

3. VOCABULARY

Abatement: The reduction or partial payment of a gift/legacy under a will because there are not enough assets or cash in the estate to pay it in full.

Abstract of Title: A condensed history of the title to a piece of land, recording all the conveyances, transfers, liabilities, covenants against or burdens upon the land, and other facts pertinent to such title.

Acknowledgement: The formal declaration by a person, before a competent authority, such as a notary, that his/her signature on a legal document is his/her free act and deed.

Active Trust: A trust where the trustee has some active duty to perform; as opposed to a passive, dry, bare, or naked trust.

Actuarial Value: The present value of income or principal to be received in the future, as determined by actuarial tables of life expectancy and assumed rates of return.

Ademption: The extinction of a devise or bequest made in a will because the asset named was not found in the estate.

Adjusted Gross Estate: The decedent's total estate after administrative expenses, allowable debts, and losses are deducted, but before federal estate taxes.

Adjusted Gross Income: Amount of gross income, minus certain deductible expenses. This is the amount used to compute various deduction limitations.

Administration: The management of a decedent's estate, including the marshaling of assets, the payment of expenses, debts, and charges, the payment or the delivery of legacies, and the rendition of an account.

Administrative Expenses: Those costs necessarily incurred in the administration of the estate or in the collection of assets—the payment of debts and the distribution of property to named beneficiaries. Examples: attorney fees, sales commissions, funeral expenses, and other miscellaneous expenditures.

Administrator (m.) or Administratrix (f.): A person granted authority by a proper court to administer the estate of a deceased person when there is no executor named in the will. There is a trend to refer to this person as the Personal Representative.

Advancement: When a gift is given in life and is also mentioned in the will. Advancement occurs when the jurisdiction deems the gift given in life to be in place of the gift in the will, thus nullifying the gift at death.

Adverse Possession: A method of acquiring title to real property by occupation for a statutory period of time, in a manner that is inconsistent with the rights of the true owner.

Affidavit: A voluntary statement or declaration of facts, written or printed, and sworn to by the person making it, before an officer authorized to administer oaths (e.g. a notary public).

Agency: The relationship of one person acting for or representing another, called the **principal**, by the latter's authority. An agent may or may not have legal title, but generally lacks the discretion of a trustee.

Alternative Minimum Tax: An alternative method of computing regular income tax that must be used if applicable. The Alternative Minimum Tax (AMT) was enacted to ensure that corporations, trusts, and high-income individual taxpayers who benefit from certain tax deductions and exemptions, are required to pay some income tax. The AMT is computed by adjusting regular taxable income by the amounts of certain tax deduction and preference items.

Alternative Valuation Date: The date, usually six months after the date of the decedent's death, which may be elected by the executor (in some circumstances) for valuation of the gross estate for estate tax purposes.

The alternative valuation date may be elected only if two conditions are met:

1. The total value of the gross estate is lower on the valuation date than on the death date, and
2. A smaller federal estate tax is paid as a result of the election.

Ancillary: Subsidiary; subordinate; auxiliary; used to describe a legal proceeding that depends upon, or is auxiliary to, another, principal proceeding. "Ancillary administration" is the administration of a deceased person's estate in a state where he/she had property but which was not his/her domicile.

Annual Exclusion (Gift Tax): The amount of cash or other property of ascertainable value that a person can give to any one individual (excluding spouse) without incurring federal gift tax. The current amount is \$13,000 (2009 and indexed for inflation) in a taxable year. (See also Gift Splitting.) Only gifts of present interest qualify for the annual exclusion.

Annuitant: The person who receives regular (annual, semi-annual, quarterly, or monthly) payments from an annuity.

Annuity: A fixed amount of money that is payable periodically (at least annually). It is payable either for the life of the annuitant or for a definite period of time. (See Charitable Gift Annuity.)

Applicable Federal Rate: The interest rate that is set monthly by the Internal Revenue Service for use in computing certain charitable deductions, interest on below-market loans, and various

other types of instruments. There are numerous short-term, mid-term, and long-term AFRs for various compounding periods.

Appreciation: Increase in the value of property.

Ascertainable Standard: The power of appointment or power to use trust income and/or corpus for a person's health, education, maintenance and/or support. An ascertainable standard is often used for such a power in order to avoid adverse tax consequences.

Bailee: A person who received personal property of another person with the understanding that he/she will do something with the property. For example, a mover who receives goods for transportation, or a tailor who receives clothing for alteration is a **bailee**. A bailee never has legal title.

