

Simplified Glossary of Terms

Estate Planning:

The process of reviewing, recommending and implementing a strategy for transfer of assets, guardianships, charitable giving and a variety of other goals using numerous tools including trusts, wills, family limited partnerships and LLC's. Often, the parties goal is to achieve these results while paying the minimum in taxes, thereby assuring the next generation receives the maximum possible.

Will:

A signed, witnessed document used to designate your post mortem agents and allocate your assets among your heirs. Can also be used for charitable purposes and tax planning.

Executor:

An agent designated in the will who is primarily responsible for marshaling assets and distributing them in accordance with the terms of the will, filing of tax returns, settlement of debts, etc.

Administrator:

Same as executor except there is no will. Can be designated by a court.

Trustee:

The party designated in the will or trust to manage assets over a period of time including receipt of income, appointment of managements and investments and distribution to beneficiaries.

Guardian:

A party designated in a will to raise minor children or incompetents. May or may not manage assets for the children as well. This agent can also be appointed by a court.

Probate:

Includes the qualification of an executor or administrator to perform their duties under the will or as required by applicable law, administering and distribution of the assets, the filing of returns and an accounting.

Trust:

An agreement entered into, either during ones life time or pursuant to a will, for assets to be held by a trustee for the benefit of minor beneficiaries or some other person or group, for a time set forth in the trust agreement.

Health Care Proxy:

An instrument appointing an agent to make health care decisions for you including the withholding of nutrition and hydration, making organ donations to save a life, determination of medications, and obtaining of medical records. Generally limited to times were you are unable to make or communicate decisions (unconsciousness, brain damage, etc).

Living will:

A nonbinding expression of one's desire not to be artificially respirated, hydrated or provided nutrition in the event of certain catastrophic situations (vegetative state, coma, etc.) where the prognosis is for no significant improvement.

Power of Attorney:

Designation of an agent to make decisions including financial, personal, etc. may be effective now or upon the occurrence of some future event (incompetent, etc). You must use the new statutory form, which focuses on ability of agent to make gifts.

Family Limited Partnerships, LLC, etc:

Various corporate and other organizational forms to facilitate tax advantaged transfer of assets.

Estate Tax:

A tax which is owed at death, payable within nine months of the date of death, based upon the total assets of the decedent at the time of death. In New York (unlike Florida or other areas), in addition to the Federal Estate tax, we have a New York State and New York City Estate tax as well.

Capital Gains Tax:

A tax calculated on any appreciation or gain on certain assets. Usually this is payable at the time you file your income tax return for the period. However, exemptions and credits may apply.

Gift Tax:

A tax imposed upon the giver or donor of a gift or series of gifts in any calendar year beyond a nominal amount. However, exemptions may apply.

Please note this is a simplified glossary for ease of discussion and is not intended as legal advice. The description is not precise or complete. These limited definitions are specific to New York State and the terms may vary from State to State. Please contact Robert Bichoupan P.C. for a full definition of these terms if desired.

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