

Glossary of Estate Planning Terms

Administrator	A person appointed by the Circuit Court who administers your estate (according to the terms set forth by the legislature) if you die intestate, i.e., without a will. This person can also be called your Personal Representative or "P.R." If you die with a will, you would normally not have an Administrator, as your estate will be administered by the Executor you have appointed in your will.
Advance Medical Directive	A document in which you make your wishes known about continuation of life support and treatment in the event of a "terminal condition" or a "persistent vegetative state," and also in which you appoint an Agent to make medical decisions for you in the event you are unable to make such decisions for yourself. Also called Health Care Power of Attorney, Medical Power of Attorney, Health Care Directive.
Agent	A person who serves you under an advance medical directive or power of attorney.
Attorney-in-Fact	A person who serves you under a power of attorney.
Beneficiary	A person or entity which will receive a benefit (asset, valuable right) through a will, trust, or contract.
Bypass Trust	An estate planning device (also called a credit shelter trust, family trust, or B trust in "AB" plans where the A trust funds for the marital deduction) used to minimize the combined estate taxes payable by spouses whereby, at the death of the first spouse, the estate is divided into two parts and one part is placed in trust usually benefit the surviving spouse without being taxed at the surviving spouse's death, while the other part passes outright to the surviving spouse or is placed in a marital deduction trust.
Charitable Gift Annuity	An arrangement whereby the donor makes a gift to charity and receives back a guaranteed lifetime (or joint lifetime) income based on the age(s) of the annuitant(s).
Charitable Lead Trust (CLAT)	An arrangement whereby the charity receives an income from a trust for a period of years, then the remainder is paid to non-charitable beneficiaries (generally either the donor or his or her heirs).
Charitable Remainder Annuity Trust (CRAT)	A charitable trust arrangement whereby the donor or other beneficiary is paid annually an income of a fixed amount of at least 5% but not more than 50% of the initial fair market value of property placed in the trust, for life or for a period of up to 20 years; one or more qualified charitable organizations must be named to receive the remainder interest upon the death of the donor or other income beneficiaries, and the value of the charitable remainder interest must be at least 10% of the net fair market value of all property transferred to the trust, as determined at the time of the transfer.
Charitable Remainder Trust	An arrangement wherein the remainder interest goes to a legal charity upon the termination or failure of a prior interest.
Charitable Remainder Unitrust (CRUT)	A charitable trust arrangement whereby the donor or other beneficiary is paid annually an income of a fixed percentage of at least 5% but not more than 50% of the annually revalued trust assets, for life or for a period of up to 20 years; one or more qualified charitable organizations must be named to receive the remainder interest upon the death of the donor or other income beneficiaries, and the value of the charitable remainder interest must be at least 10% of the net fair market value of all property transferred to the trust, as determined at the time of the transfer.

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Codicil	A legal document, which supplements and changes an existing will. Generally utilized to make minor changes to the original will.
Community Property	Property owned in common by husband and wife as a result of its having been acquired during the marriage by means other than an inheritance or a gift to one spouse, each spouse holding a one-half interest in the property. This characterization applies only in community-property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin).
Conservatorship	The court-administered process whereby an individual or institution is given control over the financial assets of a child or incompetent adult. A conservator is a type of fiduciary.
Credit Shelter Trust	An estate planning device (also called a bypass trust, family trust, or B trust in "AB" plans where the A trust funds for the marital deduction) used to minimize the combined estate taxes payable by spouses whereby, at the death of the first spouse, the estate is divided into two parts and one part is placed in trust usually to benefit the surviving spouse without being taxed at the surviving spouse's death, while the other part passes outright to the surviving spouse or is placed in a marital deduction trust.
Crummey Trust	A trust established granting a beneficiary a limited power to withdraw income or principal or both. This power is exercisable during a limited period of time each year and is non-cumulative. The power of withdrawal is generally limited to the amount excludable from gift tax liability under the annual gift tax exclusion or to the greater of \$5,000 or 5 percent of the trust property.
Decedent	A person who has died.
Domicile	The jurisdiction in which a person lives and in which he intends to remain.
Donor	A person who makes a gift. The person setting up a trust can be called donor, trustor, grantor, or settlor.
Durable Power of Attorney	A written legal document which allows one person (the principal) to authorize another person (the attorney-in-fact or agent) to act on his or her behalf with respect to specified types of property, and which may remain in effect during a subsequent disability or incompetency of the principal.
Durable Power of Attorney for Health Care	A written legal document which grants decision-making powers related to health care to an agent; generally provides for removal of a physician, the right to have the incompetent patient discharged against medical advice, the right to medical records, and the right to have the patient moved or to engage other treatment.
Employee Stock Ownership Plan (ESOP)	An Employee Stock Ownership Plan (ESOP) is essentially a stock bonus plan in which employer stock is used contributions. Employer contributions are tax deductible and are not currently taxed to the employee. Earnings accumulate income tax deferred and distributions are generally taxed as ordinary income.
Estate	Everything of value (all property) that a person owns while living or at the time of death.
Estate Planning	Process designed to conserve estate assets before and after death, distribute property according to the individual's wishes, minimize federal estate and state inheritance taxes, provide estate liquidity to meet costs of estate settlement, and provide for the family's financial needs.

