Volume 4, Issue 2 April 2019

Ag Legacy
Helping agriculture nurture its legacy. . .
Agriculture & Horticulture University of Wyoming Extension

Distributing Possessions of Emotional Value: Equal or Equitable?

By Caleb Carter, UW Agriculture and Horticulture Educator

Elizabeth had been dreading this day for a long time. She has been at a loss as to what to do with his possessions since her husband Rich passed away two months ago. Thankfully, the family had worked through the details of passing the ranch to their oldest son, Scott, a couple of years earlier. That process had gone pretty well, and she was glad they had taken care of it while Rich was still around. It made the transition smoother and Scott had had the chance to talk-over issues and big decisions.

But, they never discussed what to do with Rich's personal possessions. While the other kids were okay with the ranch transfer, there was a lot of contention over some of Rich's possessions. He had been an avid gun collector and also had accumulated several nice paintings. Some of those had been painted by his mother and grandmother. Elizabeth was beginning to realize she and Rich should have discussed who would inherit these items back when they worked through the transition of the ranch. Where can she turn for help, now that Rich is gone?


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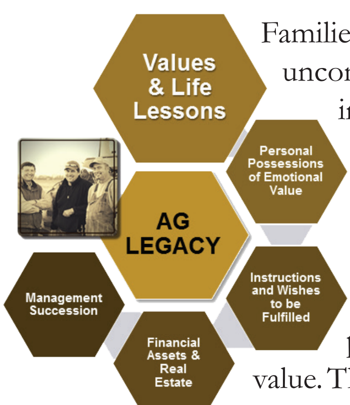
Components of a complete legacy

There are five components of a complete legacy:

- Values and life lessons
- Personal possessions of emotional value
- Instructions and wishes to be fulfilled
- Financial assets/real estate, and
- Management Succession



Families members are generally more excited to consider leaving a legacy, where they are often uncomfortable discussing topics such as inheritance. Legacy takes into account all aspects of what an individual or family will leave behind. Among both baby boomers and the elder generation, values and life lessons has been found to be the most important of the five legacy components, while possessions of emotional value were the second most important.

Types of property

Personal assets are generally classified as either titled property or non-titled property. Titled property features a document describing legal ownership and typically has significant monetary value. This would include real estate, motor vehicles, stocks, or bonds. Non-titled property has no document specifying who officially owns the property and it may or may not represent substantial monetary value. However, it often carries notable emotional value for family members of the owner.

Most people use legal tools to ensure that their titled property is distributed according to their wishes upon their death. However, in many cases individuals fail to leave a description of how their non-titled property should be allocated. The transfer of non-titled property can often create conflict among family members.

Reasons given for this often include:

- It is the sentimental value attached to the property, not the dollar value
- Belongings have different meanings for each individual
- It is hard to be fair to all parties
- Talking about possessions can be more personal than talking about financial assets

CERTIFICATE No. 17668 THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, Greeting:

Whereas Daniel Kryder, of Stephenson County, Illinois has deposited in the GENERAL LAND OFFICE of the United States, a Certificate of the Register of the Land Office at Dixon whereby it appears that full payment has been made by the said Daniel Kryder according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," for the South East quarter of the North West quarter of Section thirty two, in Township twenty eight, of Range eight East, in the District of Lands subject to sale at Dixon, Illinois, containing forty acres

according to the official plat of the survey of the said Lands returned to the General Land Office by the Surveyor General, which said tract has been purchased by the said Daniel Kryder

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several acts of Congress, in such case made and provided, HAVE GIVEN AND GRANTED, and by these presents DO GIVE AND GRANT, unto the said Daniel Kryder and to his heirs, the said tract above described: TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature, thereunto belonging, unto the said Daniel Kryder and to his heirs and assigns forever.

IN TESTIMONY WHEREOF, I, James K. Polk PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these letters to be made PATENT, and the SEAL of the GENERAL LAND OFFICE to be hereunto affixed.

GIVEN under my hand at the CITY OF WASHINGTON, the first day of September in the year of our Lord one thousand eight hundred and forty five and of the INDEPENDENCE OF THE UNITED STATES the Seventieth

By the President: James K. Polk

By J. Knox Walker Sec'y.

S. H. Laughlin, RECORDER OF THE GENERAL LAND OFFICE.

RECORDED, VOL. 31 PAGE 151

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Transferring non-titled property

When considering who should receive your non-titled property, first consider what is important to you. Do you want family involvement in the process or do you want to make your own decisions about who gets what? Is it important to you that you treat everyone fairly? Do you want to minimize family conflict?

Next, inventory your personal possessions with special meaning. It is important to include any items that may have emotional value to someone. Be careful you do not underestimate the value some people may have in an item. Involving others in this activity can be fun and helpful to better understand what other family members value. Go from one room to the next. Then, move outdoors to identify any other possessions that should be considered. The I*nventory of Personal Possessions Worksheet* from the *Lasting Legacy Workbook** can help record the list.

After making a list of personal items, explain why they are special. They may represent a memory you would like to pass on or may have significant monetary value. Then list potential recipients. Use your list to help you decide who should get what. This will assure that your goals are considered as you make your decisions. Most reasonable people will understand your decisions if they have been included in the process and are provided an explanation of the reasons for different treatment.

