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Who gets my stuff?

On April 3, 2018, I published an article entitled “Where is my stuff?” Included was mention of an “Inventory” worksheet to start collecting data. Now comes the question, “Who gets my stuff?”

Let’s start with your tangible personal property. The State of Florida has a statute referred to as a “separate writing” that is outside of your will but noted in your will.

When you die, your will says to look for your separate writing. Find it and follow its instructions.

My attorney had me write one. It was on a plain piece of paper that was signed and dated by me.

Tangible personal property includes everything other than real estate, cash, stocks, bonds, or other financial instruments. It could be paintings, golf clubs, jewelry, and my favorite ball point pen.

For example, my separate writing could have said that I leave my favorite ball point pen to my friend Charlie. I tell Charlie about it and he says he has no use for that piece of junk. I now rip up my separate writing and start fresh.

My new separate writing says by new friend Ralph now gets my pen.

You can have as many separate writings as you like. This is easier than redoing your will each time you want to change your mind. Ask your attorney about it.

So far, it’s been easy. Now let’s get to the hard stuff that may cause conflict.

Dying without a will is called “intestate” or maybe “intestate succession.” That generally means your state of residence has a will already prepared for you. In Florida, the Florida Statutes take care of distributing your wealth says my attorney.

Yes, the government chooses your heirs instead of you. You may not like what it says, but since you chose not to write a will, your state did it for you.

With no will but with property in your own name, that property has to go to somebody. That bank account needs a new owner. The judge in the probate court will read the will your state wrote for you and determine the heir.

Usually, the first person in line to inherit is the surviving spouse. That does not include your long-time girl or boy friend.

If there is a spouse and children, it’s too complicated to comment. For instance, the children could be from another marriage, or another woman. Suffice it to say, you should contact your attorney for guidance.

Let’s now look at titling, registration, etc. If assets are held “joint tenants with rights of survivorship,” the survivor, whoever that person is, gets those assets.

If assets are held “joint tenants in common,” say 50%/50%, the assets of the deceased go to the heirs of the deceased. That means that if two men start a company and one dies, the new replacement partner gets half the company.

It could be the widow or son or anyone else who may not understand or want the business. See any potential conflict?

Assets that are “registered” include a life insurance policy that says who is the beneficiary and an IRA or retirement plan with beneficiary designations. Make sure they are correct.

If the beneficiary is your ex-wife, the new wife might not be too happy about the ex getting your assets.

As you can see, there are many pitfalls, but some can be avoided. I suggest you start with my “Inventory” for you to list your assets and who should get them. Call my office for a copy or if you need help filling it out. That’s what financial planners are for and do.

With Inventory in hand, now it’s time to see an attorney. It will cost you, but your estate questions can be answered and appropriate documents written.

Or you can write your will from sources available on the internet. Suppose it’s wrong? You just created a big mess to save some dollars in attorney’s fees.

Another step is to read my article entitled “Don’t leave home without it.” That is, your password-protected metal flash drive attached to your key ring with all your medical and estate planning documents.

So when the end comes, and it will for everyone, you can rest in your grave knowing you tried your best to determine *who gets your stuff*.

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