

Exempt Property EPTL § 5-3.1

Exempt Property is set off or paid over to the Surviving Spouse and to underage children, if any, free of claims of creditors other than specific debts such as a car loan. This property is given to the surviving spouse even if there is a will that says something else. These figures are the maximum for each category.

Recap:

Up to the following amounts:

1.) Furniture and furnishings	\$10,000.00
2.) Books and software	1,000.00
3.) Domestic Animals & feed, tractor farm machinery, lawn tractor	15,000.00
4.) Vehicle	15,000.00
5.) Money or other personal property	<u>15,000.00</u>
	Up To: \$56,000.00

The statute reads as follows:

(1) All housekeeping utensils, musical instruments, sewing machine, household **furniture and appliances**, including but not limited to computers and electronic devices, used in and about the house, fuel, provisions and clothing of the decedent, not exceeding in aggregate value **ten thousand dollars**.

(2) The family bible, family pictures, video tapes, and computer tapes, discs, and **software** used by such family, and **books**, not exceeding in value **one thousand dollars**.

(3) **Domestic animals** with their necessary food for sixty days, **farm machinery, one tractor and one lawn tractor**, not exceeding in aggregate value **fifteen thousand dollars**.

(4) **One motor vehicle** not exceeding in value **fifteen thousand dollars**. In the alternative, if the decedent shall have been the owner of one or more motor vehicles each of which exceed fifteen thousand dollars in value, the surviving spouse or decedent's children may acquire one such motor vehicle from the estate, regardless of the fact that the decedent may also have been the owner of another motor vehicle of lesser value than fifteen thousand dollars, by payment to the estate of the amount by which the value of the motor vehicle exceeds fifteen thousand dollars; **in lieu of receiving such motor vehicle, the surviving spouse or children may elect to receive in cash an amount equal to the value of the motor vehicle, not to exceed fifteen thousand dollars**. If any motor vehicle so acquired by the spouse or children of the decedent was a specific legacy in decedent's will, the payment to the estate of the amount by which the value of the motor vehicle exceeds fifteen thousand dollars shall vest in the specific legatee.

(5) **Money or other personal property** not exceeding in value **fifteen thousand dollars**, except

that where assets are insufficient to pay the reasonable funeral expenses of the decedent, the personal representative must apply such money or other personal property to defray any deficiency in such expenses.

(b) No allowance shall be made in money or other property if the items of property described in subparagraph (1), (2), (3) or (4) are not in existence when the decedent dies.

(c) The items of property, set off as provided in paragraph (a), shall, at least to the extent thereof, be deemed reasonably required for the support of the surviving spouse or children under the age of twenty-one years of the decedent during the settlement of the estate.

(d) As used in this section, the term "value" shall refer to the fair market value of each item, reduced by all outstanding security interests or other encumbrances affecting the decedent's ownership of said item