

Estate Planning Dictionary: A Brief Overview

Terminology related to probate law can be confusing and downright archaic. No wonder. The first mentions of probate court come from [medieval times](#), dating back as far as 1066. That is why we here at FindLaw produced a quick reference guide to all things probate to help you decode some of this dated language. Following is an explanation of commonly used words and phrases related to estate planning and probate.

AB Trust - A trust designed to make sure the [personal estate tax exemption](#) of each spouse (currently \$1.5 million) is used to the fullest extent possible, while allowing the surviving spouse to have use of the assets of the deceased spouse during the remainder of the surviving spouse's lifetime.

Administrator - A court-appointed person who manages the estate of a deceased person who has died without a will.

Attorney-in-Fact - An individual designated in a power of attorney to act as the agent of the person who executed the document.

Basic Will - A [will](#) that distributes everything to your spouse, if living, otherwise to your children when they reach the age of majority (18 years old).

Beneficiary - A person who receives funds, property, or other benefits from a will, contract, or insurance policy.

Durable Power of Attorney for Health Care - A written document in which an individual designates another person to make [health care and health-related decisions](#) in the event that the individual becomes incapacitated.

Durable Power of Attorney for Property - A written document in which an individual designates another person to make his or her [property and property-related decisions](#) in the event that the individual becomes incapacitated and is unable to do so.

Estate - An individual's property and assets -- including real estate, bank accounts, life insurance policies, stocks, and personal property such as automobiles and jewelry.

Estate Tax - A tax that is imposed at a person's death, on the transfers of some types of property from their estate to heirs and beneficiaries.

Executor - A person named in a will who is authorized to manage the estate of the deceased person. The executor will collect the property, pay off any debts, and distribute property and assets according to the terms of the will.

Fiduciary - A person or institution that is legally responsible for the management, investment, and distribution of funds; i.e. the trustee identified in a trust.

Grantor - A person who transfers assets to another, usually into a trust.

Guardian - An individual with the legal authority to care for another, usually a minor child.

Incapacity - A person's inability to act on his or her own behalf, i.e. the "sound mind" requirement for drafting a valid will. A court makes a finding of incapacity.

Inter vivos trust - A trust that is created [during a person's lifetime](#), which holds property for the benefit of another.

Intestate - A term used when a person dies without a will.

Joint Tenancy With Right of Survivorship - A title that is often placed on co-owned property. At the death of one owner, the other owner will be legally entitled to sole possession of the property, regardless of what provisions are made in a will. Spouses often use this [form of ownership](#).

Living Trust - A revocable trust established during a grantor's lifetime that is used for the placement of some or all of the grantor's property. In a situation involving a married couple, a basic living trust does not effectively use the personal estate tax exemption of either spouse (the amount of a deceased person's estate that may pass to his or her heirs without estate taxes, currently \$1.5 million). Because of this deficiency of a basic living trust, an AB Trust (discussed above) is often recommended instead to married couples with substantial assets.

Living Will - A binding legal document that sets forth a person's wishes regarding the use of life-sustaining treatment in the event that he or she becomes terminally ill or permanently unconscious.

Marital Deduction - A federal tax deduction that allows one spouse to pass his or her estate to the other spouse without having to pay estate or gift taxes.

No Will - A decedent dies without a valid will, so that his or her estate passes to heirs based on the laws of descent and distribution of his or her state.

Pour-Over Will - A will that [distributes everything to a trust](#).

Power of Appointment - A legal right given to a person in order to allow him or her to decide how to distribute a deceased person's property. A "general" power of appointment places no restrictions on the named person, while a "limited" or "special" power of appointment places restrictions on who may receive distributions.

Power of Attorney - A written document that gives one person the legal authority to act on behalf of another person.

Probate - A process whereby a court reviews a will to make sure that it is authentic, and allows others to make legal challenges to the will.

QTIP Trust - A trust designed to permit a spouse to transfer assets to his/her trust while still maintaining control over the ultimate disposition of those assets at the spouse's death. QTIP Trusts are particularly popular in situations where a person is married for a second time but has children from a first marriage for whom he/she wants to reserve assets.

State Death or Inheritance Taxes - Taxes that may be imposed by the state where a deceased person lived, or where his or her property is located after death.

Trust - A written document providing that property be held by one (the "trustee") for the benefit of another (the "beneficiary"). A trust may be created during the grantor's lifetime or after his or her death.

Trustee - A person named in a trust document who will manage property owned by the trust, and distribute the trust income or property according to the terms of the trust document. A trustee may be an individual or a business.

Will - A document that directs how property shall be distributed upon a deceased persons death.

Dictionary Not Enough? Ask an Estate Planning Attorney About Your Legal Issue

While reading a dictionary of commonly used phrases is always a helpful activity, it won't help you plan your estate and get the personalized attention you deserve. Every situation is different, so why not speak with a lawyer who can best guide you through the estate planning process? Get peace of mind today and contact a local estate planning attorney.