

family money

How to avoid an estate battle after you die

Dividing money is easy. But who gets Mom's tea set?

How do you split a painting in half? That's the problem confronting a client of Bernard Krooks, an estate lawyer in White Plains, N.Y. Before his client's mother died, she specified that her two sons each get half of her financial assets—but she didn't make provisions for her personal possessions, and there was one piece of art that both wanted. "One son went to the house and snatched it," Krooks recalls. "The executor was willing to give the other son the cash equivalent of the painting's value, but he said, no, he wanted the painting." The quarrel escalated, and lawyers were called in. Since then, Krooks says, the legal fees have far exceeded the value of the painting and the brothers no longer talk to each other.

"The biggest estate-planning mistake is that people think it's only about the money," says Marlene Stum, a professor at the University of Minnesota and author of the "Who Gets Grandma's Yellow Pie Plate?" workbook and website. "When it comes to their personal possessions, they say, 'It's just stuff.'"

In fact, such "stuff"—the legal term is "non-titled property"—is often the biggest source of unhappiness among families, says Wynne Whitman, an attorney in Spring Lake, N.J. Certain items might have monetary worth, and others are cherished for their sentimental value. But that 25-cent Christmas ornament or dog-eared copy of "Winnie the Pooh" can come at a costly emotional price. Without investing time and thought into how to distribute personal possessions, you can unwittingly leave a legacy of rancor and resentment.

A WILL ISN'T ENOUGH

In one survey by Rocket Lawyer, a legal-services website, half of respondents with children did not have a will. Also alarming, 41 percent of baby boomers (ages 55 to 64)



did not have one.

Dying without a will triggers intestacy laws, which means the state determines how a person's estate is distributed and how their assets are allocated. In other words, if you don't make a will, the state effectively does it for you. In most states, the estate is divided among the decedent's spouse and children. But with the increasing number of blended families, things can get complicated. So if you want your china or woodworking tools to go to a particular child, it's best to put it in writing.

Many states let you attach a codicil to your will indicating that you've made a separate list distributing your possessions. "Keep it separate from your will," Stum says. "You can change your mind, and you don't want to have to update your will every time." But it's a good idea to check with your lawyer when you do want to make changes to the list.

BEFORE YOU MAKE THE LIST

A common mistake in passing on possessions is making assumptions about who wants what but neglecting to articulate them. A woman in New York inherited a treasured 18th-century Spode platter from her grand-

mother, but what she really wanted was her set of chipped earthenware mixing bowls—which her grandmother had tossed out. "I was incredulous when she said, 'Oh, I got rid of that junk,'" the woman recalls. "The Spode may be worth more money, but the fact that we made cookies together in those bowls makes them more valuable." Meanwhile, the

woman's mother was miffed that her daughter wasn't properly grateful.

Baby boomers surveyed by Allianz Life Insurance Company selected personal possessions six times more often than financial inheritance as important in legacy planning. "We aren't good at guessing what's going to be meaningful," Stum says. One solution:

Send out a statement saying, "I want to know which of my items have meaning to you. I'm not making guarantees about who gets what, but I'd like to know."

Keep a list to ensure that your responses are consistent. "The heartache is people having expectations that aren't going to be met," Whitman says.

Starting the process early leaves time to work out ground rules and deal with different assumptions and opinions. And it can be a chance to see the pleasure your treasures can bring to their new owners.

DISTRIBUTION METHODS

The "Who Gets Grandma's Yellow Pie Plate?" website lists a variety of options for distributing your stuff. No matter which you choose, make sure that the process is transparent so that everyone knows that the rules are being followed and that everyone gets a voice.

Here are some methods that work:

➔ **Love it and list it.** Ask the kids to itemize 10 things each wants with sentimental value and 10 things with a monetary value. Share everyone's list. If two siblings want the same item, let them negotiate. They can trade or give up something or, if

You can unwittingly leave a legacy of resentment if you don't decide how to distribute personal items.

split the item between them.

→ **Designate dots.** Give each family member a sheet of adhesive dots or Post-it notes, with a color assigned to each relative. Ask them to place a dot on what they want.

→ **Auction it off.** Family members can bid on items using “funny money,” such as poker chips or Monopoly bills. Everyone starts off with an equal amount.

→ **Roll dice or draw straws.** Family members roll dice, with the winner of the first roll receiving first choice, the winner of the second roll receiving second choice, and so on. After the first round, the selection order is reversed. After two rounds, family members roll again to start a new order. Alternatively, draw straws to determine order of choice.

