

# FINANCIAL FITNESS

## Fact Sheet

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## ESTATE PLANNING BASICS: A VOCABULARY

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The legal profession has its own, specialized vocabulary. This is especially true when dealing with estates, estate planning, wills or trusts. What follows is a glossary, or vocabulary, of common terms used in estate planning. It should be useful if you come across unfamiliar words or terms as you read this series.

**Beneficiary:** A person or institution who derives benefits from the creation of a trust, proceeds of an insurance policy, bond, or retirement fund when the owner dies. There can be one or more beneficiaries.

**Codicil:** An amendment to a will.

**Common Disaster Clause:** A statement in a will telling how property is to be distributed if both devisees die in the same accident.

**Conservator:** A person who is appointed by a court to manage the estate of a person who, because of age, health, or intellect is incapable of managing his or her own affairs. See **Guardian**.

**Decedent:** The person who died.

**Deed:** A legal instrument used to transfer title of real property in the eyes of the law.

**Devisee:** A person to whom *real* property (real estate and the buildings attached to it) or personal property is transferred by will.

**Durable Power of Attorney:** A document by which a person appoints a legal representative to manage affairs if he or she is unable to do so.

**Estate:** The real and personal property that a person owns.

**Estate Tax (Federal):** Taxes assessed by the federal government upon a decedent's right to transfer property.

**Executor:** A person or institution (e.g., a bank or credit union) named in a will to carry out the settlement of an estate. This person (institution) pays the debts, manages the property and later distributes it according to the provisions of the will. Also known as a **Personal Representative**.

**Fiduciary:** Someone entrusted with managing an estate; includes executor, guardian, conservator and trustee.

**Gift:** A lifetime transfer of property without receiving payment.

**Gross Estate:** For federal estate tax purposes, the total value of all property, real or personal, tangible or intangible, that a decedent had owned or had control over at the time of death.

**Guardian:** A person legally charged with the duty of taking care of another who, because of age, intellect, or health, is incapable of managing his or her own affairs. A conservator (see above) manages the property of a minor or incapacitated person. A person can be appointed both guardian and **Conservator**.

**Health Care Power of Attorney:** A durable power of attorney that appoints an agent to make a person's health care decisions in case he or she is incapacitated.

**Heir:** With no will, a person who is entitled to inherit property under state intestacy law; with a will, an heir is anyone who is named to receive property.

**Holographic Will:** A will entirely written in the handwriting of the testator (one making the will).

**Inherit:** To receive property from a deceased person.

**Intestate:** To die without a will.

**Irrevocable:** A term used to describe a trust in which the maker of the trust has, by the terms of the trust agreement, specifically given up the power to alter, amend, or terminate the trust.

**Joint Tenancy:** Ownership of property by two or more people where there is the right of survivorship; the surviving tenants receive the property at the death of a tenant.

**Letter of Last Instructions:** A signed letter that provides a detailed inventory of assets and liabilities, describes personal preferences about transfers of many odd pieces of personal property, and contains funeral and burial instructions.

**Liability:** Any money that a person owes others.

**Life Estate:** A condition created whereby a person has the right to use property only for his or her lifetime.

**Living Will:** A legal document that expresses a person's wishes regarding prolonging his or her life by artificial, extraordinary, or heroic measures when death is inevitable.

**Marital Deduction:** An estate or gift tax deduction allowed for property transferred to a living spouse.

**Nonprobate Property:** Assets that are not subject to the probate process, such as life insurance benefits, and property owned jointly with a right of survivorship.

**Pay on Death (POD):** Naming a beneficiary to receive an account balance on a party's death.

**Personal Property:** Property owned by the deceased individually, such as a car, jewelry, stocks or bank accounts, excluding real estate.

**Personal Representative:** person named in a will or appointed by the court to administer an estate (see **Executor**).

**Power of Attorney:** A written, notarized document in which one person gives another the power to conduct certain acts on his or her behalf.

**Probate:** A court-supervised procedure for validating a will (if there is one), paying debts, and distributing the property of a deceased person.

**Probate Property:** Property that is subject to the probate process, including the deceased's solely owned personal property and real estate.

**Real Property:** Real estate, land and buildings attached to the land, can include minerals and royalty interests.

**Revocable Living Trust:** A trust whose terms and provisions can be changed, modified, altered, amended or revoked. The power to do this resides with the maker of the trust.

**Securities:** Investment instruments, including stocks and bonds.

**Small Estate Administration:** A simplified administrative procedure with little court involvement and few costs for estates with limited value.

**Spendthrift Trust:** A trust that provides a fund for the maintenance of a beneficiary, which shelters the beneficiary's interest from the beneficiary's extravagance, incapacity and the claims of creditors.

**Spouse:** Either a husband or a wife.

**Taxable Estate:** The gross estate minus all deductions; this determines the estate tax.

**Tenancy in Common:** Real estate held by more than one person, in equal or unequal shares, without rights of survivorship.

**Testamentary Trust:** A trust established in a will which takes effect at the death of the testator (maker of the trust).

**Testator:** A man or woman who makes a will.

**Transfer on Death:** Designation on securities that allows the naming of a beneficiary to receive them on the death of a party.

**Trust:** A three-party arrangement by which the "grantor" transfers property to a "trustee" who holds and manages the property for a "beneficiary." Trusts can be revocable (meaning they can be changed) or irrevocable (they cannot be changed).

**Trustee:** The person or institution holding title to the trust property, appointed to execute, administer and carry out the terms of a trust for the benefit of the beneficiary.

**Trustor:** The person who establishes a trust. There can be more than one trustor.

**Will:** A written document representing the instructions of the deceased for the distribution of the estate.

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