

GLOSSARY OF COMMONLY USED TERMS IN ESTATE PLANNING

Much of the language used in estate planning is pretty archaic, and can be unfamiliar to most clients. Here is a glossary of terms you may see in this booklet, and which your attorney may use in your estate planning discussions.

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| Administrator | The individual appointed by the Court to manage an Estate if no Executor or Personal Representative has been appointed or if the named Executor or Personal Representative is unable or unwilling to serve. Typically, an Estate will only have an Administrator if the Decedent died without a Will. Otherwise, most Estates will be administered by one or multiple Executors/Executrices, who are appointed in the Decedent's Will. |
| Advanced Healthcare Directive | Also known as a Living Will, this is a document that allows you to protect your right to refuse medical treatment that you do not want, or to request certain treatment that you do want, in the event that you lose the ability to make decisions for yourself, and you are in a terminal, persistent vegetative state. |
| Agent | The person named under a Legal/Financial Power of Attorney or Healthcare Power of Attorney to handle the affairs of another or to make personal care decisions on behalf of another. |
| Assets | Essentially, anything you own, including your home and other real estate, bank accounts, life insurance, investments, furniture, jewelry, art, clothing, and collectibles. |
| Beneficiary | A person who will receive the benefit of property from an Estate or Trust through the right to receive a bequest or to receive income or trust principal over a period of time. |
| Codicil | A formally executed document that amends the terms of a Will so that a complete rewriting of the Will is not necessary. NOTE - We almost <i>never</i> recommend Codicils for our clients. Almost every single change to a Will is best served by simply executing an updated Will. |
| Contest | To dispute or challenge the terms of a will or trust. |
| Custodian | Person named to manage assets left to a minor under the Uniform Transfer to Minors Act. In most states, the minor receives the assets at legal age. |
| Decedent | An individual who has died. |
| Deed | A document that lets you transfer title of your real estate to another person(s). |
| Disclaim | To refuse to accept a gift or inheritance so it can go to the recipient who is next in line. |
| Disinherit | To prevent someone from inheriting from you. |
| Donee | A person who receives a gift |
| Donor | A person who gives a gift. |

A "Durable" Power of Attorney is a Legal/Financial Power of Attorney or Healthcare Power of Attorney that does not terminate upon the incapacity of the person making the Power of Attorney. Just about every Power of Attorney we include in an Estate Plan is a Durable Power of Attorney, and therefore does not terminate, and is in effect until you pass away.

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| Equity | The current market value of an asset less any loan or liability. |
| Estate | Assets and debts left by an individual at death. |
| Estate Plan | A person's strategy the administration of his or her assets upon his or her incapacity or death. This strategy often includes the preparation and execution of legal documents such as a Last Will and Testament, Powers of Attorney, and others. |
| Estate Planning | A process by which an individual designs a strategy and executes a Will, Trust agreement, or other documents to provide for the administration of his or her assets upon his or her incapacity or death. Tax and liquidity planning are part of this process. |
| Estate Tax | A federal tax imposed on a decedent's transfer of property at death. This is not to be confused with state inheritance tax. The Estate Tax threshold is currently at \$11,580,000. |
| Executor / Executrix | A person named in a Will and appointed by the Court to carry out the terms of the Will and to administer the Decedent's Estate. May also be called a Personal Representative. If a female, may be referred to as the Executrix. |
| Fiduciary | A fiduciary is a person or organization that acts on behalf of another person or persons to manage assets. |
| Fiduciary Duty | A duty owed by a Fiduciary (or Agent) to another (Principal), that includes a duty of good faith and trust, and a legal requirement that the Fiduciary/Agent act only in the other's best interests. |
| Gain | The difference between what you receive for an asset when it is sold and what you paid for it. Used to determine the amount of capital gains tax due. |
| Gift | A transfer from one individual to another without fair compensation. |
| Grantor / Settlor / Trustor | The person who sets up or creates a Trust. The person whose Trust it is. Also called creator, settlor, trustor, donor or trustmaker. |
| Gross Estate | The value of an Estate before debts are paid. |
| Guardian | An individual by a Court to act for a minor or incapacitated person (the "Ward"). A Guardian of the person is empowered to make personal decisions for the Ward. A Guardian of the property (also called a "committee") manages the property of the Ward. |
| Guardian of the Estate | Individual appointed by a Court to manage the property of a minor or an incapacitated person (the "Ward"). |
| Guardian of the Person | Individual appointed by a Court who is empowered to make personal decisions for the Ward. |
| Health Care Power of Attorney | A document that appoints an individual (an "Agent") to make health care decisions when the grantor of the power is incapacitated. |
| Heir | An individual entitled to a distribution of an asset or property interest under applicable state law in the absence of a Will. "Heir" and "Beneficiary" are not synonymous, although they may refer to the same individual in a particular case. |

