

Glossary Of Estate Planning Terms

Estate planning has a language of its own. While you may be familiar with common terms such as a will, a trust or an executor, you may not be as certain about others. For quick reference, here's a glossary of terms you're likely to come across in your estate planning documents.

Administrator: An individual or fiduciary appointed by a court to manage an estate if no executor or personal representative has been appointed or the appointee is unable or unwilling to serve.

Ascertainable standard: The legal standard, typically relating to an individual's health, education, support and maintenance, that's used to determine what distributions are permitted from a trust.

Attorney-in-fact: The individual named as the agent under a power of attorney to handle the financial and/or health affairs of another person.

Codicil: A legally binding document that makes minor modifications to an existing will without requiring a complete rewrite of the will.

Community property: A form of ownership in certain states in which property acquired during a marriage is presumed to be jointly owned regardless of who paid for it.

Credit shelter trust: A trust established to bypass the surviving spouse's estate to take full advantage of each spouse's federal estate tax exemption. It's also known as a bypass trust or an exemption trust.

Fiduciary: An individual or entity, such as an executor or trustee, designated to manage assets or funds for beneficiaries and is legally required to exercise an established standard of care.

Grantor trust: A trust in which the grantor retains certain control so that it's disregarded for income tax purposes.

Inter vivos: The legal phrase used to describe various actions (such as transfers to a trust) made by an individual during his or her lifetime.

Intestacy: If a person dies without a legally valid will, the deceased's estate is distributed in accordance with the applicable state's intestacy laws.

Joint tenancy: An ownership right in which two or more individuals (such as a married couple) own assets, often with rights of survivorship.

No-contest clause: A provision in a will or trust that is designed to prevent legal challenges to your estate plan by eliminating any person who would initiate such a challenge from receiving any benefits from your estate.

Pour-over will: A will used, upon death, to pass ownership of assets that weren't transferred to a revocable trust.

Power of appointment: The power granted to an individual under a trust that authorizes him or her to distribute assets on the termination of his or her interest in the trust or on certain other circumstances.

Power of attorney (POA): A legal document authorizing someone to act as attorney-in-fact for another person relating to financial and/or health matters. A "durable" POA continues if the person is incapacitated.

Qualified disclaimer: The formal refusal by a beneficiary to accept an inheritance or gift or to allow the inheritance or gift to pass to the successor beneficiary.

Qualified terminable interest property (QTIP): Property in a trust or life estate that qualifies for the marital deduction because the surviving spouse is the sole beneficiary during his or her lifetime. The assets of the QTIP trust are therefore included in the estate of the *surviving* spouse, that is, the spouse that is the beneficiary of the trust, not the estate of the spouse that created the trust.

Probate: The legal process of settling an estate in which the validity of the will is proven, the deceased's assets are identified and distributed, and debts and taxes are paid.

Spendthrift clause: A clause in a will or trust restricting the ability of a beneficiary (such as a child under a specified age) to transfer the beneficiary's interest under the will or trust.

Tenancy by the entirety: An ownership right between two spouses in which property automatically passes to the surviving spouse on the death of the first spouse to die.

Tenancy in common: An ownership right in which each person possesses rights and ownership of an undivided interest in the property.

Keep in mind that this is just a brief roundup of several key estate planning terms. If you have questions about their meanings or others, contact your estate planning advisor.

© 2023



1875 Century Park East, Suite 2000
Los Angeles, CA 90067
(P) 310 553-8844 | (F) 310 553-5165
www.weinstocklaw.com