

Administration

The care and management of a trust or estate by a trustee, executor or guardian.

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.

Agency Account

An account in which the title to the property constituting the agency does not pass to the corporate fiduciary, but remains the property of the owner. The agent is charged with certain duties with respect to the property.

Agent

A person who acts on behalf of another person, at that person's request. The agent controls the property but does not have ownership.

Alternate Beneficiary

Person or organization named to receive your assets if the primary beneficiaries named in your Trust die before you do.

Ancillary Administration

An additional probate in another state. Typically required when you own real estate in another state that is not titled in the name of your trust.

Annual Exclusion

The amount of money or property (currently \$11,000 for an individual and \$22,000 for a married couple) that may be given as a gift to a recipient each year without incurring a gift tax.

Appraisal

The process of evaluating the monetary worth of property that is part of an estate.

Assets

Basically, anything you own, including your home and other real estate, bank accounts, life insurance, investments, furniture, jewelry, art, clothing, and collectibles.

Assignment

A short document that transfers your interest in assets from your name to another. Often used when transferring assets to a trust.

A Trust

The surviving spouse's portion of an A-B trust. Also called marital trust or survivor's trust.

A-B Trust

A trust that includes a tax-planning provision that lets you provide for your surviving spouse and keep control over who will receive your assets after your spouse dies. It also lets both spouses use their federal estate tax exemptions. This can save a substantial amount in estate taxes and leave more money for your beneficiaries. For example, in 2011 and 2012, when the federal estate tax exemption is \$5 million, an A-B trust will let a married couple transfer up to \$10 million to their beneficiaries estate tax- free, saving up to \$1,750,000 in estate taxes.

B Trust

The deceased spouse's portion of an A-B trust. Also called credit shelter or bypass trust.

Basis

What you paid for an asset. The value that is used to determine gain or loss for income tax purposes.

Beneficiaries

In a living trust, the persons and/or organizations who receive the trust assets (or benefit from the trust assets) after the death of the trust grantor.

Beneficiary

An individual named as the recipient of the income or principal of an estate or trust.

By-Pass Trust

Another name for the "B" part of an A-B living trust because the assets in this trust bypass federal estate taxes.

C Trust

See "QTIP."

Certificate of Trust

A shortened version of a trust that verifies the trust's existence, explains the powers given to the trustee, and identifies the successor trustee(s). Does not reveal any information about the trust assets, beneficiaries, or their inheritances.

Children's Trust

A trust included in your living trust. If, when you die, a beneficiary is not of legal age, the child's inheritance will go into this trust. The inheritance will be managed by the trustee you have named until the child reaches the age at which you want him/her to inherit.

Claim Against an Estate

Refers to a charge against an estate to settle an agreement or an outstanding obligation (as in the case of bills unpaid at the time of death).

Codicil

An addition or other change to an existing will.

Co-Grantors

Two or more persons who establish one living trust together.

Co-Trustees

Two or more individuals who have been named to act together in managing a trust's assets. A corporate trustee can also be a co-trustee.

Common Trust

One living trust established by two or more individuals (usually a married couple).

Community Property

Property in which a husband and wife each have one-half interest by reason of their marital status. (Not all states have community property).

Conservator

One who is legally responsible for the care and well-being of another person. If appointed by a court, the conservator is under the court's supervision. May also be called a guardian. (Duties and titles can vary by state. For example, in Missouri, there is a guardian of the person and a conservator of the estate.)

Conservatorship

A court-controlled program for persons who are unable to manage their own affairs due to mental or physical incapacity. May also be called a guardianship.

Contest of a Will

Legal proceedings to prevent or alter distribution of estate assets as described in a will.

Corporate Trustee

An institution, generally a bank or trust company, that specializes in managing trusts.

Credit Shelter Trust

Another name for the B Trust in an A-B living trust because this trust "shelters" or preserves the federal estate tax "credit" of the deceased spouse.

Creditor

Person or institution to whom money is owed.

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.

Custody Account

An account in which a corporate or professional fiduciary holds your assets and provides record keeping while the trustee or investment management responsibilities are handled by you or another individual.

Death Taxes

A general term used to refer to taxes against property or the transfer of assets on the owner's death, including all estate and inheritance taxes. Sometimes referred to as estate taxes.

Deceased

One who has died.

Deduction

For tax purposes, the portion of an estate that does not generate tax (such as the marital deduction).