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| Incapacitated | An incapacitated person is a person who is unable to manage his or her own affairs, either temporarily or permanently. |
| Inheritance | The assets received from someone who has died. |
| Inheritance Tax | Pennsylvania imposes a tax on inheritance from a decedent. The inheritance tax rate imposed on a testamentary gift is not determined by the value of the gift, like income tax would be, but rather, the tax rate is determined by the relationship between the donee and the donor. That is, the inheritance that a child may receive from a parent would be taxed at 4.5%, whereas the inheritance that a sister may receive from a brother would be taxed at 12%. |
| inter vivos | Latin term that means "between the living." An inter vivos Trust is created while you are living instead of after you die, and an inter vivos gift is a gift made during your lifetime, instead of after you die (which is referred to as a testamentary gift). |
| Intestacy | The condition of an Estate of a person who dies without a Will. When someone dies intestate (without a Will), then their assets will pass as determined by the Pennsylvania Intestacy Law. |
| Intestate | Without a Will. |
| Intestate Law | Pennsylvania law that determines what happens to the assets of a person who has died intestate (or, without a Will). |
| Irrevocable Trust | A Trust that cannot be changed (revoked) or cancelled once it is set up. Opposite of Revocable Trust. |
| Issue | The lawful, lineal descendants of an ancestor. Your issue are your children, your children's children, etc. |
| Joint Tenants with Rights of Survivorship | A form of joint ownership in which the deceased owner's share automatically and immediately transfers to the surviving joint tenant(s). (see Rights of Survivorship) |
| Last Will and Testament | A legal document that states what is to happen with your assets after you pass away, and who you wish to appoint as your Executor/Executrix, who will be responsible for making that happen. |
| Letters Testamentary | Documents issued by the County Register of Wills to the Executor/Executrix, which give the Executor/Executrix the authority to act as the administrator of the Estate. An Executor/Executrix will typically need to present these Letters (aka Short Certificates) to institutions like banks, etc. as proof that they are legally authorized to handle the decedent's assets. |
| Life Estate | The interest in property owned by a life beneficiary (also called life tenant) with the legal right under state law to use the property for his or her lifetime, after which title fully vests in the remainderman (the person named in the deed, trust agreement, or other legal document as being the ultimate owner when the life estate ends). |
| Liquid Assets | Cash and other assets (like stocks) that can easily be converted into cash. |
| Liquidity | The degree to which an asset can be quickly sold and converted into cash. |
| Living Trust | A Trust created by an individual during his or her lifetime, typically as a Revocable Trust. Also referred to as an "inter vivos" Trust, "Revocable Living Trust" or "Loving Trust." |
| Living Will | A written document that states you do not wish to be kept alive by artificial means when the illness or injury is terminal. |

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| Net Estate | The value of an Estate after all debts have been paid. (Federal estate taxes and Pennsylvania Inheritance Taxes are based on the net value of an estate.) |
| Non-Probate Assets | A non-probate asset is an asset that will pass directly to a designated beneficiary <i>without</i> the need for probate. This is an asset that is <i>not</i> controlled by a Will (as opposed to a probate asset). Examples of non-probate assets include IRA's, 401(k)'s, certain jointly owned property with rights of survivorship, etc. |
| Payable on Death | A bank account that will transfer to the beneficiary who was named when the account was established. The terms "transfer on death" ("TOD"), "in trust for" ("ITF"), "as trustee for" ("ATF"), and "pay on death" ("POD") often appear in the title. |
| Personal Property | Movable property. Includes furniture, automobiles, equipment, cash and stocks. Opposite of real property that is permanent (like land). |
| Principal | In a Power of Attorney document, the Principal is the person who appoints the Agent to act on the Principal's behalf. So, if you were to execute a Power of Attorney, you would be considered the Principal. |
| Probate | The legal process of validating a Will, paying debts, and distributing assets after death. |
| Probate Assets | The assets that go through probate after you die. Usually these include assets you own in your name and those paid to your estate. Usually does not include assets owned jointly, payable-on-death accounts, insurance and other assets with beneficiary designations. Assets in a Trust also do not go through probate. |
| Property Power of Attorney | Authorization, by a written document, that one individual may act in another's place as Agent or attorney-in-fact with respect to some or all legal and financial matters. |
| Real Property | Land and property that is permanently attached to land (like a building or a house). |
| Residue (or Residuary Estate) | The property remaining in a decedent's Estate after payment of the Estate's debts, taxes, and expenses and after all specific gifts of property and sums of money have been distributed as directed by the Will. Also called the residuary estate. |
| Revocable Trust | A Trust created during lifetime over which the Grantor reserves the right to terminate, revoke, modify, or amend. |
| Rights of Survivorship | When an asset is jointly owned by two or more people "with rights of survivorship," this means that in the event that own joint owner dies, the surviving joint owner(s) automatically retains ownership of the asset. For example, if John and Jane own a joint bank account as rights of survivorship, and then John dies, Jane will <i>automatically</i> own the entire bank account, regardless of what John's Will says. On the other hand, if the account is jointly owned <i>without</i> rights of survivorship, then 1/2 of the account (John's interest) will be part of John's estate, and will be controlled by John's Will. |
| Short Certificate | See Letters Testamentary |
| Special Needs Trust | An SNT is a special type of Trust that allows for a physically or mentally disabled or chronically ill person to receive income without reducing their eligibility for the public assistance disability benefits provided by Social Security, such as Supplemental Security Income, Medicare, or Medicaid. |

