

Glossary of Commonly Used Terms

Asset: Anything of value; property. Resource, capital, estate, money, belongings, means, chattel, possessions, holding, fund, equity, valuable, goods, financial resource, inventory, reserve, wealth.

Attorney In Fact: Someone who is given authority through a power of attorney to do a particular non legal act. An “attorney in fact” need not be a member of the legal profession.

Beneficiary: One who benefits from the act of another. One who receives an advantage, recipient, done, inheritor, legatee, receiver, heir, grantee, winner, pensioner.

Community Property: Property owned in common by a husband and wife, with each having an undivided one-half interest in the property by reason of their marital status.

Conservator: Someone appointed by the court to manage the affairs of an incompetent person, to liquidate a business, etc.

Contingent Beneficiary: A person who may or will receive a benefit, but only if the primary beneficiary becomes disqualified for the benefit, e.g., by death.

Deed: A conveyance of real property transferring title from the grantor to the grantee. Instrument, release, assignment.

Disability Panel: The group of people responsible for determining whether an individual is incapacitated. The disability panel determines whether an individual is incapacitated as defined in the terms of the individual’s Trust.

Estate: An interest in real or personal property; the extent of one’s interest in real or personal property (an estate in land). The total property of whatever kind that is owned by a decedent prior to the distribution of that property according to the terms of a will or trust.

Estate Planning: Arranging a person’s property and estate, taking into account the law of wills, taxes, insurance, property and trusts, so as to gain a maximum benefit of all laws and to carry out the persons wishes for the disposition of his or her property upon death.

Estate Taxes: A tax imposed on the right to transfer property at death; the tax is imposed on the decedent's estate and not on the recipients of the property. The latter pays an inheritance tax.

Executor: The person or institution who is appointed by the testator or testatrix in his or her Will to take care of the funds and property after death (also referred to as the "personal representative" of the estate). The executor functions under the jurisdiction of the probate court.

Fiduciary: A person or institution that manages money or property for another; someone in whom another has a right to place great trust and to expect great loyalty.

Fiduciary Capacity: Acting on behalf of another in a relationship that necessitates great confidence, trust and good faith.

Guardian: The person who has the legal duty to care for and maintain the person and/or property of an unmarried minor child.

Heir: A person who inherits property, according to a state law scheme of distribution, from a person who dies intestate.

Intestate Succession: The transfer of property to the relatives of a decedent who died without leaving a valid will. In most states a statute will specify which relatives receive intestate shares and in what amount.

Issue: All persons who have descended from a common ancestor (e.g., children, grandchildren, great grandchildren, etc.).

Joint Tenancy: Property (an estate) held by two or more person jointly (called co-tenants or joint tenants) in undivided equal shares with the right of survivorship (when a co-tenant dies, his or her share automatically passes to the surviving co-tenant(s)). The joint tenants have one and the same interest; accruing by one and the same conveyance, instrument or act; commencing at one and the same time; with one and the same undivided possession.

Life Tenant: A beneficiary whose interest consists solely in the use of, and income flow from, the property during his lifetime.

Living Will: An individual's written declaration specifying the conditions under which a person suffering from a terminal illness does not wish to be kept alive by life-support instruments; health care declaration.

Notary Public: One whose function it is to administer oaths, certify documents, take affidavits, attest to the authenticity of signatures, etc.

Pour-Over Will: A provision in a Will that directs the residue of the estate into a trust, (after probate).

Power of Attorney: A document that authorizes another to act as one's agent or attorney in fact.

Probate: A court procedure by which a Will is provided to be valid or invalid (the costs of probate). Validation, authentication, substantiation, adjudication, verification, establishment, confirmation.

Probate Court: A court with jurisdiction over the probate of Wills, the administration of estates and, in some states, the appointment of guardians and adoption of children.

Quit-Claim Deed: A deed of conveyance that passes any title, interest, or claim that the grantor may have without any assurance or warranty that the title is valid.

Revocable Living Trust: A legal entity established by means of a written trust agreement during the lifetime of the creator of the trust. The terms of the trust agreement govern the operation of the trust funds. A trust in which the creator or settlor reserves to himself or herself the right to revoke the trust.

Separate Property: Property owned by a married person in his or her own right during marriage.

Step-Up in Basis: The readjustment of the value of an appreciated asset for income tax purposes upon inheritance. With a step-up in basis, the value of the asset is determined to be the higher market value of the asset at the time of inheritance, not the value at which the original party purchased the asset.

Stirpes (Per Stirpes): The person from whom a family is descended ; a source of descent or title, ancestor.

Successor Trustee: A trustee who follows or succeeds an earlier trustee.

Survivorship: Living after another has died; becoming entitled to property by reason of surviving the death of a joint tenant(s).

Tax Identification Number: Social security number; employer identification number

Tenancy By The Entirety: A tenancy that is created between a husband and wife by which they together hold title to the whole property with the right of survivorship, so that when one dies, the other takes the whole property to the exclusion of the heirs of the deceased.

Tenancy In Common: A form of ownership by which each tenant (i.e. owner) holds an undivided interest in the property. Each tenant in common has a right to possession of the property, but the share in the property may not be equal. There is no right of survivorship. When one dies, his or her share passes to his or her heirs and not to the other tenant(s) in common (unless the latter happens to be heirs).

Testator (If female, Testatrix): A person who makes a will

Trust: A right of property, real or personal, held by one party (the trustee) for the benefit of another (the beneficiary). The creator of this right is the settlor.

Trust Deed: The deed by which one creates a trust or transfers property to a trust.

Trustmaker/Settlor (Settlor/Trustor): One who creates a trust; the grantor or donor in a deed of settlement.

Trust Protector: An entity that is appointed to watch over a trust that will be in effect for a long time and ensure that it is not adversely affected by any changes in the law. An individual may also grant the Trust Protector additional powers to remove Trustees for behavior or actions not in accordance with the Trustee's duties.

Trustee: The person or institution who is responsible for holding, managing, and distributing property contributed to a trust for the use and benefit of the beneficiary(ies).

Valuation: Ascertaining the worth of a thing; estimated worth; appraisal, estimate, examination or investigation.

Warranty Deed: A form of deed in which the grantor promises a good clear title.