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From: Vold & Morris, LLC.

Re: Distribution of Tangible Personal Property

I recently asked a financial planner to guess what I found to be the leading cause of family disputes in estate planning. His guess was distribution of tangible personal property. He was right. More family disputes are caused by jewelry and heirloom items than money. As a consequence, we have developed an extensive program to eliminate or reduce this problem.

The first step in determining who gets what property is to ascertain the desires of the beneficiaries. Asking a child what he wants upon the death of his parents does not work. The child feels like he is a greedy kid saying, "I can't wait for you to die so I can get Grandma's yellow pie plate." As a result, the child will very honestly say that he doesn't want to talk about it. This is fine with the parents, who really don't want to talk about it either. This lack of communication does not solve the problem.

We suggest that you begin by making a fire insurance list of all of your tangible personal property. Have someone else help you make out the list: one person can describe each item while the other writes that item down on a piece of paper. This entire inventory list can be done in a relatively short period of time.

The next step is to submit copies of the inventory list to each of your children along with a "Dear Children" letter. The letter instructs the children to put numbers next to each item on the list. These numbers represent the extent of their desire to receive each piece of property. The children then send these lists back to the parents. Now the parents know who wants which items and how badly.

The next step in the process is to fill out what we call a "Tangible Personal Property Devise," which is essentially a written list that names the item and the beneficiary who is to receive each item. These lists are allowed by statute in both Kansas and Missouri as long as the estate planning document refers to this written list.

Our office uses three different tangible personal property forms depending on whether or not the client is married and when the client wants the beneficiaries to receive

the items. The first form is for individual clients, and simply states which beneficiary gets which item of property.

The next two forms are for married clients. A married client may want her children to receive some items even if her spouse is still living. For example, if I survive my wife, she does not want the jewelry she inherited to be worn by my new wife. She wants it to go immediately to our children upon her death, even if I am still living. Therefore, she would use our “even if” list for distributing items of tangible personal property. Items listed on an “even if” list go to the beneficiaries named “even if” there is a surviving spouse. Other items are placed on an “only if” list, which distributes items to named beneficiaries “only if” both spouses are deceased.

One tip for distributing family heirlooms: Make up a paragraph describing the item and its previous owners. This greatly increases the importance to future generations. Remember that your childhood playthings are your grandchildren’s heirlooms.

Another tip: Write your children or grandchildren a letter to be kept in your estate planning file at our office. A few sentences describing the love, joy and pride that a parent feels for a child are a priceless treasure to the recipient.