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Estate Tax	A tax imposed on the transfer of property from a decedent to his or her heirs, legatees or devisees.
Executor or Executrix	The person who "executes" the terms of your will and administers your estate. This person can also be called your Personal Representative or "P.R." If you die intestate, i.e., without a will, your estate will be administered (according to the terms set forth by the legislature) by an Administrator appointed by the court.
Family Limited Partnership	A form of holding property combining some of the advantages of holding property as a corporation with some of the advantages of owning property in a partnership. A Family Limited Partnership is sometimes used as a vehicle for a gift program to reduce or eliminate estate tax.
Fee Simple Ownership	Outright ownership of property with absolute rights to dispose of or gift it to anyone.
Fiduciary	A person having control over and responsibility for the assets of another, or the responsibility of that office. A fiduciary is a steward in the common-law and religious sense. The fiduciary's duty is to faithfully administer the affairs of another with complete disregard for his own interests.
Five and Five Power	A provision that allows a trust beneficiary to withdraw the greater of \$5,000 or five percent of the principal from a trust without causing the entire trust property to be included in his or her estate for federal estate taxation.
Future Interest	An ownership interest in property in which unlimited possession or enjoyment of property is delayed until some future time.
General Partner	A general partner is a partner of a partnership who is personally liable for all partnership debts and is permitted to participate in the management of the partnership.
General Partnership	A partnership that has only general partners and no limited partners. Each partner is liable for all partnership debts and there is no limited liability.
General Power of Appointment	A power of the donee (the one who is given the power) to pass on an interest in property to whomever he pleases, including himself or his estate.
Generation Skipping Transfer	A transfer of property, usually in trust, that is designed to provide benefits for beneficiaries who are two or more generations younger than the generation of the grantor.
Generation Skipping Transfer Tax (GST)	A transfer tax generally assessed on transfers to grandchildren, great grandchildren and others who are at least two generations younger than the donor.
Generation Skipping Trust	Any trust having beneficiaries who belong to two or more generations younger than the grantor.
Gift	A voluntary transfer of property for which nothing of value is received in return. If the Internal Revenue Service is to recognize a transfer as a gift, the donor(s) must unconditionally transfer all title and control of the property to the recipient(s) at the time the gift is given.
Grantor	The person who sets up or creates a trust. Also called a settlor, donor or trustor.

