

# ESTATE PLANNING TERMS

Updated January 1, 2019

**Administrator** A 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.

**Annual Gift Tax Exclusion** Every individual can give away assets or cash up to the annual gift tax exclusion amount to as many people as they desire each year free of gift taxes. The current annual gift tax exclusion amount is \$15,000. For subsequent years, the amount is indexed for inflation.

**Annuity** An amount to be paid periodically. Usually (1) the amount is a fixed sum not dependent upon income; (2) the period is the life of an annuitant; and (3) the frequency of payment of the fixed sum is at least annual. Payors of annuities generally base the annuity on the life expectancy of the annuitant as well as the premium.

**Appreciated Property** Assets which include long-term capital gain.

**Applicable Exclusion Amount** The dollar value of assets that you can give to a non-spouse either during your lifetime or at your death free of federal estate or gift taxes. The current dollar value is \$11,400,000. Kansas has no estate tax, but 13 other states do have one.

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

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

**Beneficiaries** Persons or organizations who are designated to receive benefits under a will, trust or insurance policy.

**Bequest Property** left to a person or organization under a will or trust.

**Bypass Trust** See Credit Shelter Trust

**Capital Gains Tax** The tax due as a consequence of selling an asset which has capital gain. (For some particular purposes, capital gain can be deferred or even exempted from taxation.)

**Charitable Lead Trust** An arrangement in which you donate assets to a trust you create. The trust pays one or more charities you choose payments typically for a fixed number of years, thereafter the balance in the trust goes to your selected loved ones.

**Charitable Remainder Trust** An arrangement in which you donate assets to a trust you create. The trust pays you (or your loved ones) payments, typically, for life; thereafter the balance in the trust goes to your selected charities.

**Codicil** An amendment to a previous will. A codicil is executed with the same formalities as a will.

**Contingent Beneficiary** A person or organization that is a beneficiary only upon the occurrence of some "contingent" event. For example, "I give Jean Daily the sum of \$5,000 only if she is married to my brother John Dailey at the time of my death."

**Credit Shelter Trust (or Bypass Trust)** A trust established under your will to take advantage of the Applicable Exclusion Amount. The Applicable Exclusion Amount is the dollar value of assets that can be left to someone other than a spouse free of estate taxes.

**Custodian** A person or trust company responsible for the care and management of property for a minor. The relationship is a fiduciary relationship.

**Deed** A document that lets you transfer title of your real estate to another person(s).

**Estate** All of the property you own at your death (your gross estate).

**Estate Taxes** A type of transfer tax imposed by our federal government for the privilege of giving your property to your heirs.

**Executor (male); Executrix (female)** The person (or institution) you name in your will who will be responsible for settling your estate at your death.

**Fiduciary** A person or institution occupying a position of trust. Fiduciaries are held to high standards of accountability by our courts.

**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.

**Generation Skipping Transfer Tax (GSTT)** A tax imposed on transfers of assets (either through gifts or your will) to a "skip" generation (a grandchild for example). Currently the first \$11,400,000 (adjusted for inflation) of transfers are not subject to the tax. The current tax rate is 40 percent.

**Gift Annuity** Provides a fixed payment based on the age of the annuitant. Upon the death of the annuitant, the charity can use the remaining gift amount for its mission.

**Gifts** The transfer of property to another person or organization without receiving anything of value in return.

**Gift Tax** A federal tax imposed on the transfer of assets made during a person's lifetime. Note that the tax is due on gifts in excess of certain limits. Only one state imposes a gift tax (Connecticut).

**Grantor** A person who establishes and transfers property to a trust. Also called a settlor.

**Gross Estate** The value of an estate before debts are paid.

**Guardian** A person responsible for the care of a minor (called guardian of the person) or a minor's property (called the property guardian).

**Heir** A person entitled under state law to receive assets of another person who died without a will.

**Inter Vivos Trust** A trust created during your lifetime rather than under your will. Also called a living trust.

**Intestacy Laws** The laws of each state which determine who will receive the assets of a person who dies without a will.

**Intestate** To die without a will.

**Irrevocable Trust** A type of trust that cannot be revoked, changed, or amended. This type of trust is often used to remove assets from one's estate.

**Joint Tenancy** A way of titling property whereby at the death of one joint tenant, the remaining joint tenant(s) automatically receives the deceased person's interest.

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

**Living Trusts** See inter vivos trust.

**Living Will** A document that declares the level of care you desire should you become medically incapacitated. Generally, it states that you do not wish to be kept alive by artificial means when there is no hope of meaningful life.

**Marital Deduction** Federal law provides that a married person may leave (or gift) an unlimited amount of assets to his or her spouse free of estate and gift taxes. This typically results in a "postponement" (rather than elimination) of the estate or gift taxes.

**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.)

**Personal Property** Movable property. Includes furniture, automobiles, equipment, cash and stocks. Opposite of real property that is permanent, like land.

**Power of Attorney** A document executed by you which gives another person (your agent) the right to act on your behalf. A power of attorney can be written to include very broad powers or very limited powers.

**Probate** The court-supervised process of transferring one's property at death to his or her rightful heirs.

**QTIP Trust** Legally referred to as a Qualified Terminable Interest Property Trust. This spousal trust allows you to control the ultimate disposition of the assets in the trust. Your spouse receives all income from the trust during his or her lifetime. This trust can qualify for the unlimited marital deduction.

**Revocable Trust** A trust that can be revoked by its creator. (It is possible but rarely ever seen that the creators of revocable trusts give the power to revoke to a third person.) Revocable trusts become irrevocable when their creators die. They can become irrevocable sooner if the creators give up the power to revoke.

**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."

**Taxable Estate** The portion of your estate that is subject to federal and/or state taxes. From the gross estate, you subtract funeral and administrative expenses; debts (including certain unpaid taxes); charitable contributions; and the marital deduction (if applicable).

**Testamentary Trust** A trust that is created under your will which will take effect at your death.

**Testator** The maker of a will. One who dies having made a valid will.

**Trust** A legal arrangement whereby one person (the trustor, grantor, or settlor), places assets under the management or supervision of another person or institution (the trustee) for the benefit of a third person (the beneficiary).

**Trustee** A person or institution that manages and administers a trust.

**Unlimited Marital Deduction** A provision in federal law that allows a married person to give or leave an unlimited amount of assets to his or her spouse free of gift or estate taxes.

**Will** A written document with instructions for disposing of assets after death. A will can only be enforced through the probate court.