Deed

A document that lets you transfer title of your real estate to another person(s). Also see warranty deed and quitclaim deed

Disclaim

To refuse to accept a gift or inheritance so it can go to the recipient who is next in line.

Discretion

The full or partial power to make a decision or judgment.

Disinherit

To prevent someone from inheriting from you.

Distribution

Payment in cash or asset(s) to one who is entitled to receive it.

Donee

The recipient of a gift.

Donor

The giver of a gift.

Durable Power of Attorney for Asset Management

A legal document that gives another person full or limited legal authority to sign your name on your behalf in your absence. Valid through incapacity. Ends at death.

Durable Power of Attorney for Health Care

A legal document that lets you give someone else the authority to make health care decisions for you in the event you are unable to make them for yourself. Also called a health care proxy or medical power of attorney.

Equity

The current market value of an asset less any loan or liability.

Estate

Assets and debts left by an individual at death.

Estate Planning

The process of identifying your assets, determining how you would like them distributed, and using all resources available to minimize the effect of estate taxes. Three key elements make up an estate plan – a will, trust(s) and durable power of attorney.

Estate Taxes

Federal or state taxes on the value of assets left at death. Also called inheritance taxes or death taxes.

Executor

The individual or institution named in a will and charged with carrying out the provisions it specifies. A co-executor serves as executor sharing duties with one or more designated individuals. (See Personal Representative).

Federal Estate Tax Exemption

Amount of an individual's estate that is exempt from federal estate taxes. In 2011 and 2012, the exemption is \$5 million. If Congress does not act by the end of 2012, on January 1, 2013 the exemption will be \$1 million.

Fiduciary

An individual or institution responsible for acting in the best interests of another party. A fiduciary is bound by law and duty to put aside personal interests and act in good faith when making decisions for the benefit of another.

Funded Trust

A trust in which there has been a legal transfer of title to the trustee. The usually can be accomplished with relatively simple paperwork.

Funding

The process of transferring assets to your living trust.

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.

Gift Tax

A federal tax on gifts made while you are living. Currently \$13,000 per person per year is exempt from gift tax. Also see "Annual Exclusion."

Grantor

The person who creates the trust.

Gross Estate

The value of an estate before debts are paid.

Guardian

An individual or institution named by a court to manage the property of a person who is judged incapable of handling his or her own affairs.

Guardianship

See "Conservatorship."

Health Care Proxy

See "Durable Power of Attorney for Health Care."

Heir

Someone who inherits from the estate of a person who has died.

Holographic Will

A handwritten will.

Homestead Exemption

Portion of your residence (dwelling and surrounding land) that cannot be sold to satisfy a creditor's claim while you are living.

Incapacitated/ Incompetent

Unable to manage one's own affairs, either temporarily or permanently. Lack of legal power.

Independent Administration

A form of probate available in many states. Intended to simplify the probate process by requiring fewer court appearances and less court supervision.

Inheritance

The assets received from someone who has died.

Intestate

Dying without a will.

Invasion of a Trust

A distribution of assets made from the principal of the trust.

Irrevocable Trust

A type of trust that cannot be altered or amended once established.

Joint Ownership

Ownership of property by two or more people, generally with the right of survivorship (on the death of one owner, the surviving owner or owners assume ownership). Also called joint tenancy.

Joint Tenants with Right of Survivorship

A form of joint ownership in which the deceased owner's share automatically and immediately transfers to the surviving joint tenant(s).

Land Trust

Often used for privacy. Title is transferred to a corporate trustee or corporation, but you keep control over how the property is managed. Because the title is in the name of the corporate trustee or corporation, no one knows the property belongs to you. In all financial transactions and dealings, your personal name never comes up. Also called a title holding trust.

Life Insurance Trust

A trust used to shelter the proceeds of your life insurance from income and estate taxes.

Liquid Assets

Cash and other assets (like stocks) that can easily be converted into cash.

"Living Probate"

The court-supervised process of managing the assets of one who is incapacitated.

Living Trust

A revocable trust designed to provide financial benefits to you during your lifetime, and for your beneficiaries after your death.

Living Will

A legal document in which an individual states, in advance of final illness or injury, his or her wishes regarding procedures and equipment designed to extend life.

Marital Deduction

A deduction on the federal estate tax return that lets the first spouse to die leave an unlimited amount of assets to the surviving spouse free of estate taxes. However, if no other tax planning is used, and the surviving spouse's estate is more than the amount of the federal estate tax exemption in effect at the time of his/her death, estate taxes will be due at that time.