→ **Play birth-order bingo.** Select according to birth order, either going from oldest to youngest or vice versa.

CONFLICT RESOLUTION

Even if your kids get along—but especially if they don’t—determine a process for resolving conflicts and specify it in your will or trust.

Julie Garber, J.D., a senior trust officer in Naples, Fla., who writes about wills and estate planning at About.com, recalls a client whose son and daughter often quarreled. The mother had a professional appraiser value the big-ticket personal items, wrote a name next to each item, then stated in her trust that anything that wasn’t on the list would go to the daughter. “No one could argue because the list was in her own writing,” Garber says.

Another option is to assign an independent third party as the executor. A mediator (search the Internet for “mediation services”) experienced in family disputes is preferable, but your accountant, lawyer, or even a family friend will do. “Leave a clause in the will saying, ‘If my kids are unable to agree after 30 or 60 days, then Mr. X is the final arbiter,’” Krooks suggests. “The kids have the opportunity to work it out, but they know that if one gets in the way of a fair settlement, someone has the authority to say who gets what.”

A thoughtful distribution of your “stuff” is a gift more valuable than any item. After all, points out Debra Speyer, an estate lawyer in Philadelphia and Miami, “The last thing you want when you die is to put your family in a worse situation.” **\$**

Flower delivery services

Mother’s Day is around the corner, and if you’re like a lot of people, you’re planning to say “I love you” with flowers. So we wanted to see how two of the biggest online flower delivery services, 1-800-Flowers.com and FTD, compare. We had a similarly priced and composed rose and mixed bouquet from each service delivered on the same day. Then we placed a second order a few days later, for a total of eight deliveries.

We took pictures of each arrangement in our photo studio. Then 112 people filled out two questionnaires. The first asked them how happy they would be on a 1-to-5 scale (1 being completely unsatisfied, 5 completely satisfied) if they received each arrangement. A second asked them how happy they would be with the arrangements when they compared them with the online photos. We also checked out the services’ websites and policies.

	1-800-Flowers.com	FTD.com
	 <p>One 1-800 online promise ...</p>  <p>... and what we received.</p>	 <p>One FTD online promise ...</p>  <p>... and what we received.</p>
Prices	The mixed bouquets were \$49.99 (\$70.43 with a service fee and tax), and \$59.99 (\$81.26) and were prepared by local florists; the roses were \$59.99 (\$81.26) for 18 assorted-color long-stems, and \$54.99 (\$75.84) for a dozen red long-stems. Each came with a vase and was shipped in a gift box.	The mixed bouquets were \$49.99 (\$72.33 with a service fee and tax) and \$54.99 (\$77.73) and were prepared by local florists. The roses were \$59.99 (\$83.13) for 18 assorted-color long-stems, and \$49.99 (\$72.33) for a dozen red long-stems. Each came with a vase and was shipped in a gift box.
Delivery guarantees and limits	Orders may be canceled until they are en route. The site says that although it can ordinarily guarantee delivery on the date you choose, because of the high volume of orders handled during major holidays (such as Halloween, Thanksgiving, Christmas, Valentine’s Day, and Mother’s Day), it cannot guarantee delivery during those weeks (not just on those days).	The site says no requests for credits on product, freight, or shipping charges will be accepted if your shipment is delayed for reasons beyond FTD’s reasonable control, including delays caused by inclement weather. During heavy traffic times (such as Valentine’s Day and Mother’s Day) cancellations may have to be requested within 24 hours of placing an order.
Customer service	Although we had no problems with deliveries, we called to say a vase had broken and were offered another delivery or a credit for the vase. (We declined both.)	When we called to complain about a broken vase that arrived with a rose delivery, we were offered a duplicate delivery or a credit for the vase. (We received the credit.)
Survey results	One 1-800-Flowers arrangement was the group’s favorite by a small margin; another was also their least favorite, again by a small margin.	Respondents were slightly more satisfied with the FTD arrangements overall.
Bottom line	Although FTD flowers were given very slightly higher ratings in our limited test, we found that its mixed bouquets were much smaller than we expected based on the pictures on its site. Plus, though its prices for comparable products were a bit lower, it charged slightly higher fees. And FTD may impose a much tougher cancellation policy around Mother’s Day. Overall, our respondents were pretty happy with all of the arrangements until they compared them with their online photos. Then they were very disappointed with the fact that there were flower substitutions in the mixed bouquets and that none of the arrangements looked as nice as the online photos.	