KayneInsights

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Estate Planning

Estate planning is an often complex and daunting task that is nevertheless a critical part of wealth management. Before you meet with an estate planning attorney or financial advisor to put together an estate plan, we believe it's a good idea to familiarize yourself with common estate planning terms, so you won't find the legal jargon and intricate processes quite as intimidating and overwhelming. This glossary aims to demystify some key estate planning definitions and concepts to help you better understand the essential elements involved in securing your legacy and safeguarding your loved ones' futures.

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What Can an Estate Plan Do?

An estate plan can provide you and your loved ones peace of mind and preserve your legacy. An estate plan, by definition, provides assurance that your wishes are carried out after your death. In our experience, a good estate plan will help minimize the burden of estate taxes on your heirs, protect your loved ones from unnecessary financial burdens, designate guardians for minor children, appoint an executor to manage your affairs, and establish trusts to protect your assets and provide for beneficiaries.

Estate Planning Glossary

Below are some of the most common estate planning terms you'll encounter when working with an attorney and financial advisor to create or update your last will and testament and/or associated trusts and other estate planning tools.

Administration: Estate administration is the legal process of settling a deceased person's affairs. It involves identifying, valuing, and managing estate assets, paying off debts and taxes, and distributing the remaining assets to beneficiaries according to the terms of the deceased's will or applicable laws.

Administrator: An administrator is a person the court appoints to manage the affairs of a deceased person's estate, particularly when there is no will or the named executor is unable or unwilling to serve. The administrator's role is to oversee the probate process, including identifying assets, paying debts, filing tax returns, and distributing assets to beneficiaries according to state laws of intestacy.

Attorney-in-Fact: An attorney-in-fact is a person legally authorized to act on behalf of another person. In estate planning, an attorney-in-fact is often appointed through a power of attorney document, which allows the attorney-in-fact to make financial and legal decisions for either a deceased individual or an individual who has become incapacitated and is unable to manage their affairs. An attorney-in-fact will pay bills, manage investments, and sell property on behalf of the deceased or incapacitated individual.

Advance Health Care Directive, or a Living Will: An advance health care directive, or living will, is a legal document that allows individuals to express their wishes regarding medical treatment in the event they become incapacitated and cannot make their own decisions. An advance health care directive typically outlines preferences for life-sustaining treatments, such as artificial life support, feeding tubes, and pain management. It provides a way for an individual to maintain control over their end-of-life care, even if they are unable to speak for themselves.

Beneficiary Designations (or Devisee or Heir or Inheritor or Recipient): Beneficiaries are individuals or organizations designated to receive assets or benefits upon the death of the asset owner. Beneficiaries (or heirs) inherit assets like life insurance policies, retirement and stock accounts, and real estate. By making beneficiary designations for your assets, you can ensure they are distributed according to your wishes while also often allowing your heirs to bypass the probate process.

Bypass Trust (or Credit Shelter Trust or Family Trust or B Trust): A bypass trust transfers assets to beneficiaries while minimizing estate taxes. By strategically transferring assets to a bypass trust (also known as a B trust), individuals can take advantage of their estate tax exemption, leaving more wealth to pass on to future generations. A bypass trust is a valuable tool for high-net-worth individuals who want to protect their assets from estate taxes and ensure the ongoing transfer of generational wealth.

Codicil: A codicil is a legal document that modifies an existing will. A codicil is generally used to make minor changes or additions to a will, such as adding or removing beneficiaries, changing the distribution of assets, or appointing a new executor. By using a codicil, one can avoid the need to create an entirely new will.

Conservator: A conservator is a court-appointed individual responsible for managing the financial affairs of an individual who is unable to do so themselves due to mental or physical incapacity. A conservator might pay bills, manage investments, and make financial decisions to protect the interests of the incapacitated individual, or "conservatee."

Decedent: A decedent is an estate planning term referring to a person who has died.

Durable Power of Attorney (POA): A durable power of attorney is a legal document that empowers an individual, known as the principal, to appoint another person, called the agent or attorney-in-fact, to make financial and legal decisions on their behalf. Unlike a traditional power of attorney, a durable power of attorney remains valid even if the principal becomes incapacitated or mentally incompetent, ensuring the agent can continue to manage the principal's affairs, such as paying bills, selling property, and making investments, without the need for court intervention.

Estate Tax: Estate tax is a federal and, in some cases, state tax imposed on the value of a deceased person's taxable estate, which generally includes assets like real estate, stocks, bonds, and business interests. The tax is levied on the estate itself, not on the beneficiaries who inherit the assets. The amount of estate tax owed depends on the value of the taxable estate, and applicable exemptions and deductions.

Executor: An executor is a person named in a will to carry out the wishes of the deceased person. They are responsible for managing the probate process, which involves identifying and valuing the estate's assets, paying debts and taxes, and distributing the remaining assets to the designated beneficiaries.

Gift Tax: A gift tax is a federal tax imposed on the transfer of property, such as cash or assets, from one living person to another. While small gifts are generally exempt, larger gifts may be subject to gift tax. The 2025 IRS lifetime gift tax exclusion is $13.99 million.