Marital Trust

See "A Trust."

Marital and Family Trust

Trusts that use the unified tax credit and the unified marital deduction to maximize tax savings for married couples. Also referred to as A-B trusts, marital and bypass trusts, or marital and credit shelter trusts.

Medicaid

A federally-funded health care program for the poor and minor children.

Medicare

A federally-funded health care program, primarily for Americans over age 65 who are covered by Social Security or Railroad Retirement benefits.

Minor

One who is under the legal age for an adult, which varies by state (usually age 18 or 21).

Net Estate

The value of an estate after all debts have been paid. (Federal estate taxes are based on the net value of an estate.)

Net Value

The current market value of an asset less any loan or debt.

Payable-on-Death Account

See "Totten Trust."

Per Capita

A way of distributing your estate so that your surviving descendants will share equally, regardless of their generation.

Per Stirpes

A way of distributing your estate so that your surviving descendants will receive only what their immediate ancestor would have received if he/she had been living at your death.

Personal Property

Movable property. Includes furniture, automobiles, equipment, cash and stocks. Opposite of real property that is permanent (like land).

Personal Representative

A general term applicable to both executor and administrator. (See Executor.)

Planned Giving

Charitable gifts that require planning before they are made. They can provide valuable tax benefits and help achieve personal charitable objectives.

Pour Over Will

A short will often used with a living trust. It states that any assets left out of your living trust will become part of (*pour over* into) your living trust upon your death.

Power of Appointment

The power given by an individual to another in a will or trust document to determine which people will receive an interest in his or her estate.

Power of Attorney

A legal document authorizing one individual to act as the agent or “attorney” for another (the principal). If the attorney is authorized to act on behalf of another for all matters, he or she has general power of attorney. Authority to act solely regarding specified situations is special power of attorney. If the authority granted extends beyond the disability of the principal, the attorney has durable power of attorney.

Principal

- (1) One who employs an agent to act on his or her behalf.
- (2) One who is primarily liable on an obligation.
- (3) The property of an estate other than the income from the property; the same as capital.

Probate

The public legal process whereby the legitimacy of a will is established and the administration of the estate is overseen by the court.

Probate Estate

The assets that go through probate after you die. Usually this includes 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.

Probate Fees

Legal, executor, and appraisal fees and court costs when an estate goes through probate. Probate fees are paid from assets in the estate before the assets are fully distributed to the heirs.

Qualified Domestic Trust (QDOT)

Allows a non-citizen spouse to qualify for the marital deduction.

Qualified Terminable Interest Property (QTIP)

A trust that delays estate taxes until your surviving spouse dies so more income will be available to provide for your spouse during his/her lifetime. You can also keep control over who will receive these assets after your spouse dies.

Qualifying Subchapter S Trust (QSST)

Trust that meets certain IRS qualifications and is allowed to own Subchapter S stock.

Quitclaim Deed

Document that allows you to transfer title to real estate. With a quitclaim deed, the person transferring the title makes no guarantees, but transfers all his/her interest in the property.

Real Property

Land and property that is permanently attached to land (like a building or a house).

Recorded Deed

A deed that has been filed with the county land records. This creates a public record of all changes in ownership of property in the state.

Remainderman

In the case of a trust, the individual who will receive the principal of a trust when the final distribution takes place.

Revocable Trust

A trust in which the person setting it up retains the power to change (revoke) or cancel the trust during his/her lifetime. Opposite of irrevocable trust.

Required Beginning Date (RBD)

The date you must begin taking required minimum distributions from your tax-deferred plans. Usually, it is April 1 of the calendar year following the calendar year in which you turn age 70 1/2. If your money is in a company-sponsored plan, you may be able to delay your RBD beyond this date if you continue working (providing you are not a 5% or greater owner of the company).

Required Minimum Distribution (RMD)

The amount you are required to withdraw each year from your tax-deferred plan after you reach your Required Beginning Date. This amount is determined by dividing the year-end value of your tax-deferred account by a life expectancy divisor found on a chart provided by the IRS.

Self Declaration of Trust

A one-party arrangement in which you, as the trust maker, declare yourself to be trustee of your own assets for your own benefit. A type of living trust.

Settlement

The culmination and distribution of an estate, by an executor or an administrator.

Settlor

An individual who creates a trust that operates during his or her lifetime.

Separate Property

Generally, all assets you acquire prior to marriage and assets acquired by gift or inheritance during marriage.