Bailment: The delivery of personal property from one person (bailor) to another person (bailee) for a specific purpose, but without passing title to the property. Generally a bailment does not involve a fiduciary relationship and does not create a trust.

Bargain Sale: A sale of property for a lower price than the fair market value, with the difference being a gift to the buyer.

Beneficiary: The person or entity who receives funds, property, or other benefits from a will, trust, insurance policy, retirement plan, or other source.

Bequest: A gift of personal property in a will; a **legacy**. The term is often used synonymously with **devise**, although the latter more strictly applies only to the disposition of real estate in a person's will.

Capital Gains Tax: A separate tax assessed against the gain on sale of an appreciated capital asset. If the seller holds property for a year or less, the capital gain is short-term and taxed as ordinary income. If the property is held more than a year, the capital gain is long-term and taxed at long-term capital gains rates.

Cash Value: The surrender value on certain types of life insurance policies.

Carryovers of Charitable Deductions: Contribution deductions that exceed the various percentage limitations may be "carried over"—up to five succeeding tax years, if necessary—to be counted as a charitable deduction.

Charitable Contribution: A gift to, or for the use of, a qualified charity. It results in a deduction for income, gift, or estate tax purposes when the donor does not receive more than an insubstantial benefit.

Charitable Gift Annuity: An irrevocable gift a donor makes to a qualified charity in return for a contract or agreement to pay the donor and/or another annuitant an annual fixed amount for life.

Charitable Lead Trust: A trust for a fixed term of years, or for one or more lives, wherein a charity is the income beneficiary, and the remainder goes to a non-charitable beneficiary. May be a charitable lead annuity trust or a charitable lead unitrust.

Charitable Remainder Trust: A trust for a fixed term of years, or for one or more lives, wherein a non-charitable beneficiary is the income beneficiary, and the remainder goes to a charity. May be a charitable remainder annuity trust or a charitable remainder unitrust.

Class Gift: A gift to members of the same class, such as children of the same parents, but where the specific identity or number of class members is generally not known at the time of the gift.

Codicil: An amendment or modification to a will, executed with all the legal formalities as a will.

Common Law: The body of law that originated in England, and is primarily judge-made law.

Community Property: Property acquired by a husband and wife, or either of them, during marriage, while residing in a community property state.

Constructive Trust: (See Implied Trust.)

Contingent Beneficiary: The beneficiary whose interest is conditioned upon a future occurrence that may or may not take place. Unless or until the condition takes place, the interest is only contingent.

Corpus: The body/amount of principal put into an estate or trust on which income may be earned.

Cost Basis: The original price paid to acquire an asset. The adjusted cost basis is increased or decreased by certain factors, such as buying costs, capital improvements, and depreciation. The adjusted cost basis is generally used to determine the gain or loss on the sale or disposition of the property.

Curtesy: The interest that a husband has in his deceased wife's real property. Many states do not recognize a dower right. (See also Dower.)

Cy-Pres Doctrine: Cy-Pres means "as nearly as may be." The doctrine, applied in English and Scottish law and in some of the states of the United States, provides that, where a donor, testator, or settlor makes a gift to, or for, a charitable or non-charitable purpose that is impossible or illegal, the court will direct that the gift will be made as nearly as possible, in its judgment, in conformity with the intention of the donor.

Decedent: A deceased person.

Deed: A written instrument, signed and delivered, that transfers ownership of property from one party to another. The term usually refers to a transfer of land or an interest in land.

Deed of Trust: (See Trust Deed.)

Defined Benefit Plan: A pension plan where an employer promises a specified benefit at retirement. Contributions to the plan are based on the amounts actuarially determined to be sufficient to produce the specified benefit.

Defined Contribution Plan: A pension plan that provides for a separate account for each participant-employee based on the amount contributed to that individual's account including income, expenses, gains, and losses.

Descendant: A person who is descended in a direct line from another; one who proceeds from the body of another, however remotely, as a child, grandchild, or great-grandchild.

Devise: The disposition of real property under a will. (The disposition of personal property is usually called a bequest.)

Distributable Net Income (DNI): For fiduciary income tax purposes, the taxable income of the estate or trust for any taxable year, computed with certain modifications.

Dividends: A share of a company's profits that are divided among shareholders.

Domicile: The place which is an individual's permanent home and to which, whenever absent, the individual has the intention of returning. A person's domicile may not necessarily be the same as their residence.