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Grantor Retained Annuity Trust (GRAT)	A trust in which the grantor retains the right to a set annual dollar amount (the annuity) for a fixed term and gives the principal to others, such as the grantor's children, at the end of that term. If the grantor survives until the end of the annuity term, all of the trust principal will be excluded from the grantor's estate for estate tax purposes.
Grantor Trust	For purposes of the income taxation of trusts, a trust in which the grantor or a third party, because of certain rights to income or principal or certain powers over the disposition of income and principal, is treated as the owner of the trust and taxed on the income thereof. Consequently, a grantor trust is not treated as a separate entity for income tax purposes.
Gross Estate	The total value of all property in which a deceased had an interest. This must be included in his or her estate for federal tax purposes.
Guardian	A person legally entrusted with the care of, and managing the property and rights of, another person, usually a minor child.
Guardianship	The court-administered process whereby an individual or institution is given control over a person. Used for children under 18 and incompetent adults.
Heir	A person entitled by law to inherit part or all of the estate of an ancestor who died without leaving a valid will.
Holographic Will	A will written entirely in the testator's own handwriting
Incapacity	The lack of ability to act on your own behalf.
Income Beneficiary	The beneficiary of a trust who is entitled to receive the income from it.
Income in Respect of a Decedent	Income earned by a person, but not collected before death. This income is included in the decedent's gross estate for estate-tax purposes. For income-tax purposes, it is taxed to the estate or, if the estate does not collect the income, it is taxed to the eventual recipient.
Installment Sale	A sale in which taxable gain is recognized over a number of years as the payment for the property sold is received.
Inter Vivos Trust	A type of trust created during the settlor's lifetime.
Intestate	Without a will. A person who dies without a will dies "intestate" ("in" + "testate" or not testate), and his or her property passes by "intestate succession," or the laws of intestacy.
Intestate Succession	The distribution of property to heirs according to the statutes of the state of residency upon the death of a person who owned the property but did not leave a valid will.
Irrevocable Life Insurance Trust (ILIT)	An irrevocable trust established to own an insurance policy or policies and thereby prevent them from being included in the insured's estate.

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Irrevocable Trust	A trust over that you have no power to amend or revoke. Irrevocable trusts have the disadvantage that they require you not retain control, but they can provide significant tax benefits. The more common irrevocable trusts are "Irrevocable Life Insurance Trusts" and "Charitable Remainder Trusts." Compare to "Revocable Trust."
Joint Tenancy	A form of ownership shared with an unlimited number of individuals. Each tenant owns an equal undivided share of the property.
Joint Tenancy with Rights of Survivorship	The holding of property by two or more individuals in a manner that upon the death of one tenant, the survivor(s) succeed to full ownership by operation of law.
Lack of Marketability Discount	When the value of an asset is less than its initial or expected fair market value due to unusual circumstances that make it not readily saleable. For example, a limited partnership interest.
Limited Liability Company (LLC)	An entity formed under state statute that has the legal characteristic of limited liability similar to that of a corporation, while it may qualify to be treated as a partnership for tax purposes.
Limited Partner	A partner in a partnership who can't participate in the management of the partnership's business. A limited partner's liability is limited to loss of his investment in the partnership.
Limited Partnership	Form of partnership composed of both a general partner(s) and a limited partner(s); the limited partners have no control in the management of the company and are usually financially liable only to the extent of their investment in the partnership.
Living Trust	A trust that you set up while you are living. Compare to "Testamentary Trust."
Living Will	An out-of-date term for a "one-size fits all" statutory declaration that you do not want life support in the event of a "terminal condition" or a "persistent vegetative state." If you have a document called a Living Will, you should replace it with an Advance Medical Directive, Health Care Directive, Health Care Power of Attorney, or Medical Power of Attorney.
Marital Deduction	A deduction allowing for the unlimited transfer of any or all property from one spouse to the other generally free of estate and gift tax.
Minority Discount	A discount applied to the value of an interest in a corporation, limited liability company or limited partnership that is not publicly marketable to reflect the fact that a minority interest in the company has less value than a controlling interest, since the holder of the former cannot control business actions.
Partnership	A type of unincorporated business organization in which multiple individuals, called general partners, manage the business and are equally liable for its debts.
Per Stirpes	A way of distributing an estate so that the surviving descendants will receive only what their immediate ancestor would have received if he or she had been alive at the time of death. State law definitions can vary.
Personal Representative	An executor, administrator, or anyone else who is in charge of a decedent's property.
Pour-Over Will	A will that passes assets from your probate estate to your trust.