Separate Trust

A trust established by one person. A married couple has separate trusts if each spouse has his/her own trust with its own assets. In contrast, see "Common Trust."

Settle an Estate

The process of handling the final affairs (valuation of assets, payment of debts and taxes, distribution of assets to Beneficiaries) after someone dies.

Settlement

The culmination and distribution of an estate, by an executor or an administrator.

Settlor

An individual who creates a trust that operates during his or her lifetime.

Special Gifts

A separate listing of special assets that will go to specific individuals or organizations after your incapacity or death. Also called special bequests.

Special Needs Trust

Allows you to provide for a disabled loved one without interfering with government benefits.

Spendthrift Clause

Protects assets in a trust from a beneficiary's creditors.

Spouse

Husband or wife.

Stepped-up Basis

Assets are given a new basis when transferred by inheritance (through a will or trust) and are re-valued as of the date of the owner's death. If an asset has appreciated above its basis (what the owner paid for it), the new basis is called a stepped-up basis. A stepped-up basis can save a considerable amount in capital gains tax when an asset is later sold by the new owner. Also see "Basis."

Subchapter S Corporation Stock

Stock in a corporation which has chosen to be subject to the rules of subchapter S of the Internal Revenue Code.

Successor Trustee

An individual or corporation designated to assume the role of trustee or co-trustee under certain circumstances, usually upon the death, resignation or incapacity of the initial trustee or co-trustee.

Surviving Spouse

The spouse who is living after one spouse has died.

Survivor's Trust

See "A Trust."

Tax-Deferred Plan

A retirement savings plan (like an IRA, 401(k), pension, profit sharing, or Keogh) that qualifies for special income tax treatment. The contributions made to the plan and subsequent appreciation of the assets are not taxed until they are withdrawn at a later time -- ideally, at retirement, when your income and tax rate are lower.

Taxable Gift

Generally, a gift of more than \$13,000 in one year to someone other than your spouse. The value of the taxable gift is applied to your \$1 million federal gift tax exemption. Once you have exceeded your \$1 million lifetime exemption, gifts will be taxed. Under current law, beginning in 2010, the gift tax rate will equal the highest individual income tax rate (currently scheduled to be 35% in 2010).

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.

Tenants-by-the Entirety

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.

Testamentary Trust

A trust established by the terms of a will. The trust become effective and is fully funded only after the administration and settlement of an estate. Also called a trust under will.

Testate

One who dies with a valid will.

Title

Document proving ownership of an asset.

Transfer Tax Tax on assets when they are transferred to another. The estate tax, gift tax and generation skipping transfer tax are all transfer taxes.

Trust

A fiduciary relationship in which an individual or institution (the trustee) holds legal title to property with the responsibility of managing this property for the benefit of another person (the beneficiary).

Trust Agreement

An agreement between the settler and the trustee. The legal document establishes a trust and outlines the rules and guidelines affecting the management and disposition of the trust property.

Trust Company

An institution that specializes in managing trusts. Also called a corporate trustee.

Trustee

An individual or a corporation empowered by law to hold legal title to property for the benefit of someone else. A co-trustee is an individual or institution who shares the fiduciary responsibilities of administering a trust.

Trustor

See "Grantor."

Totten Trust

A "pay-on-death" account. 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.

Unified Credit

The amount each person is allowed to deduct from any federal estate taxes owed after death. In 2009, the credit was \$1,575,000, which was the amount of estate taxes owed on the first \$3.5 million in assets. Under current law, as of January 1, 2010, the federal estate tax has been repealed so there is currently no unified credit in 2010. If Congress reinstates the estate tax in 2010, a unified credit will also be reinstated.

Uniform Transfer to Minors Act (UTMA)

Law enacted in many states that lets you leave assets to a minor by appointing a custodian. In most states, the minor receives the assets at legal age.

Unfunded

Your living trust is unfunded if you have not transferred assets into it.

Warranty Deed

Document that allows you to transfer title to real estate. With a warranty deed, the person guarantees that the title being transferred is clear (free of any encumbrances). If the title is defective, the person making the transfer is liable. Compare to quitclaim deed.

Will

A legal document in which a person states binding directions about what he or she wants done with his or her property after death.

How to Find Out More

With the proper help and guidance, developing your estate plan need not be burdensome or overwhelming. In fact, many individuals with an estate plan in place find reassurance in knowing their wishes will be observed and family members cared for. If you're interested in establishing an estate plan for yourself, or just want additional information, call on us.