Donee: The recipient of a gift.

Donor: The person who makes a gift.

Donor Advised Fund: A fund owned by a charity, over which the charity has total discretionary control, but where the donor retains the right to make suggestions as to the use of the funds, with the understanding that the charity may or may not comply with the donor's recommendations. A gift to a donor advised fund qualifies for a charitable tax deduction.

Dower: The life estate of a widow in the real property of her husband. At common law, a wife had a life estate in one-third of the value of the real property of her husband who died without leaving a valid will or from whose will she dissented. Many states do not recognize a dower right.

Dry Trust: A trust where the trustee merely holds title to trust assets but has no active duties to perform. (See Passive Trust.)

Durable Power of Attorney: A power of attorney that remains effective despite the disability or incompetence of the person granting the power. (See Power of Attorney.)

Easement: A right to use the property of another that is not inconsistent with the owner's use, such as the right to cross the owner's land in order to get to the highway. It generally arises by deed, will, or necessary implication.

Escheat: The reversion of property to the state when there is no person who qualifies as an heir, next of kin, identifiable beneficiary, or other claimant.

Estate: The title, right, or interest a person has in real and personal property. The term is often used in connection with a will, trust, bankruptcy, or estate taxes.

Estate by the Entirety: An estate held by husband and wife together so long as both live, and, after the death of either, by the survivor. Neither can sell without the consent of the other. (See Tenants by the Entirety.)

Estate Tax: One of three different taxes that comprise our transfer tax system: gift, estate, and generation-skipping taxes.

The estate tax is imposed on the value of interests in property that a decedent owns, possesses, or controls at death. The tax is both progressive (tax rates increase as value of the estate increases) and cumulative (value of the estate at death is increased by the value of all lifetime taxable gifts *in excess of* the donor's annual exclusion). A decedent's estate is granted an unlimited deduction for qualifying gifts to his/her spouse and charity.

Executor (m.) or Executrix (f.): A person who is named in a will and appointed by a court to carry out the terms of the testator's will and settle the estate after his/her death. There is a trend to refer to this person as the Personal Representative.

Exemption Equivalent: The total amount of property that can be given away (in excess of the annual exclusion amounts and other deductible gifts) during life or at death without transfer tax (gift or estate tax) consequences.

Fair Market Value: Amount of money a willing and able buyer would pay a willing seller for property, neither being under any compulsion to buy or sell, and both having a reasonable knowledge of relevant facts.

Federal Estate Tax: Tax levied on the taxable transfer of property to others at death.

Federal Gift Tax: Tax levied on the taxable transfer of property to others by gift during life.

Fee Simple: Absolute ownership of property, meaning that the owner has unconditional power to dispose of the property during his/her lifetime and to pass such absolute ownership to whomever he/she wishes upon his/her death.

Fiduciary: A person or institution that acts for another or administers property for another with a duty to act in their best interests in a capacity that involves a confidence or trust. Examples of fiduciaries are executors, trustees, and guardians.

Fiduciary Relationship: Relationship between a fiduciary and the person to whom the fiduciary owes the legal duty to act in the person's best interest.

Fiduciary Income Tax Return: State or federal income tax return filed by the fiduciary of an estate or trust.

Five-Year Carry Over Rule: A federal income tax provision that permits a donor to carry over into the five succeeding years any amount of a charitable gift that exceeds the deductible amount in the year the gift is made.

Future Interest: An interest where the right to possession or enjoyment is postponed until some future time or event. (See Present Interest.)

General Warranty: A covenant in the deed whereby the grantor agrees to protect the grantee against any defect in the title that would interfere with the grantee's enjoyment of the property.

Generation-Skipping Transfer Tax (GSTT): A tax imposed on a transfer of money or property that skips a generation. The tax is subject to an annual exclusion and a lifetime exemption per transferor. The types of GSTT events are direct skips, taxable distributions, and taxable terminations.

Gift-in-Kind: A gift of property other than cash and cash equivalents.

Gift Splitting: An election made by both a husband and wife whereby a gift made by one spouse is treated as if made equally by both spouses for gift tax purposes. The purpose of gift splitting is for both spouses to utilize their annual gift tax exclusion even though only one spouse makes a gift.

Grantee: A person to whom property is transferred, generally by a trust instrument or some other document.

Grantor: A person who transfers property to another, generally by a trust instrument or some other document. (See Settlor and Trustor.)

