

TERMS TO KNOW

Estate Planning

Advance Health Care Directive

If you are incapacitated and cannot communicate your wishes to your medical team, this document empowers the person you name to make decisions about treatment, symptom management and end-of-life care.

Agent or Attorney-in-fact

The person you name in your Financial Power of Attorney or Advance Health Care Directive to act or make decisions on your behalf if you are incapacitated.

Assets

Everything you own is considered your assets, including cash, stocks, car, home, collectibles, furniture, cryptocurrencies and more.

Beneficiaries

These are the people you name as the recipients of your assets. Beneficiaries can be anyone you choose, including family members, friends, loved ones or charitable organizations

Community Property

A form of property ownership recognized in some states where any **Asset** acquired during a marriage is presumed to be jointly owned.

Custodian

A person designated by the Court who is entrusted to oversee the property or care of another person. Some states use the word **Guardian** for this position.

Credit Shelter Trust

A credit shelter trust (sometimes referred to as a bypass trust) is a type of trust used to minimize estate taxes by utilizing the estate tax exemption of a deceased spouse. Assets in a credit shelter trust are not included in the surviving spouse's taxable estate, thus avoiding estate taxes on these assets when the surviving spouse eventually passes away. This effectively "shelters" a portion of the estate from taxes.

Decedent

A person who has died. In **Estate Administration**, the Decedent refers to the person whose **Estate** is being **Probated**.

Descendant (Lineal Descendant)

A blood or adopted relative in the direct line of a person's descent – the children, grandchildren, great-grandchildren, etc. of a person. Also referred to as **Issue**.

Estate Administration

The process where an **Executor** collects all of an **Estate's Assets**, pays all of the **Estate's debts**, then distributes the remaining money and property to the **Beneficiaries**.

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Estate Tax

A tax imposed on the transfer of a person's taxable estate at their death paid by those overseeing their estate. The tax is calculated based on the value of the assets of a person's taxable estate at death (plus any gifts made during lifetime in excess of the annual gift tax exemption). Each person is afforded an estate tax exemption up to a certain legally prescribed value prior to the imposition of taxes. There are both Federal and State Estate Taxes. However, rates and exemption amounts vary state to state. Some states do not have a State Estate Tax.

Executor

Your executor is the person you name who is in charge of administering your probate estate (usually in accordance with your last will and testament) after you're gone. This person is responsible for collecting your assets, paying your debts and distributing your probate estate to your beneficiaries. Because property passing through a trust or beneficiary designation would typically avoid probate, such property would not typically be managed by an executor.

Fiduciary

A person or organization that has a legal duty to act in the best interest of someone else.

Financial Power of Attorney

A legal document that gives a person you choose the ability to conduct financial transactions, sign documents and make other legal decisions on your behalf.

General Power of Appointment

This is a provision that allows someone to designate how certain property or assets within an estate or trust will be distributed among a specified group of people or entities. The power is typically intended to be so expansive that the assets subject to the power are included in the powerholder's estate (i.e. they can appoint the property to themselves, their estate, their creditors or the creditors of their estate). This type of power is often used for tax planning purposes and to provide flexibility in the distribution of assets.

Generation-Skipping Transfer Tax

A federal tax imposed on transfers of wealth that "skips" one or more generations (typically to grandchildren or great-grandchildren), rather than being transferred directly to children. It is designed to prevent the avoidance of estate and gift taxes by transferring assets beyond the next generation.

Grantor

This is the person who creates the trust. They set the terms of the trust and designate the beneficiaries, as well as a trustee to manage the trust according to the grantor's wishes.

Grantor Trust

A trust where the grantor retains certain powers or control over the trust that causes the grantor to be treated as the owner of the trust's assets for income tax purposes. Income generated by the trust is reported on the grantor's personal income tax return (regardless of whether the income was distributed to the grantor).

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Guardian (for adult)

A person appointed by the court who cares for and/or manages the property of an adult. Some states use the term **Conservator** for this position.

Guardian (for minor)

The person who you want to care for your children if something happens to you.

Heir

A person that receives money or property from an Estate when there is no **Will**. See also **Beneficiary**.

Intestate

A person who does not leave a valid **Will** when they die. Also, the act of having not written a valid **Will** before one dies.

Income Distribution

As a trust earns income from its investments or assets, it must determine how and when such income will be distributed to the beneficiaries. The trust's terms will dictate how and when this income is to be distributed, which might be done on a regular schedule (e.g., quarterly or annually) or within the discretion of the trustee.

Irrevocable Trust

A type of trust that can't be modified, amended or revoked by the grantor once it has been created and funded. This arrangement provides potential tax advantages and asset protection.

Issue

For this term see **Descendant (Lineal Descendant)**.

Joint Tenants with Right of Survivorship

A form of property ownership where 2 or more people own equal interests in the property. When one of the owners dies the remaining owners receive their share of the property.

Last Will and Testament

Commonly referred to as a **Will**, this is a legal document that names your executor and communicates your final wishes regarding your assets and beneficiaries.

Lifetime Power of Appointment

A power of appointment (general or limited) that can be exercised during the powerholder's lifetime.

Limited Power of Appointment

Also known as a special power of appointment, this is a provision that allows someone to designate how certain property or assets within an estate or trust will be distributed among a specified group of people or entities. However, they can't appoint the property to themselves, their estate, their creditors or the creditors of their estate. This type of power is often used to provide flexibility in the distribution of assets while ensuring that they remain within a predetermined group, such as family members or charitable organizations.

