

specific gifts

General Advice Disclaimer

Information provided in this document is general in nature and does not constitute financial or legal advice.

Every effort has been made to ensure that the information provided is accurate, but information may become outdated as legislation and new government announcements are made. Individuals must not rely on this information to make a financial, investment or legal decision as it does not take into account their personal circumstance.

Before making any decision, we recommend you consult a licensed adviser or legal practitioner to take into account your particular objectives, circumstances and individual needs.



What are specific gifts?

Specific gifts in a will are created by giving an identifiable item to a particular, identifiable beneficiary. This can be contrasted with a 'residuary gift' where any remaining assets you have are attributed to an identifiable beneficiary. An example of a specific gift would be as follows:

I give my Royal Doulton china set with blue, hand-painted periwinkles to Sheridan Bucket.

When would I use specific gifts in my will?

Identifying and allocating specific items in your will can be really important where, for example, you want absolute certainty about the fate of a particular item.

Care should be taken when describing the specific gift. For example, if your intention is that your friend Sheridan Bucket get any of your Royal Doulton china, you should avoid further description so as to narrow the meaning. This is particularly important where, for example, you replace your 'blue, hand-painted periwinkle' set with another one of similar quality, but do not update your will with the new description.

Are there any problems?

While specific gifts can be a key strategy in an estate plan, there are several issues that can

occur with specific gifts. Some of these issues include, but are not limited to:

- ademption of the gift (meaning the item does not exist anymore and the gift fails);
- issues around equality, where, for example, beneficiaries are each given specific assets that change in value over time (and the will is not updated)
- funding issues where, for example, specific cash gifts are left, leaving nothing for the residuary beneficiaries
- the associated physical and financial costs of having to update your will when issues relating to the specific gifts change (the item itself changes in nature, value or fails to exist or where circumstances of the beneficiaries and your objectives vary).

Each of the above should be considered when determining the utility of specific gifts in your will.

Is there an alternative?

As an alternative and where appropriate, many people are moving towards using 'letters of wishes' or similar to provide non-binding direction about specific items. Again, specific advice should be obtained as to what is required in each case. Your circumstances and objectives will be the key drivers in any discussion relating to how you should structure your estate planning documents to take into consideration your wishes regarding specific assets.