

Estate Planning Definitions

Beneficiary: A person for whose benefit property is held in trust; especially one designated to benefit from an appointment, disposition, or assignment (as in a Will, insurance policy, retirement plan, annuity, etc.) or to receive something as a result of a legal arrangement or instrument

Decedent: A dead person, especially one who has died recently.

Devisee: A recipient of real property by Will

Disclaim: to refuse to accept a gift or inheritance so that it passes to the next recipient in line; also “Renounce”

Estate: all that person owns, including both real and personal tangible and intangible property

Executor (also known as a personal representative or administrator in the case of an intestate estate): A person named by a testator to carry out the provisions in the testator’s Will

Guardian: One who has the legal authority and duty care for another’s person and/or property, especially because of the other’s infancy, incapacity, or disability

Heir: A person who, under the state laws of intestacy, is entitled to receive an intestate decedent’s property

Inter vivos: Latin for “during life”

Intestate: Of or relating to a person who has died without a valid Will

Last Will and Testament (also known as Last Will, Will, and testamentary instrument): 1. Wish, desire, choice. 2. The legal expression of an individual’s wishes about the disposition of his or her property after death; especially a document by which a person directs his or her estate to be distributed upon death.

- **Holographic Will:** handwritten will
- **Nuncupative Will:** a will that is declared orally
- **Codicil:** a change or an amendment to a Will

Legatee: One who is named in a Will to take personal property; one who has received a legacy or bequest

Living Trust/Revocable Trust: A trust that is created and takes effect during the settlor’s lifetime and can be revoked, changed or amended during the settlor’s lifetime

Living Will/Declaration of a Desire for a Natural Death: A written instrument, signed with the formalities statutorily required for a Will, by which a person directs that his or her life not be artificially prolonged by

extraordinary measures when there is no reasonable expectation of recovery from extreme physical or mental disability

Per capita: Divided equally among all individuals; Latin for “by the head”

Per stirpes: Proportional division of assets between beneficiaries according to their deceased ancestor’s share; Latin for “from the root”

Power of Attorney: 1. An instrument granting someone authority to act as agent or attorney-in-fact for the grantor (also known as the principal). 2. The authority so granted

- *Agent/Attorney-in-fact*: One who is authorized to act for or in the place of another, a representative
- *Principal/Grantor*: One who authorizes another to act on his or her behalf
- *General power of attorney*: a power of attorney that authorizes an agent to transact business for the principal
- *Durable power of attorney*: a power of attorney that remains in effect during the grantor’s incompetency
- *Health Care power of attorney*: A document that takes effect upon one’s incompetency and designates a surrogate decision maker (an agent) for health care matters; explains one’s wishes about medical treatment if one becomes incompetent or unable to communicate

Probate: 1. The judicial procedure by which a testamentary document is established to be a valid Will; the proving of the Will to the satisfaction of the court. 2. This term has been expanded to describe the entire process of estate administration before the proper local court, to include all accountings and filings required of the Executor/Administrator.

Testate: Of or relating to a person having left a valid Will at death

- *Testator*: A person who has made a Will, especially a person who dies leaving a valid Will

Trust: 1. The right to the beneficial enjoyment of property to which another person holds the legal title; a property interest held by one person (*trustee*) at the request of another (the *settlor* or *grantor*) for the benefit of a third party (the *beneficiary*).

- For a trust to be valid, it must involve specific property, reflect the settlor’s intent, and be created for a lawful purpose
- 2. A fiduciary relationship regarding property and charging the person with title to the property with duties to deal with it for another’s benefit; the confidence placed in a trustee, together with the trustee’s obligations toward property and the beneficiary. Recall the example of parents, their 16 year old child, and a car.

If you have any questions, please contact Debbie McDermott.

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