

- **Reduce ‘only-child guilt.’** Sometimes only children or sole beneficiaries are burdened with what to keep and what to purge when inheriting everything in an estate. If you have a sole beneficiary, discuss what items are most cherished and work together to create a plan for other items in your home.

Estate planning helps to ensure your wishes are carried out after your death. You also may decide to distribute some things while you are living to pass down any sentimental stories attached to the items. Creating a plan for all your possessions helps to relieve those grieving your death from additional burdens such as the emotional task of deciding who gets what, as well as the physical task of sorting through and distributing the contents of your home.

## References and Recommended Resources

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### This publication is Part 1 of the Transferring Cherished Possessions series:

- Part 1: Where Do I Start?* (FCS5-479)
- Part 2: What Is Fair?* (FCS5-480)
- Part 3: Who Gets What?* (FCS5-481)
- Part 4: How Can We Communicate Without Conflict?* (FCS5-482)