

Beginning the Estate Planning Process

Estate Planning Terms

Administrator: Person named by the court to represent a probate estate when there is no will or the will did not name an executor. Female is administratrix. Also called personal representative. Will collect all assets, pay creditors, and distribute remaining assets.

Authorized Signer: Has access to funds within the account, even if they are not the owner of the account. A way to give a person access to an account without giving them joint ownership of its assets.

Beneficiaries: Person(s) or charity(ies) receiving benefits from the trust, life insurance policy, or retirement plan.

Contingent Beneficiary: A person or organization that is a beneficiary only upon the occurrence of some “contingent” event. It may be that primary beneficiary is unable to receive the asset (perhaps due to death or other circumstance) or that predetermined terms are met that prove they remain eligible for receipt

Creator or grantor: The person who creates the trust.

Custodian: A person or trust company responsible for the care and management of property for a minor. The relationship is a financial (*fiduciary*) relationship. Adults in certain circumstances may also have a custodian.

Deed: A document that lets you transfer title of your real estate to another person(s).

Durable Power of Attorney for Finances: Makes financial decision for him or her (DPOA).

Durable Power of Attorney for Healthcare: Makes health care decisions for him or her (DPOAHC).

Estate (or Assets): All property, both real (land, buildings) and personal (automobiles, clothing, money, household items, etc.) that one owns.

Executor (male)/Executrix (female): One named in a will to carry out the provisions of the will.

Grantor: A person who establishes and transfers property to a trust. Another name for this is *settlor*.

Guardian: A person responsible for the care of a minor (called *guardian of the person*) or a minor's property (called the *property guardian*).

Heir: One entitled to inherit property.

Health Portability and Accountability Act (HIPAA): A health care form signed to provide permission for healthcare information to be shared with whomever is listed on the form.

Intestate: One who dies without leaving a will. His/her property passes to his/her heirs by “intestate succession” determined by state law.

Irrevocable Trust: Give up title to property, cannot alter, amend, or revoke.

Joint Tenancy: A type of co-ownership involving multiple owners with undivided ownership and right of survivorship for titled property.

Letter of Last Instruction: An organized way for you to give your family all the facts about your finances; outlines the location of your important papers; contains information about your personal desires and how you would like your personal affairs handled when you die or are incapacitated.

Living Will: A document that allows a person to state in advance that his or her dying should not be artificially prolonged.

Non-Titled Property: Personal items without a legal document (such as a title or deed) to indicate who officially owns the items; may have monetary worth or may be cherished primarily for their sentimental value.

Payable on Death: A designation for assets to pass such as bank accounts.

Personal Property: Any interest a person owns that's not real property.

Pour-Over Will: A type of will used with a trust. Any assets that were not included in the trust will be poured over to the trust by the will.

Power of Attorney: A document executed by you which gives another person (your *agent*) the right to act on your behalf. A power of attorney can be written to include very broad powers or very limited powers.

Probate: Used to prove a will's validity to the court and to carry out its provisions.

Real Property: Primary residence, vacation home, land, buildings, and other immovable property.

Revocable Trust: Flexible, remain in control of assets, change terms, alter, amend, or revoke.

Separate List (Personal Property Memorandum): A legal method (in many states) used to distribute non-titled property; must be either in the handwriting of the owner or signed by the owner; property and people must be clearly identified; kept with personal papers; must be mentioned in the will or trust to be legally valid; need to be dated to ensure most recent wishes; can be easily updated.

Social Security Representative Payee: A person appointed by you or the Social Security Administration to manage another person's (beneficiary) Social Security or Supplemental Security Income (SSI) payments.

Step-Up in Basis (Stepped Up Basis): Adjustment to the cost basis (value) of an asset to fair market value upon the death of the owner.

Tenancy in Common: Multiple owners with partial, undivided ownership of a titled property. The death of a tenant in common does not automatically pass ownership to the other co-owners.

Transfer on Death Deed: Directs the transfer of the owner's interest in a property at owner's death. Does not avoid estate recovery from Medicaid or estate taxes and does avoid probate. Land, homes, royalties, some oil/gas and mineral rights or titled vehicles are examples of this.

Trust: Legal vehicle created to own your property and give instructions for managing your assets.

Trustee: Manages the property.

Veteran Affairs Representative Payee: A person appointed by you or the VA to manage the finances and benefits of another person (beneficiary) who may be unable to do so themselves.

Wills: The legal declaration of how you want your property distributed after your death.

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This publication is not intended to provide a substitute for legal advice. Nor is it intended to serve as a complete and exhaustive text on estate planning. Rather, it is designed to provide basic, general information about the fundamentals of estate planning so you will be better prepared to work with professional advisors to design and implement an effective estate plan. Information in this publication is based on the laws in force on the date of publication.

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