



ESTATE PLANNING GLOSSARY

- **Beneficiary.** A person designated to receive the income, principal, or proceeds of a trust, estate, insurance policy, or retirement plan.
- **Charitable Trust.** A trust having a charitable organization as a lifetime or term beneficiary (Charitable Lead Trust) or a beneficiary after the Grantor(s)' deaths or a certain term (Charitable Remainder Trust).
- **Estate Tax Exemptions.** Credits are available to offset federal and state estate taxes. These credits currently exclude an amount of property equal in value to \$5 million from the imposition of the federal state tax for years 2011 and 2012 and \$2 million from the imposition of the Washington State estate tax.
- **Executor.** See "Personal Representative."
- **Federal Estate Tax.** The tax paid to the federal government by the personal representative or trustee of a person's estate or trust out of the estate or trust assets.
- **Fiduciary.** A fiduciary is a person or entity that is designated to act on behalf of another with respect to financial or health care matters. The fiduciary must act with undivided loyalty in a thoughtful and careful manner; is fully accountable for the decisions made in a fiduciary capacity; and may be personally liable for improper actions. Examples: trustees, personal representatives, and attorneys-in-fact.
- **Future interest.** A property interest which cannot be currently possessed, used or enjoyed.
- **Generation-Skipping Transfer Tax.** In addition to the estate tax, there is a federal generation-skipping transfer tax ("GST tax") that taxes assets that pass directly to your grandchildren. There is no GST tax at the state of Washington level.
- **Generation-Skipping Transfer Tax Exemption.** A credit is available to offset the federal GST tax. For tax years 2011 and 2012, this credit excludes an amount of property equal in value to \$5 million from the imposition of the federal GST tax.
- **Gift tax.** Tax on gifts made during each calendar year less any applicable exclusions. The tax is paid by the person making the gift rather than the recipient. There is only a federal gift tax; Washington State does not impose a gift tax.
- **Gift Tax Annual Exclusion.** The provision in the federal tax law that excludes from federal gift tax the first \$13,000 (as adjusted for inflation) in present-interest gifts that a person gives to each recipient during a year. (Payments made directly to the educational organization or medical provider for tuition or medical expenses of another are also excluded from the federal gift tax.)
- **Gross Estate.** The total value of an individual's property for federal estate-tax purposes.
- **Guardian.** A person legally appointed to manage the rights and/or property of a person incapable of taking care of his or her own affairs. A "guardian ad litem" is appointed by the court to prosecute or defend an action for a minor.
- **Heir.** A person entitled to inherit a portion of the estate of a person who has died without a Will.

- **Interest.** Any right in property.
- **Intestate.** Dying without a Will.
- **Joint ownership.** The ownership of property by two or more persons, usually with the right of survivorship.
- **Last Will and Testament.** A legally executed document that appoints fiduciaries and directs how and to whom a person would like his or her probate property distributed after death.
- **Letters Testamentary.** Letters issued to a personal representative by a Washington State probate court giving him, her or it power to affect and transfer the decedent's probate property without court intervention.
- **Life Insurance Trust.** An irrevocable trust that owns a person's life insurance policy as its principal asset. Properly created and maintained, the proceeds of the life insurance policy owned by a life insurance trust may not be considered as part of the decedent's Gross Estate for estate tax purposes. It is sometimes called an Irrevocable Life Insurance Trust or "ILIT".
- **Living Trust.** A revocable trust that goes into effect while the grantor is still living. It is usually meant to own all property which does not pass by title, beneficiary designation or otherwise, so as to avoid probate. A Living Trust, in and of itself, does not save or avoid federal or state estate taxes.
- **Living Will.** See "Health Care Directive."
- **Personal Representative (sometimes referred to as Executor).** A person or entity appointed by a person in his or her Will or by the Court to carry out the Will's provisions and administration pursuant to state statute. A "co-personal representative" acts as personal representative with another or others. A "successor" personal representative takes the place of a personal representative who can no longer serve. The Personal Representative determines the extent and value of assets in the estate, manages those assets, pays any debts or expenses, files any necessary tax returns, and then distributes the estate in accordance with the Will.
- **Power of Appointment.** The authority given by one person to another to decide who will receive and enjoy an interest in property under a Will or trust.
- **General Durable Power of Attorney.** A document which authorizes a person to act as another person's agent, usually after that person is found to be incapacitated.
- **Probate.** A state level process that determines, among other things, the validity of a Will (if any), the value of assets in the name of the decedent at the time of death, and the validity of debts or claims against an estate.
- **Probate Court.** A court with the power to probate and settle Wills and to administer intestate estates.
- **Probate estate.** Those estate assets which fall within the jurisdiction of the probate court before being transferred to another person. Retirement accounts and life insurance proceeds, for example, are not generally part of the probate estate because they pass by beneficiary designation.
- **Grantor.** A person who makes or has made a Will.
- **Health Care Directive.** The Health Care Directive (sometimes referred to as a "Living Will") is a creature of Washington State statute. It serves the limited purpose of providing one's physician or health care provider with one's wishes regarding artificial life support systems. This directive can only be used if *two physicians* have diagnosed the person to be in (1) a terminal condition in which life-sustaining treatment would only artificially prolong the process of dying, or (2) an irreversible coma or other permanent unconscious condition from which

there is no reasonable hope of recovery.

Testamentary trust. A trust established in a will which comes into effect after the testator's death.

- **Trust.** A legal relationship where property is transferred to and managed by a person or entity for the benefit of another person.
- **Trust Agreement.** The document which creates a trust and establishes the rules which control the trust's administration, including distributions.
- **Trustee.** The person or entity entrusted with the duty of managing property placed in the trust. A "co-trustee" serves as trustee with another. A "contingent trustee" becomes trustee upon the occurrence of a specified future event. A "successor" Trustee takes the place of a Trustee who can no longer perform his or her duty. The Trustee manages the trust assets, determines when distributions should be made to the beneficiaries, and files the trusts' tax returns
- **Unlimited Marital Deduction.** For federal and state estate tax purposes there is an unlimited deduction for property passing to a decedent's surviving spouse, if the property passes in a qualified manner ("marital deduction"). The marital deduction allows for the complete elimination of any estate tax upon the death of the first spouse, but assets subject to the marital deduction generally will be included in the surviving spouse's estate and taxed upon his or her death. The marital deduction can be viewed as deferring but not eliminating the estate tax.

For more information:

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