

Estate Planning Terms

Advance Medical Directive or Living Will

A legal document in which you specify whether you want to receive life-sustaining measures such as feeding tubes, respirators, defibrillation, cardiac resuscitation, hydration, and nutrition if you are in a permanent vegetative state or have a terminal illness with no reasonable expectation of recovery. An AMD is used *only when you are unable to communicate your wishes regarding health care*.

Beneficiary

A person or organization who may receive a type of benefit, such as money, property, or something else of value - from a will, living trust, pay on death account, retirement account, or life insurance policy upon the death of the owner.

Bequest

Money, property, or another type of inheritance left in a will to a beneficiary.

Estate Tax

A tax on the nonexempt portion of an estate before any part of the estate is distributed. The federal and Washington estate taxes are based on the total value of all property and other assets owned at the time of death. For 2018, the federal exempt amount is \$11.2 million *per individual* and Washington's exempt amount is \$2.193 million *per individual*.

Executor (see *Personal Representative*)

Intestate

To die *intestate* means to die without a will. The property of a person who dies without a will is distributed according to the "*intestate succession*" laws of the state where he lived at the time of death. Washington law outlines a hierarchy of relatives for distribution of the property.

Living Trust or Inter-Vivos Trust

A trust you set up during your lifetime to manage your property both during your lifetime and after your death (much the same way a will manages your property after your death). The trust "owns" the property that you transfer into it. During your lifetime you, as trustee, use your property just as if it were your own.

Medicaid Planning

The process of "spending down," rearranging, or otherwise making changes to assets, income, and financial status in an effort to become eligible for Medicaid benefits.

Personal Representative

The person nominated in a will to administer the estate and carry out the instructions in the will. In Washington, the term "*personal representative*" is used instead of "*executor*," which may be a more familiar term.

Power of Attorney for Health Care Matters

A Durable Power of Attorney for Health Care Matters is an important legal document. Unlike an Advance Medical Directive, which addresses only issues regarding end-of-life decisions, this Power of Attorney addresses matters that affect you during your lifetime. This document gives your "Agent" or "Attorney-in-Fact" the right to speak with your doctors and make decisions regarding your medical affairs, *only when you are unable to make those decisions yourself*. The Agent cannot use it for any other purpose or in any other circumstances.

Power of Attorney for Fiduciary Matters

A Durable Power of Attorney for Fiduciary Matters allows another person to act on your behalf or in your place in financial matters, such as signing checks or contracts, and selling assets such as real estate, stocks, and bonds. If you create a Power of Attorney, you are the principal and the person to whom you grant the power is the agent or attorney-in-fact. An agent can act *only when you are unable to do so yourself or when you ask your agent for assistance*.

Professional Fiduciary

A person, company, or institution that acts for the benefit of an unrelated party and is paid for such fiduciary services. Professional fiduciaries may be retained to serve as trustee of a trust, agent under a power of attorney, or personal representative of an estate.

Supplemental Needs Trust (sometimes called a Special Needs Trust)

An SNT is created to hold property for the benefit of a child or adult with physical or mental disabilities. Such a trust can be set up for a variety of reasons, including:

1. appointing a trustee to manage property because the beneficiary is unable to do so;
2. ensuring that the beneficiary's eligibility to receive Supplemental Security Income (SSI) and Medicaid is not impacted by the receipt of a lump sum of money or other property.

An SNT is written so that the property in the trust will not be considered either a financial resource or income of the beneficiary. Money from a special needs trust must be used to pay only for supplemental expenses, such as travel, dietary supplements, entertainment, anything over and above what government benefits provide

Spendthrift Trust

A trust designed to provide income to a trust beneficiary while controlling or limiting the beneficiary's access to the trust funds in order to, among other considerations:

1. prevent the beneficiary from squandering an inheritance, or
2. shield the trust assets from claims of the beneficiary's creditors, often in the circumstances of divorce or lawsuits.

Testamentary

Pertaining to, appointed by, or bequeathed in your *will*.

Testamentary Trust

A trust *created in a will*. It will not exist until after your death.

Trustee

A person or entity you appoint to manage and administer trust property according to the terms of a trust, for the benefit of trust beneficiaries.

Will

A will is a legal document you make to indicate how you would like to distribute the property you owned at your death. Another important function of a will can be to name a guardian for minor children.