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| Specific gifts/bequests/devises | A separate listing of special assets that will go to specific individuals or organizations after your incapacity or death. Also called special bequests. |
| Successor Agent | In a Power of Attorney document, a Successor Agent is an individual who would take over as Agent in the event that the Primary Agent were to resign, become incapacitated, or pass away. |
| Surrogate | A person you may appoint in your Living Will who may make decisions regarding life sustaining treatment for you if you are ever both incompetent, and either terminally ill or permanently unconscious, <i>and</i> your Living Will does not specifically address the particular decision. NOTE: Your Surrogate <i>may not</i> override a directive in your Living Will, and may <i>only</i> act with authority in the event that you are faced with a decision that is not specifically addressed in your Living Will. |
| Surviving [spouse/child/sibling/family member] | The [spouse/child/sibling/family member] who is living after one spouse has died. |
| Tenants by the Entireties | A form of joint ownership in some states between husband and wife. When one spouse dies, his/her share of the asset automatically transfers to the surviving spouse. Note - Tenants by the Entireties functions the same as Joint Tenants with Rights of Survivorship, but Tenants by the Entireties is a form of ownership available <i>only</i> married couples. |
| Tenants in Common | A form of joint ownership in which two or more persons own the same property. At the death of a tenant-in-common, his/her share transfers to his/her heirs. |
| Testamentary Gift | A gift made through a Will, Trust, or other distribution upon one's death. (As opposed to an inter vivos gift which is made during one's lifetime) |
| Testamentary Intent | A person's intention with respect to how their affairs should be handled after they die. |
| Testate | One who dies with a valid Will. |
| Testator | A person who signs a Will. If a female, may be referred to as the Testatrix. |
| Transferable on Death | A beneficiary designation for a financial account (and in some states, for real estate) that automatically passes title to the assets at death to a named individual or revocable trust without probate. Frequently referred to as a TOD (transfer on death) or POD (payable on death) designation. |
| Trust | An arrangement whereby property is legally owned and managed by an individual or corporate fiduciary as trustee for the benefit of another, called a beneficiary, who is the equitable owner of the property. |
| Trustee | The individual or bank or trust company designated to hold and administer trust property (also generally referred to as a "fiduciary"). The term usually includes original (initial), additional, and successor trustees. A Trustee has the duty to act in the best interests of the Trust and its beneficiaries and in accordance with the terms of the Trust instrument. A Trustee must act personally (unless delegation is expressly permitted in the trust instrument), with the exception of certain administrative functions. |

Uniform Transfers to Minors Act

A law enacted by some states providing a convenient means to transfer property to a minor. An adult person known as a “custodian” is designated by the donor to receive and manage property for the benefit of a minor. Although the legal age of majority in many states may be 18, the donor may authorize the custodian to hold the property until the beneficiary reaches age 21. Formerly called the Uniform Gifts to Minors Act.

Ward

A person (often a minor or incapacitated person) who is under the care of a court appointed Guardian.

Will

A writing specifying the beneficiaries who are to inherit the testator’s assets and naming a representative to administer the estate and be responsible for distributing the assets to the beneficiaries.