



Estate Planning: Common Terms

Amendment: A document used to make minimal changes to the terms of a revocable living trust.

Annual Exclusion Gifts: A gift tax exclusion for each calendar year (\$14,000 per donor per donee for 2014) is allowed for gifts from one person to another as long as the gift is one of a present interest. To qualify for this exclusion, the donee must have an immediate right to possession or enjoyment of the property interest.

Charitable Deduction: A deduction allowed against a reportable gift or from the adjusted gross estate for transfers made to a charitable organization (equal to the value of the gift).

Codicil: A written supplement or addition to a Will that adds to or changes it.

Crummey Powers: Rights granted to the beneficiaries of an irrevocable trust to demand all or a portion of a grantor's contribution to the trust, thereby creating a present interest in the grantor's gift.

Estate Tax Inclusion Period (ETIP): No GST Exemption can be allocated to a transfer to which you have retained certain rights or interests that would cause the assets to be included in your estate. This is known as the Estate Tax Inclusion Period (ETIP), which continues until the assets of the trust would no longer be included in your estate.

Exemption Amounts

Basis: An amount the IRS allows each person to transfer without incurring any gift or estate tax. The American Taxpayer Relief Act of 2012 permanently increased the amount to \$5 million per person inflation indexed annually from 2011 (\$5.34 million in 2014). Amounts in excess of the exemption will be subject to estate or gift tax unless qualified for the marital or charitable deductions.

Generation Skipping Transfer Tax (GST): An amount the IRS allows each person to transfer to heirs more than one generation below their generation without incurring additional gift or estate tax. This exemption is equal to the Base exclusion under current law.

Executor/Executrix: The person nominated in your Will to carry out the distribution of property as outlined in the document. If the person so nominated is a male, he is called the executor; if a female, the person is called the executrix. If you do not name an executor in your Will, the probate court will appoint one for you, and it could ultimately be someone who is not familiar with your personal/familial situation.

Guardian: A person named to represent the interests of minor children or disabled individuals. A Guardian may be named in your Will.

Intestate: Passing away without a valid Will.

Last Will & Testament: A legal instrument governing how your property is distributed at death. If you do not execute a valid will during your lifetime, your property will pass according to state law, which may or may not include the individuals you intent to receive your assets.

Living Will: A written expression of your wishes concerning life-sustaining procedures in terminal illness and imminent death situations.

Marital Deduction: A gift and estate tax deduction allowed for property that a person gives to their spouse. The marital deduction is unlimited in amount which means that a person can give their spouse as much property as they want and it will pass to that spouse without being taxed. The marital deduction is generally not available if your spouse is not a US citizen.

Personal Property Assignment: A signed document used to transfer household items and personal property to your revocable living trust without actually transferring title to the trust.

Per Capita: A method of dividing your estate according to the number of individuals inheriting the property, each individual sharing equally.

Per Stirpes: A method of dividing your estate by representation or by family groups.

Power of Appointment: A property right created (or reserved) by the donor enabling the donee of the power to designate, within such limits as the donor has prescribed, who will receive the property.

Powers of Attorney:

Health: Medical Directive appointing an agent to make medical treatment decisions if you are unable to do so.

Durable: A document granting powers with respect to your property to an agent (attorney-in-fact).

Springing: A power granted to an agent operative only when a specified event occurs, such as your physical or mental incompetency or disappearance.

Probate: The process of proving a Will's validity in court and executing its provisions under the guidance of the court. The process of probating the Will involves recognition of the appropriate court of the Executor named in the Will (or appointment of an Administrator if no Executor is named), and the determination of validity of the Will if it is contested. This process is considered public record.

Qualified Terminable Interest Property (QTIP): Property transferred for the benefit of a spouse where that spouse has a "qualifying income interest for life." The IRS provides a tax election allows assets to qualify for the unlimited marital deduction without passing outright to the surviving spouse. A decedent may create QTIP property interest for their spouse when they want the property to be available for the spouse's support but does not want them to be able to control who ultimately receives the property at the second death. This is typically done when the decedent has children from a prior marriage or has concerns about remarriage after their death.

Quit Claim Deed: A release by the grantor of any interest held in the property described in the deed. Generally, a quit claim deed relieves the grantor of liability regarding the ownership of the property. Thus, the grantor of a quit claim deed will not be liable to the recipient of the deed, if a competing claim to the property is later discovered. A quit claim deed is not a guarantee that the grantor has clear title to the property, rather it is a relinquishment of the grantor's rights. This may be useful when transferring property between spouses or to your revocable living trust, but not for third party sales.

Residue: The property that remains after any specific bequests have been made and debts and expenses of the estate have been paid.

Restatement: A complete update of a revocable living trust from start to finish used when significant modifications are made.

Transfer on Death (TOD)/Payable on Death (POD): A nonprobate arrangement in which a savings or investment account is controlled by you during your lifetime but any deposits remaining at death pass to a surviving party. These arrangements can also be made on real estate.

Trust: A fiduciary agreement under which the legal title to property is held and the property is managed by one party (the Trustee) for another party (the beneficiary).

Testamentary Trust: A trust created by the terms of a Will through the probate process. This type of trust is not operative until after death.

Living Trust: A trust created and operative during your lifetime.

Revocable Trust: A trust that can be changed or terminated during your lifetime.

Irrevocable Trust: A trust created when you permanently transfer property to the Trustee and cannot alter, amend, revoke or terminate the arrangement or reclaim the property.

A/B Trust or Credit Shelter Trust: A typical method married couples use for estate preservation. The first trust is known as the marital deduction trust or Trust A. Trust A will receive all assets other than those passing to Trust B to fund your credit shelter trust in an amount equal to your remaining base exclusion. A/B trusts are designed to avoid an estate tax liability at the first death while fully capturing your estate exemption amounts. The assets remaining in Trust A at the time of the second death will be subject to estate tax at that time.

Grantor Retained Trust (GRT): An estate-freezing device in which you retain the right to a payment stream (either a fixed amount or percentage of the trust value determined annually) from the property gifted to a trust. The total value of the gift, and the amount the base exclusion used, is reduced by the value of retained payment stream.

Charitable Remainder Trust: A charitable trust arrangement in which a fixed-income interest or a fixed percentage of assets as revalued annually passes at least annually to one or more noncharitable beneficiaries, and at the death of the last income beneficiary or at the end of a term or years not greater than 20 years, the remainder interest passes to a qualified charity.

Intentionally Defective Grantor Trust (IDGT): An irrevocable trust drafted in a way that gifts made are treated as completed transfers for gift and estate tax purposes, but incomplete transfers for income tax purposes. This causes trust income to be taxed to the grantor while removing the value of the trust assets from the grantor's estate.

Irrevocable Life Insurance Trust (ILIT): A trust arrangement in which the trust owns one or more life insurance policies on an insured's life which are typically considered to be held outside of the insured's estate.

Qualified Personal Residence Trust: An irrevocable trust to which you transfer your home but retain the use of that home for a specified number of years, after which it is received by one or more remainder beneficiaries.

Trust Advisor: An individual or committee named within a trust agreement to provide guidance to the trustee regarding management of all or a portion of the trust assets and/or distributions.

5 and 5 Powers: An individual's noncumulative right to withdraw annually the greater of \$5,000 or 5 percent of the aggregate value of a property from a trust.

Sources: *Fundamentals of Estate Planning* by Constance J. Fontaine; *Wealth Management through Estate Planning* by N. Lindsey Smith

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