



Estate Planning Terms

Codicil: A formally executed document that amends the terms of a will so that a complete rewriting of the will is not necessary.

Durable power of attorney: A power of attorney that does not terminate upon the incapacity of the person making the power of attorney.

Estate Tax: A tax on your right to transfer property at your death. It consists of an accounting of everything you own or have an interest in as of the date of your death – your “Gross Estate”. Included may consist of cash and securities, real estate, insurance, trusts, annuities, business interests and other assets. There is potential tax at the Federal and State level.

Exemptions: After calculating your Gross Estate, certain deductions are allowed to arrive at your “Taxable Estate”.

Federal Exemption: \$12,060,000 in 2022 and \$12,920,000 in 2023

Oregon Exemption: \$1,000,000 (not adjusted for inflation)

Washington Exemption: \$2,193,000 (for 2017-2023)

Executor: 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: An individual or a bank or trust company designated to manage money or property for beneficiaries and required to exercise the standard of care set forth in the governing document under which the fiduciary acts and state law. Fiduciaries include executors and trustees.

Gift/Annual Exclusion: An individual may give annually to an unlimited number of other individuals free of federal gift or other transfer taxes without any IRS reporting requirements. The annual gift amount for 2022 is \$16,000 and \$17,000 for 2023. Note: Payments made directly to providers of education or medical care services are also tax-free and do not count against the annual exclusion or gift tax exemption amounts.

Guardian: An individual or bank or trust company appointed 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.

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. Also referred to as a “health care proxy.”

Intestate: When one dies without a valid will, such that the decedent’s estate is distributed in accordance with a state’s intestacy law.



Irrevocable Trust – A trust that cannot be terminated or revoked or otherwise modified or amended by the grantor. As modern trust law continues to evolve, however, it may be possible to effect changes to irrevocable trusts through court actions or a process called decanting, which allows the assets of an existing irrevocable trust to be transferred to a new trust with different provisions.

Joint Tenancy: An ownership arrangement in which two or more persons own property, usually with rights of survivorship (JTWROS).

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.” (**Revocable trust** – A trust created during lifetime over which the grantor reserves the right to terminate, revoke, modify, or amend.)

Marital Deduction: An unlimited federal estate and gift tax deduction for property passing to a spouse in a qualified manner. In other words, property transfers between spouses generally are not taxable transfers because of the marital deduction.

No-Contest Clause: A provision in a will or trust agreement that provides that someone who sues to receive more from the estate or trust or overturn the governing document will lose any inheritance rights he or she has. These clauses are not permissible in all instances or in all states.

Personal Representative: An executor or administrator of a decedent’s estate.

Per Stirpes: A Latin phrase meaning “per branch” and is a method for distributing property according to the family tree whereby descendants take the share their deceased ancestor would have taken if the ancestor were living. Each branch of the named person’s family is to receive an equal share of the estate. If all children are living, each child would receive a share, but if a child is not living, that child’s share would be divided equally among the deceased child’s children.

Pour Over Will: A will used in conjunction with a revocable trust to pass title at death to property not transferred to the trust during lifetime.

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. The scope of authority granted is specified in the document and may be limited by statute in some states. A power of attorney terminates on the death of the person granting the power (unless “coupled with an interest”) and may terminate on the subsequent disability of the person granting the power (unless the power is “durable” under the instrument or state law).

Probate: The court supervised process of proving the validity of a will and distributing property under the terms of the will or in accordance with a state’s intestacy law in the absence of a will.

Small Estate Probate: A court procedure to transfer the title of solely-owned property to the heirs if the estate has a fair market value of \$100K or less in WA. In Oregon, \$275,000 or less, with no more than \$75,000 of personal property and no more than \$200,000 of real property.



Special Needs Trust: Trust established for the benefit of a disabled individual that is designed to allow him or her to be eligible for government financial aid by limiting the use of trust assets for purposes other than the beneficiary's basic care.

Spendthrift Provision: A trust provision restricting both voluntary and involuntary transfers of a beneficiary's interest, frequently in order to protect assets from claims of the beneficiary's creditors.

Tenancy in Common (TIC): A co-ownership arrangement under which each owner possesses rights and ownership of an undivided interest in the property, which may be sold or transferred by gift during lifetime or at death.

Testamentary Trust: A trust established in a person's will to come into operation after the will has been probated and the assets have been distributed to it in accordance with the terms of the will.

Transfer on Death designation/registration: A beneficiary designation for a financial non-retirement 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.

Uniform Transfers to Minors Act (UTMA): 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.

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.