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Power of Appointment	A right given to another in a written instrument, such as a will or trust that allows the other to decide how to distribute your property. The power of appointment is "general" if it places no restrictions on who the distributees may be. A power is "limited" or "special" if it limits the eventual distributee.
Power of Attorney	A document in which you delegate to an attorney-in-fact your authority to administer your assets and make legal and financial decisions. Powers of attorney can be effective immediately upon their execution (signing) by you, or "springing," that is, effective only upon a triggering event such as a certification of your incompetency. The power of attorney used for estate planning is a general power of attorney, meaning it gives your attorney-in-fact virtually unlimited power (as opposed to a "specific" or "limited" power of attorney, which would only allow your attorney-in-fact to do one thing, such as sell real estate for you). The power of attorney used for estate planning is also always "durable," meaning that it remains effective after you become incompetent, which of course is the main reason for having the document.
Probate	A court procedure for settling the personal affairs of a decedent by formally proving the validity of a will and establishing the legal transfer of property to beneficiaries, or appointing an administrator and supervising the legal transfer to property to heirs if there is no valid will.
Probate estate	Everything you own at the time of your death, except certain assets, most commonly (1) assets owned by a living trust; and (2) assets which will pass by contract or operation of law to a beneficiary or joint owner at your death. Compare to "Taxable Estate."
Qualified Terminable Interest Property (QTIP)	Property qualifying for the marital deduction at the election of the donor or the decedent's personal representative. The spouse retains a qualified income interest in the property for life, with the income payable at least annually. The corpus ultimately passes to a specified remainderman, under a special power of appointment given to the spouse
Revocable Trust	A trust which you retain the right to amend or revoke at any time. Compare to "Irrevocable Trust."
Rule Against Perpetuities	A rule of common law that makes void any estate or interest in property so limited that it will not take effect or vest within a period measured by a life or lives in being at the time of the creation of the estate plus 21 years and the period of gestation. In many states the rule has been modified by statute. Sometimes it is known as the rule against remoteness of vesting.
S Corporation	A corporation whose income is generally taxed to its shareholders, thus avoiding a corporate level tax. An election available to a corporation to be treated as a partnership for income tax purposes. To be eligible to make the election, a corporation must meet certain requirements as to kind and number of shareholders, classes of stock, and sources of income.
Settlor	Same as Grantor
Step Up In Basis	A decedent's capital gains property that passes to others escaping capital gains tax when sold by the person who inherits the property. Persons inheriting capital gains property receive the property at date-of-death fair market value. In effect, the basis in this property is deemed to be "stepped up" and does not reflect the decedent's original cost basis for determining applicable capital gains tax on the sale of the property.
Succession	A term used to describe transfers of asset ownership through inheritance, gifting, preferential sale, or other means that fulfill the wishes of the person(s) with present ownership of the assets.

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Taxable Estate	Everything you own or have control over at the time of your death including (1) assets owned by a living trust; and (2) assets which will pass by contract or operation of law to a beneficiary or joint owner at your death. Compare to "Probate Estate."
Tenants In Common	A form of asset ownership in which two or more persons have an undivided interest in the asset and the ownership shares are not required to be equal.
Testamentary Trust	A trust that you set up through your will and only becomes effective, if at all, upon your death. Often used for a contingent trust for minor children. Compare to "Living Trust."
Testator	The person who makes a will.
Transfer For Value Rule	A federal income tax rule which states that if ownership of a life insurance policy was transferred for a valuable consideration, a portion of the death proceeds may be includible in gross income rather than qualifying for the usual income tax exemption of death proceeds. Five "safe harbor" exceptions to this rule exist. They include: a transfer to the insured, to a partner of the insured, to a partnership in which the insured is a partner, to a corporation in which the insured is a shareholder or officer, and to a corporation from another corporation in a tax-free reorganization.
Trust	A legal entity which owns property, and administers and disposes of those assets. A trust is usually expressed in a document, but the document is not the trust. Assets owned by a trust do not pass through the probate estate.
Trust Declaration or Trust Instrument	A document defining the nature and duration of the trust, the powers of the trustee, and identifying the trust's beneficiaries.
Trustee	The person who administers your trust. This can be you (as long as you are competent), your spouse, a child, or a professional -- or a combination. For tax and administrative reasons, your professional advisor might counsel you to use different trustees for different purposes.
Trustor	Same as Grantor.
Undivided Interest	The interest or right in property owned by each joint tenant or tenant in common. Each tenant has equal right to use and enjoy the entire property. Unless an agreement to the contrary exists, each tenant is entitled to an income share proportional to his or her ownership interest. If the property is sold, the sale proceeds are shared among tenants in proportion to the ownership shares held by each tenant.
Unified Tax Credit	Tax credit that can be used to reduce the amount of the federal estate or gift tax.
Will	The document through which you make your wishes regarding your probate estate known.