Grantor Trust: A trust over which the grantor (or other party) retains significant control or beneficial enjoyment. The grantor (or other party) is taxed on that portion of the trust over which he/she has control.

Examples of grantor trusts include a revocable trust (totally a grantor trust), and an irrevocable trust where all of the trust income is paid to the grantor (a grantor trust with respect to the trust income, but not necessarily for capital gains and losses).

Gross Estate: Everything a decedent owned at death and in which he had an interest at death, before deductions for debts, taxes, and certain expenses. It may also include lifetime transfers where the decedent retained the right to income, possession, or other enjoyment.

Guardian: Person appointed by a court to care for a person (such as a minor child or incompetent person), property, or both.

Holographic Will: A will entirely written and signed by the testator or maker with his/her own hand. In some states, only material provisions and signature must be handwritten. Many states do not allow holographic wills.

Implied Trust: A trust that is created, implied, or presumed from the circumstances; to be distinguished from an express trust that is created by express language, either orally or in writing.

There are two types of implied trusts: resulting trusts and constructive trusts.

Incidents of Ownership: Sufficient element of ownership or degree of control over a life insurance policy to make the insurance proceeds includable in the decedent's gross estate for federal estate tax purposes. For example, incidents of ownership include the right to cancel, borrow against, and/or change the beneficiaries of a life insurance policy.

Incompetent: A person judicially declared to be incapable of managing his/her affairs. In various states the fiduciary appointed to manage an incompetent's property and/or person is called a "guardian," "committee," or "conservator."

Inheritance Tax: A tax levied by many states on the right to receive property from a deceased person, as distinguished from the estate tax which is a tax levied on the right to transfer property. Usually the rate of tax varies according to the relationship of the beneficiary to the decedent.

Insurable Interest: Sufficient interest in the subject matter of insurance, such that the person or institution can apply for the insurance and benefit from the proceeds of the insurance. For example, a charity may or may not have an insurable interest in the life of a donor or other individual, depending on state law.

In Terrorem Clause: A provision of a will or trust agreement intended to frighten a beneficiary into doing, or refraining from doing, something at the peril of forfeiting his/her possible benefits—such as a provision that would disinherit any named or potential beneficiary who contests a will or trust.

Inter Vivos: A Latin phrase meaning "between the living." An inter vivos trust, for example, is one set up by a living person.

Intestate: Dying without a valid will. A person is said to die intestate when he/she dies without having made a valid will.

Irrevocable: That which cannot be revoked without a court order.

Irrevocable Trust: A trust that cannot be revoked without court authorization.

Issue: All persons who have descended from a common ancestor. In some jurisdictions, the term may include adopted children and/or children born out of wedlock.

Joint Tenancy: A type of ownership by two or more persons, where each owns an equal, undivided interest in the whole. In most states, joint tenancy includes the right of survivorship.

Legacy: Technically, a gift of personal property under a will (a bequest). But whether real or personal property, the following general categories apply:

1. *General:* A pecuniary legacy payable out of the general assets of the estate.
2. *Residuary:* A gift of all the property not otherwise effectually disposed of by will.
3. *Specific:* A testamentary gift of a special item.

Legatee: Any person who receives a legacy under a will.

Letters of Administration: A written document issued by a court authorizing the person named to administer and settle the estate of an intestate decedent. (Sometimes referred to as Letters of Authority.)

Letters Testamentary: A written document issued by a court providing notice of an executor's appointment and authority to act on behalf of the estate of a testate decedent. (Sometimes referred to as Letters of Authority.)

Life Estate: An interest that someone (the life tenant) has in property that lasts only during that person's lifetime, or the lifetime of some other person. The life tenant has no ownership rights to transfer any interests in the property after the life estate terminates.

Life Expectancy: The actuarial estimate of the number of years a person will live from any given age.

Life Insurance Policy: A contract between an insurance company ("insurer") and a customer ("insured") insuring the latter's life. The major types of life insurance policies are:

1. *Ordinary life* policies on which a fixed premium is paid for a fixed term of years or for the life of the insured, or the entire premium is paid in advance.
2. *Term* policies, on which an increasing premium may be paid, which remain in effect only for a specific number of years.
3. *Group term* policies, which resemble term policies except that the insured is a member of a group, all of whom are insured by the insurer as a "package," usually resulting in lower premiums. Such groups are frequently professional societies or the employees of a particular business, etc.