Intestacy, Intestate: Intestacy or intestate are estate planning terms that refer to a situation where a person dies without a valid will. In such cases, the state's intestacy laws determine how the deceased person's assets will be distributed among their heirs. These laws vary by state and typically prioritize distribution to the deceased's spouse, children, and other close relatives.

Irrevocable and Revocable: For the purposes of estate plan definitions, revocable and irrevocable are generally used to describe types of trusts: A revocable trust can be changed or terminated by the grantor at any time during their lifetime. Assets within a revocable trust are typically included in the grantor's taxable estate. An irrevocable trust, on the other hand, cannot be changed or terminated by the grantor once established. Assets transferred to an irrevocable trust are generally removed from the grantor's taxable estate, providing potential estate tax benefits.

Joint Tenancy: Joint tenancy is a form of property ownership where two or more people hold equal shares of a property. A key feature of joint tenancy is the right of survivorship. This means that when one owner dies, their share of the property automatically passes to the surviving owner(s), bypassing the probate process.

Marital Property: Marital property refers to property acquired during a marriage, regardless of whose name is on the title. This includes assets like real estate, vehicles, bank accounts, investments, and retirement accounts. State laws vary regarding the division of marital property upon divorce or the death of a spouse.

Pay-on-Death and Transfer-on-Death Accounts: Pay-on-death (POD) and transfer-on-death (TOD) accounts are estate planning terms that refer to assets that can be transferred directly to named beneficiaries upon the account holder's death, bypassing the probate process. POD designations are commonly used for bank accounts, while TOD designations are often used for brokerage accounts.

Probate: Probate is the legal process of administering a deceased person's estate. It involves identifying and valuing the estate's assets, paying off debts and taxes, and distributing the remaining assets to beneficiaries according to the terms of the will or state intestacy laws.

Property Titling: Property titling refers to the legal ownership of property, such as real estate or vehicles. How property is titled can significantly impact how it is transferred upon the owner's death. Common forms of property titling include sole ownership, joint tenancy with right of survivorship, tenancy in common, and community property.

Pour-Over Will: A pour-over will is a legal document that directs any assets not specifically transferred through other means, such as trusts or beneficiary designations, into a living trust, minimizing the need for probate and providing a seamless transition of assets to beneficiaries.

Power of Attorney: A power of attorney is a legal document that grants another individual, known as an agent or attorney-in-fact, the authority to act on behalf of the grantor in financial or legal matters. There are two main types of power of attorney: durable power of attorney, which remains valid even if the grantor of the POA becomes incapacitated, and non-durable power of attorney, which becomes invalid if the grantor is incapacitated.

Stepped-Up Basis: A stepped-up basis is a tax provision that allows the cost basis of an inherited asset to be adjusted to its fair market value at the time of the decedent's death. This effectively resets the asset's cost basis, potentially reducing the capital gains tax liability for the heir when the asset is eventually sold. For example, if an asset was purchased for $10,000 but is worth $100,000 at the time of inheritance, the heir's basis becomes $100,000, eliminating any capital gains tax on the initial $90,000 appreciation.

Testator: A testator is the individual who has made a will.

Trusts: Trusts are legal arrangements where an individual (the grantor) transfers assets to a trustee, who manages those assets for the benefit of one or more beneficiaries. Grantors use trusts for a variety of purposes, including asset protection, tax sheltering, simplifying or eliminating probate, and providing for minor beneficiaries.

Trustee: A trustee is a person or entity appointed to manage assets held in a trust. The trustee has a legal and fiduciary responsibility to act in the best interests of the beneficiaries when investing trust assets, paying taxes, distributing income, and making decisions regarding the trust's administration.

Trustor: A trustor is the person who creates a trust. Also known as the grantor or settlor, the trustor transfers assets to a trustee to be held and managed for the benefit of designated beneficiaries. By creating a trust, the trustor can exercise control over their assets and ensure their wishes are carried out after their death.

Unlimited Charitable Deduction: An unlimited charitable deduction is a tax benefit that allows individuals and estates to deduct the full value of charitable contributions from their taxable income or estate. By donating assets to qualified charities, high-net-worth taxpayers can significantly reduce their tax liability.

Unlimited Marital Deduction: An unlimited marital deduction is a federal estate tax provision that allows an individual to transfer an unlimited amount of assets to their spouse, either during their lifetime or at their death, without incurring federal estate or gift taxes.

Will: A will is a legal document that outlines a person's wishes for the distribution of their assets after their death. A will typically names an executor to oversee the probate process, designates beneficiaries to inherit specific assets, and provides instructions for the care of minor children.

Are you ready to begin your estate planning process or conduct a review and update of existing estate plans? Contact a KAR advisor today for estate planning support. KAR wealth advisors will partner with your estate attorney to build a financial plan that continues to support your wishes after your death, supports your loved ones, and reduces the tax burden of your heirs.