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Life Estate

A form of joint ownership where one person can use the property until their death. After death, ownership of the property is transferred to the **Beneficiaries** of the property.

Living Will

A legal document which informs an **Agent** and medical personnel what medical treatments that person would like if they are not able to communicate their wishes. The choice to prolong life, receive relief from pain, and donate organs are often included in a Living Will.

Marital Trust

This is a subtrust created to hold and manage assets for the benefit of a surviving spouse. It allows the surviving spouse to receive distributions from the trust during their lifetime, while potentially deferring estate taxes until their death. It can help in qualifying for the marital deduction, which allows for an unlimited amount of assets to pass to the surviving spouse without incurring estate taxes, deferring the tax liability until the surviving spouse's death. As opposed to a credit shelter trust, the assets in a marital trust are often elected to be included in the surviving spouse's taxable estate.

Patient Advocate

For this term see **Agent (Medical)**

Personal Property

Any property that is not categorized as **Real Property**. Examples of Personal Property are furniture, household appliances, or radios. Intangible property such as stocks, bonds, and patents are also considered to be Personal Property.

Pour-Over Will

A type of will that ensures any assets not already included in a trust during the grantor's lifetime are transferred to the trust upon their death. This legal document "pours over" these assets into the revocable trust, allowing them to be managed and distributed according to the terms of the trust.

Principal Distribution

The "principal" of a trust is the original value of the trust assets, plus any accumulated undistributed income generated from those assets that is added to the principal. The trust's terms will dictate how and when the principal is to be distributed, which might be done on a regular schedule (e.g., staggered by age of the beneficiary) or within the discretion of the trustee.

Probate

This is the process where a judge reviews your Will and gives your executor permission to distribute your assets. Typically, the court charges a fee for this process, and your will becomes public record.

Real Property

Land and anything built on that land or growing on that land. Real Property includes but is not limited to houses, office buildings, trees, lakes, or garages. Also referred to as Real Estate.

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Revocable Trust

A Revocable Trust acts as a “bucket” you fill with your assets. Unlike a Will, which does not take effect until you pass, a Trust is active the day it’s created. A fully funded revocable trust can help you avoid probate (among many other benefits). It is revocable and, therefore, can be freely amended while you are living and have mental capacity.

Sub-Trust

A sub-trust is a type of trust that is “created under” another Trust (or a “trust within a trust”). For example, if you create a Revocable Trust and that trust directs all assets to be held in further trust for your children when you pass away, that trust for the benefit of your children is a sub-trust. A sub-trust continues beyond the period of time that is required for estate or trust administration after your passing; the sub-trust ensures your wishes and objectives are met even long after you are gone.

Survivor’s Trust

This is a type of trust that typically becomes effective after the death of the first spouse. It often permits the surviving spouse broad access to the assets of the trust during their lifetime, with the remaining assets passing to the remaining trust beneficiaries after the surviving spouse’s death. A survivor’s trust typically has less restrictions on the surviving spouse’s access and flexibility of use of the trust’s assets than a Marital and/or Credit Shelter Trust.

Tax (Estate Tax Exemption)

The amount below which an **Estate** is not subject to federal tax.

Tax (Gift)

A transfer tax on property given from one person to another person or organization. The federal government imposes a tax when the property gifted exceeds a certain threshold. As of 2024, only the state of Connecticut imposes its own tax on gifts.

Tax (Inheritance)

A small number of states impose tax on the person receiving property from an **Estate**.

Taxable Estate

The assets of a person’s estate that are subject to estate tax, after any deductions and exemptions. Some assets may be considered taxable while others are “outside” the taxable estate. Those within the taxable estate are used to determine the amount of estate tax owed at death.

Tenants by the Entirety

A type of property ownership which only legally married couples can use. When one spouse dies the surviving spouse receives full ownership of the property.

Tenants in Common

A type of property ownership where each person owns a distinct percentage of the property. When that person dies their portion of the property will be distributed to their Beneficiaries or Heirs.

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Testamentary Power of Appointment

A power of appointment (general or limited) that can only be exercised at the power holder's death (usually through their last will and testament).

Testate

A person who leaves a valid **Will** when they die. Also, the act of having written a valid **Will** before one dies. See also **Testator**.

Title

The legal right (in the form of a document) to own and possess **Real Property** or **Personal Property**.

Trust for Descendants

A subtrust that benefits a child or grandchild, and appoints an individual to help the beneficiary manage their inheritance. It can also include parameters over distributions to a child who is not able to responsibly manage their own finances by protecting assets until the beneficiary reaches a specific age or otherwise passes away. It can also be an important tool in multi-generational tax planning.

Trust Instrument

A legal document which contains the terms and conditions of a **Trust**.

Trust Protector

An individual or entity appointed to oversee and ensure that a trust is administered according to the grantor's intentions and to provide additional oversight or flexibility in the trust's management. The role of a trust protector can vary depending on the terms of the trust agreement.

Trustee

Similar to an executor of a probate estate, a trustee is a person (or corporate fiduciary like an investment firm or bank) who you name to be responsible for managing the property held by your **Trust**

Trustor

A person who creates a **Trust** and funds (puts **Assets** into) that **Trust**. Also known as a Grantor or Settlor.

Uniform Transfer to Minors Act

A law to protect **Minors** who receive property from an **Estate**. A **Custodian** is designated to manage the property for the benefit of the minor until the **Minor** reaches a certain age. UTMA laws vary by state.

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