Life Tenant: The person who receives the income or benefit from a life estate. (See Life Estate.)

Living Will: A document that allows a person to state in advance his/her directions regarding artificial life support in the event of a terminal illness or permanent coma; to be distinguished from a health care (or medical) power of attorney that gives another person (an agent) the power to make a broad range of health care decisions on behalf of the person who cannot make his/her own decisions. May be known by different terms in various states, such as advance medical directive or some other designation.

Marital Deduction: The unlimited tax deduction allowed for gift tax and estate tax purposes for qualifying property transferred to, or for the benefit of, the spouse.

Mechanic's Lien: A claim under state law to secure a priority payment for the value of work performed and materials furnished in building, improving, or repairing a structure. The lien also attaches to the land on which the building sits.

Minor: An infant or person who is under the age of entitlement to full rights—in most states, age 18.

Mortgage: A form of conveyance given by the debtor to the creditor, wherein described real property is given as security for a loan. (See Trust Deed.)

Negligence: The failure to exercise the standard of care that would be expected of a reasonable and prudent person in a particular set of circumstances. If the prudent person should act, then one's failure to act is negligence; likewise, if the prudent person should not act, then to act is negligence.

Next of Kin: In the law of descent and distribution, the person most nearly related to a decedent by blood. Also, sometimes, those entitled to share in the decedent's estate according to the applicable laws of distribution.

Non-qualified dividends: Nonqualified dividends are ordinary dividends that are taxed at the regular tax rates.

Nuncupative Will: An oral will made by a person in his/her last illness or who is conscious of the possibility of dying in the near future (e.g., in a military action), stated before witnesses, usually later put in writing. Many jurisdictions do not honor a nuncupative will and instead regard the maker as having died intestate. Other jurisdictions will honor it only in specific situations.

Ordinary Income Property: Property which does not produce long-term capital gains and will be taxed at the "ordinary" rates of the taxpayer when it is sold. Examples of ordinary income property are: *short term capital gains property* (held one year or less); *inventory* (assets held for sale to customers in the ordinary course of a trade or business); certain *recapture property* (the value of some property against which accelerated depreciation deductions have been taken to reduce the tax basis); and *other property* which would *not* yield long-term capital gains if sold at a profit.

Passive Trust: A trust where the trustee merely holds title to trust assets but has no active duties to perform. (See Dry Trust.)

Per Capita: A Latin phrase meaning “by the heads.” It is used often in the law of descent and distribution to denote a method of dividing an estate by giving an equal share to each of a number of persons, all of whom stand in an equal degree to the decedent.

Personal Property: All property other than real property. There are two types of personal property: tangible and intangible.

1. *Tangible* personal property has physical characteristics, such as jewelry, furniture, etc.
2. *Intangible* personal property is property that cannot be touched or realized by the senses, such as legally enforceable rights in stocks, shares, patents, copyrights, and bank accounts.

Personal Representative: See Executor.

Per Stirpes: A Latin phrase meaning “by stock or roots.” It is used often in the law of descent and distribution to denote a method of dividing an estate by which a deceased person’s descendants share as a group in the portion to which their deceased ancestor was entitled.

Pooled Income Fund: A trust funded by a number of donors, each retaining an income interest for life. Each donor is paid a pro-rata share of the trust earnings. Each donor’s portion of the principal becomes the property of the charity at the death of the donor.

Pour-Over Will: A will that directs that all or part of the decedent’s assets to be “poured over” or transferred into a trust which has its own provision for distribution of assets.

Power of Appointment: The power given by one person to a second person, by a will or other instrument, to name the individual who will receive the first person’s property. A power of appointment may be general (power to give property to the power holder and others) or limited (power to give property only to others).

Power of Attorney: The legal document which grants the authority for one person to act as another’s agent or attorney-in-fact. A durable power of attorney continues during the principal’s incompetency. A power of attorney may be general or specific.

Prearranged Sale: An express obligation (a binding agreement) under state contract law to sell proposed charitable contribution property.

Precatory: Words in a will, trust, or other document expressing wishes and desires, but not a direction or mandate.

Present Interest: An unrestricted right to immediate use, possession, or enjoyment of property, or income from the property. Only a present interest gift qualifies for the annual gift tax exclusion. (See Future Interest.)

Pretermitted Child: A child to whom the parent's will leaves no share of his/her estate, without an affirmative provision in the will showing an intention to omit. It frequently is an after-born child, a child erroneously believed to be dead, or one unintentionally omitted. Many states have a statute for pretermitted children to receive a share of the estate.