Equal vs. Equitable

Fairness is a hard concept for people of any age to understand. This is because it requires one to be able to see things from another person's point of view.

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Equal

- The context of equality means all persons are treated the same
- This could mean equal number of items, dollar value, or emotional value

Equitable

- An equitable distribution would take into account differences
- These differences could be age, gender, needs, care giving role, and other distinctive differences

Distribution methods

One way to transfer non-titled property is by gifting it. Giving away personal property to people who you want to have it during your lifetime can be rewarding. You are certain it gets to the people you think are the most deserving or appreciative of the item and it moves the property out of your house or apartment. This can simplify your life, as well as that of your estate administrator or family members who will need to sort and dispose of your items after your death. You may also receive the satisfaction of giving things to others.

There are many legal ways to distribute non-titled property items, including: formal transfers, sales, or donations. It is important for the individuals involved in this process to discuss, identify, and agree upon a method, or methods, for transfer before beginning the distribution process.

Formal methods

Many families use formal, legal documents to regulate the distribution of non-titled property after death. These methods are legal and binding. Formal transfers include wills, gifts, and intestate transfers. Anyone 18 years of age or older can draft a will without the help of an attorney. This is the traditional document used for centuries to transfer personal possessions. In the will a person may identify specific items and name the beneficiaries who will receive them. The person must name an executor that will carry out the terms of the will and it must be kept up to date.

If no will or other legal method is followed, then state law will dictate the process for property distribution when you die. Generally this means it will go to your spouse and children. If you have neither, then to your closest living relative. If no living relatives can be found, then it will go to the state.

Sales

Many families use sales and auctions as a method to distribute personal possessions. This option reduces the pressures of fairness with family members. Sales include estate sales, public auction, private auction, silent auction, and garage or yard sales.

In an estate sale, a company is paid a fee to manage the event and sell everything. This can be a good option, as you don't have to do any actual selling, but there is plenty of preparation work. In a public auction, family members and the public openly bid for items. Proceeds will go to the owner or to the estate, and may be subject to tax.

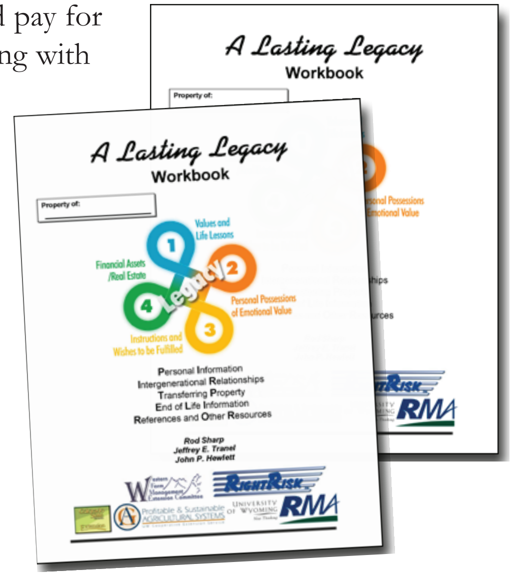
A private auction is similar to a public auction, except that only invited family members and guests are allowed to bid on the items. In a silent auction, family members submit bids, normally on paper. They may or may not know what other family members are bidding or what their bids are. The highest bidder pays the price they offered.

Another option is to simply hold a garage or yard sale. This, more informal method, can also help dispense of personal household possessions. These possessions usually have little or no emotional value.

Donations

Donations are transfers, or gifts without return consideration. Under common law, a donation is an agreement to make a gift and is regarded as an "imperfect contract void for want of consideration." Only when the donation is actually made does it acquire legal status as a transfer of property. If you donate personal possessions you can take a tax deduction for the property's fair market value. The

Internal Revenue Service defines the fair market value as the amount people would pay for the items at a thrift shop or used clothing store. You can determine this by checking with local stores.



Prepare a summary checklist

You should make a checklist to ensure that you have done everything necessary to achieve your desired goals for transferring personal possessions of value and to ensure documents are legally in order.

This should include:

- Communicate wishes and decisions to others
- Begin gifting
- Tell the stories
- Update your decisions

Throughout this process, be sure to communicate your wishes and decisions to others as appropriate. This will reduce misunderstandings and give you an opportunity to explain your decisions. Now is the time to get started sharing with others, if you are planning to use gifting as a method for distribution. Remember to update you decisions as your family changes.

***** For more information on establishing a *Lasting Legacy* or to access the *Lasting Legacy Workbook*, go to **AgLegacy.org** and select the Learning tab, then click Lasting Legacy Course 1 or choose Materials tab and click *Lasting Legacy Workbook*.

Portions of this article are adapted from an online course entitled: *A Lasting Legacy Course 1* by Rodney Sharp, John P. Hewlett, and Jeffrey E. Tranel, 2007.

The *Lasting Legacy* courses are available free of charge at **AGLEGACY.org** > Learning.

An online module, including a recorded presentation covering values and life lessons and other information on developing your management succession plan is available at our website. For more on upcoming modules, past newsletters, and for information about Ag Legacy see **AgLegacy.org**. Requests for additional information may be emailed to Information@AgLegacy.org.

Ag Legacy Newsletter:
Contributing Authors -
Caleb Carter, ccarte13@uwyo.edu
John P. Hewlett, hewlett@uwyo.edu
Editing/Layout - John P. Hewlett, hewlett@uwyo.edu

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