

Glossary of Terms

beneficiary: In a trust, the person who benefits from the trust assets. Initially, the beneficiary will be the grantor, then at the death of the grantor, the beneficiaries are the people or organizations named in the trust who are to receive the trust assets. *Heir* is sometimes used to mean beneficiary.

conservator: A person appointed by a court to be the financial manager of the assets of a minor or an incapacitated or incompetent adult.

Employer Identification Number: A number issued by the IRS to use as the taxpayer number for the trust. This is like a Social Security Number for a person.

estate and inheritance taxes: Taxes paid to the state or federal government based upon a percentage of the total taxable estate of a deceased person. Typically, no taxes are due unless the total estate size exceeds a preset threshold amount.

fiduciary: A person who is in a special position of trust regarding the financial affairs of another.

funding: The process of transferring assets to a trust.

grantor: The person who creates the trust is the grantor. Also sometimes called the *settlor* or *trustor*.

guardian: A person appointed by a court to care for a minor or a legally disabled adult. The guardian cares for the person while the conservator cares for the person's financial affairs.

heir: A person who inherits property from a person who dies, whether

through a will, a trust, or a beneficiary designation. Also commonly called a *beneficiary*.

intestate: A person who dies without a will is said to have died intestate, whereas one who dies with a will is said to have died testate. Think last will and *testament*.

issue: The direct blood-related descendants of a person, i.e., children, grandchildren, great grandchildren.

joint tenancy: A co-ownership of property by two or more parties in which each party owns an undivided interest that passes to the other co-owner on her death (known as the “right of survivorship”).

life tenant: A person who has the right to the use of certain property for his lifetime. For real estate, this right is sometimes called a life lease or a life estate.

living trust: A written document that, when signed and funded properly, becomes a legal entity that has the ability to control the assets it owns and states who will receive those assets under certain conditions as well as who is in charge of seeing that these instructions are carried out. (Simply, who gets what, when they get it, and who is in charge of seeing that that happens.)

patient advocate: The person who acts under a medical power of attorney to make medical decisions for a person who is unable to make those decisions for herself. This is done by appointment in a medical power of attorney.

personal representative: This is the person who is in charge of the probate of an estate. Sometimes called an executor where there is a will, or an administrator where there is no will.

power of attorney: A document that gives a person (an agent, sometimes called an attorney-in-fact) the legal right to transact the business of another person (the principal). This permission to sign is limited to the exact rights set out in the document as though the original principal had signed himself. Sometimes called a proxy. A durable power of attorney is one that is still valid even if the principal becomes incapacitated. A springing power of attorney is one that becomes effective only upon the happening of a certain event, such as a person becoming incapacitated (a person could have a springing durable power of attorney). A power of attorney is valid until it is revoked or the principal dies.

probate: A legal court process through which assets in the name of the

deceased person are transferred to those who are entitled to them after paying all debts of the deceased and the expenses of administering the probate case. Probate may be used to settle disputes as to the validity of a will, trust, or other document. The probate court has authority over all issues relating to the financial affairs of deceased persons. Separate sections of the probate court may involve the affairs of minors, juvenile offenses, guardianships, conservatorships, and handicapped adults.

revocable living trust: A living trust in which terms may be amended, modified, or otherwise revoked by the grantor during her lifetime, as opposed to an irrevocable trust, which may not be changed once created. A revocable trust typically becomes an irrevocable trust at the death or incapacity of the grantor.

rule against perpetuities: A state law determining how long a trust may stay in existence.

special-needs trust: A trust that manages assets for a beneficiary who may be unable to manage his own financial affairs, typically to pay for living expenses beyond those provided by agencies and programs such as Medicaid and set things up so that the beneficiary is not disqualified from those aid plans.

successor trustee: The person who is in charge of the trust assets at the death or incapacity of the grantor. If the grantor is incapacitated mentally or physically so as to be unable to manage the trust, the successor trustee manages the grantor's business affairs during that time.

At the grantor's death, the successor trustee is responsible for carrying out the grantor's instructions as written in the trust for the distribution of the trust assets, as well as taking care of any tax issues for the estate.

tenants in common: Where two or more people own property jointly but each has separate ownership of her share without a right of survivorship with the other co-owners. A tenant in common may transfer her separate share of an asset without the permission of the other owners in most cases.

testator: A person who makes a will. If the person is female, a testatrix. Archaic language.

trustee: The person who is in charge of the trust assets and who carries out the instructions in the trust. Normally the grantor is the trustee during his lifetime. At the grantor's death or incapacity, the successor trustee takes over.

trust protector: A person (or group of people) appointed in a trust document

to oversee the trustee. This person sometimes has the power to modify the terms of the trust herself.