Principal:

1. The body/amount or principal put into an estate or trust on which income may be earned. (See Corpus.)
2. Person who employs an agent to act on his behalf.

Private Benefit: A benefit granted by a 501(c)(3) charity to individuals or other non-charitable parties. A private benefit can result in a charity losing its tax-exempt status if the benefit is not incidental to the charity's exempt purpose or if it is more than insubstantial in amount.

Private Inurement: An impermissible benefit granted by a 501(c)(3) charity to insiders or those in a position of control. Any amount of private inurement can result in a charity losing its tax-exempt status.

Probate: The act or process by which the validity of a will is legally established by a court. In common usage, the term has been expanded to include all matters pertaining to the administration and settlement of an estate.

Property: Anything that may be the subject of ownership, real and personal, tangible and intangible. (See Personal Property and Real Property.)

Prudent Investor Rule: An investment standard adopted in many states that evaluates the propriety of an investment based on the total investment portfolio as a whole, rather than each individual investment. The Rule requires the fiduciary to invest in the best interests of both the income and remainder beneficiaries, taking into account several goals: to diversify the investment portfolio, and to develop specific investment strategies and asset allocations for each trust, estate, or other entity.

Prudent Man Rule: An investment standard whereby all that can be required of a fiduciary is that he/she conducts himself/herself as a prudent person of discretion and intelligence who is seeking a reasonable return and a preservation of capital. The Rule is generally applied to each individual investment.

Qualified appraisal: An appraisal that is conducted by a qualified appraiser in accordance with generally accepted appraisal standards as developed by the Appraisal Standards Board of the Appraisal Foundation.

Qualified appraiser: An individual who (1) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements, (2) regularly performs appraisals for which the individual receives compensation, and (3) meets such other requirements as may be prescribed by the Secretary of the U. S Treasury in regulations or other guidance. IRC Section 170(f)(11)(E)(iii) further

provides that an individual will not be treated as a qualified appraiser unless that individual (1) demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and (2) has not been prohibited from practicing before the Internal Revenue Service by the Secretary under § 330(c) of Title 31 of the United States Code at any time during the 3-year period ending on the date of the appraisal.

Qualified Disclaimer: The giving up of a right to receive property in a manner prescribed by the Internal Revenue Code and state law, so that the property is treated as never having been transferred to the person making the disclaimer.

Qualified Dividends: Dividends that are taxed at lower rates than ordinary dividends.

Qualified Domestic Relations Order (QDRO): A court order in a divorce, separation, or maintenance agreement that relates to child support, alimony, or the division of marital property. A QDRO is generally required for the assignment of benefits under a qualified retirement plan to be valid.

Qualified Terminable Interest Property (QTIP): Any property that passes from a donor spouse, during life or at death, in which the surviving or donee spouse has a qualifying income interest for life. To qualify, the spouse must be entitled to all income, the income must be payable at least annually and no person has any right to dispose of it during the spouse's lifetime. If qualified, the terminable interest is eligible for the unlimited gift or estate tax marital deduction, if an appropriate election is made. The value of the property may eventually be taxed in the donee spouse's estate.

Quitclaim Deed: A deed in which the grantor conveys to the grantee, with no warranty, all of the grantor's interests in the described property, whether the interest be all, part, or nothing.

Real Property: Any land, or any estate in land, usually including whatever is permanently affixed or growing upon the land.

Record Notice: When an instrument of conveyance or a mortgage is recorded in the appropriate public office, it is constructive notice of its contents to the whole world.

Remainder Beneficiary: A trust beneficiary who is entitled to the trust principal after the interest of the income beneficiary has been terminated. Same as Remainderman.

Res: (Latin) A thing, an object, or subject matter. The term is often used for property placed in a trust or a will.

Residuary Estate (Residue): The estate of a decedent remaining after the payment of all administration and funeral expenses, debts, charges, and legacies.

Resulting Trust: (See Implied Trust.)

Reversion: The interest in an estate remaining in the grantor after a particular interest, less than the whole estate, has been granted by the owner to another person; to be distinguished from remainder. The reversion remains in the grantor; the remainder goes to some grantee.

Revocable Trust: A trust in which the trustor reserves the right to revoke and reacquire the trust assets.

Rule Against Perpetuities: A rule of common law that prohibits future interests or estates from being tied up by one owner for too long a period. The interests or estates must become vested within 21 years after the death of some life or lives who were alive when the interests were created, plus the period of gestation. The rule often does not apply to charitable interests. The common law rule has been modified in some states.

Separate Property: Property owned separately and independently, free from any right or control by others. Property acquired by either spouse prior to marriage or by gift or devise after marriage is generally separate property.

Settlor: The person who creates a trust. Same as trustor.

Special Warranty Deed: A deed wherein the grantor limits his/her liability to the grantee to anyone claiming, by, from, through, or under the grantor. In other words, the grantor warrants only that done while he/she owned the property and that he/she has not done anything to encumber the property.

Spendthrift Clause: A provision in a will or trust that limits a beneficiary's right to dispose of his/her interest by assignment, and the right of the beneficiary's creditors to reach the trust assets by attachment.

Split-Interest Gift: A gift, often in trust, where the interests are split or divided between two parties—a charity and a non-charitable person.

Sprinkling Trust: A trust in which the income or principal is distributed among the members of a designated class in amounts and proportions as may be determined in the discretion of the trustee or other party. Also called spraying trust.

Statute of Limitations: A law which provides that a lawsuit must be brought within a specified time, usually beginning when the right to sue occurs. Any suit is generally barred after this time limit.

Taxable Estate: For estate tax purposes, the excess of a decedent's gross estate over allowable deductions for debts and certain administrative expenses.

Tenancy in Common: A form of property ownership held by two or more persons, each of whom holds an undivided interest in the whole. The tenants can own equal or unequal shares. There is no right of survivorship.

Tenants by the Entirety: A form of property ownership held by a husband and wife with survivorship rights. Generally creditors cannot reach the property unless both spouses are responsible for the debt.

Testamentary:

1. Of, or pertaining to, a will or testament, as a document.
2. Founded on, derived from, or created by a will, as a testamentary trust.

Testate: Leaving a valid will upon death.

Testator (m.) or Testatrix (f.):

1. A person who makes or has made a will or testament.
2. A person who dies leaving a will or testament.

Totten Trust: Trust created by deposit of one's own money in his/her own name as trustee for himself/herself. Title is vested in the record owner (trustee), who during his/her life holds it in a revocable trust for the named beneficiary. At the death of the depositor, a presumption arises that an absolute trust was created as to the balance on hand at the death of the depositor, with the beneficiary assuming legal title.

Trust: A fiduciary relationship in which the trustee is the holder of the legal title to property (the trust property) and is obligated to keep or use the property for the benefit of another person (the beneficiary).

Trust Deed: A deed used in some states by which a debtor conveys legal title to real property to the trustee as security for the payment of a debt. Similar in substance to a mortgage.

Trustee: The person or institution that holds legal title to trust assets and has a fiduciary duty to administer the property for the benefit of the beneficiaries.

Trustor: A person who creates a trust. Same as a Settlor or Grantor.

Undivided Interest: The interest of joint owners in the entire property, which interest is indistinguishable.

Undue Influence: Improper influence exerted upon a person so as to overpower his/her will and induce him/her to perform an action he/she would not freely have performed, or not to perform an action that he/she would otherwise freely have performed. Misuse of a position of confidence or taking advantage of a person's weakness, infirmity, or distress to change improperly that person's actions or decisions.

Unified Credit: A credit amount available to each taxpayer that can be applied against his/her gift and estate tax.

Unrelated Business Income: Income to a tax-exempt organization from a trade or regular business that is unrelated to its tax-exempt purpose or function. Unrelated business income also includes income on debt-financed property, with certain exceptions.

Unsound Mind: An infirmity of the mind such that a person is not capable of managing his/her own affairs and is unable to understand the consequences of what is being done.

Warranty: A promise or guarantee that certain facts are as they are represented to be, subject to any express limitations.

Warranty Deed: A deed in which the grantor assures or warrants that he/she has a good and merchantable title to the property being granted. The usual covenants of title are warranties of seisin, quiet enjoyment, right to convey, freedom from encumbrances, and defense of title against all claims. It is also referred to as a grant deed in some states.

Will: A legally enforceable written instrument, properly executed, by which a person makes a disposition of his/her property, to take effect after his/her death.

Witness:

1. A person who sees or knows something and testifies to it.
2. A person who gives evidence under oath or affirmation, either orally or by deposition or affidavit.
3. A person who affixes his/her name to an instrument executed by another in order to testify to the genuineness of the maker's signature.