ESTATE PLANNING
PROBATE & TRUST ADMINISTRATION
FAMILY & ASSET PROTECTION
GLOSSARY

A

401(k) Plan. A qualified profit sharing or stock bonus plan under which plan participants have an option to put money into the plan or receive the same amount as taxable cash compensation. Amounts contributed to the plan are not taxable to the participants until withdrawn. Generally funded entirely or in part through salary reductions elected by employees. Salary reductions are subject to an annual limit.

403(b) Plan. A tax-deferred annuity retirement plan available to employees of public schools and certain nonprofit organizations.

A/B Trust. A type of Revocable Living Trust used by married couples. In this type of living trust, two trusts (trust A and trust B) are created at the time the first spouse dies. By dividing the couple's estate into two trusts at the first death, each spouse can pass the maximum amount of property allowed to avoid federal estate taxes. One trust, usually trust A, is often referred to as the marital deduction trust and the other trust, usually trust B, is often referred to as the shelter trust.

Absolute Assignment. A policy assignment under which the assignee receives full control over the policy and full rights to its benefits. As a general rule, when a policy is assigned to secure a debt, the owner retains all rights in the policy in excess of such debt, even though the assignment may be absolute in form. The insurance company does not guarantee the validity of the assignment.

Accumulation Trust. A type of trust which retains and accumulates income for longer than a year, instead of paying all of the income out to the beneficiaries at least annually. These types of trusts are also known as complex trusts.

Adult. Any person over the age of 18 or 21 years. The age of an adult depends on specific state laws. In Wisconsin one becomes an adult at 18.

Affidavit. A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.

Affidavit of Domicile. A sworn, written statement verifying city, county and state of residence.

Affidavit of Survivorship. A sworn, written statement verifying the identity of the survivor in a joint tenancy or other property ownership relationship.

Alternate Valuation Date. A date exactly six months following the decedent's date of death that the personal representative may choose to revalue for estate tax purposes, all assets held by the estate.

Ancillary Probate. A probate proceeding conducted in a state other than the state where the decedent lived and the primary probate occurs.

Annual Exclusion. The amount of property the IRS allows a person to gift to another person during a calendar year before a gift tax is assessed and/ or a gift tax return must be filed. The amount is increased periodically. There is no limit to the number of people you can give gifts to which qualify for the annual exclusion. To qualify for the annual exclusion, the gift must be one that a recipient can enjoy immediately and have full control over.

Annuitant. The party entitled to receive payments from an annuity contract.

Annuity. A fixed sum payable to a person at specified intervals for a specific period of time or for life. Payments represent a partial return of capital and a return (interest) on the capital investment.

Ante-nuptial Agreement. A contract between two potential marriage partners specifying how the property owned by each prior to marriage and owned individually or jointly during marriage will be divided should the couple divorce.

Ascertainable Standard. The IRS defined standard which governs the use of trust B property and prevents the property from being considered part of the trustee's property for estate tax purposes. The standard is defined as "health, education, maintenance and support" of the surviving spouse and children.

Assets. All types of property which can be made available for the payment of debts.

Asset Holder. The company where the client's assets are invested. Same as financial institution.

Attorney. Another name for a lawyer.

B

Basis. A tax term, which refers to the original or acquisition value of a property, used to determine the amount of tax that will be assessed. The basis is deducted from the sales price of the property when it is sold to determine the profit or loss.

Before-Tax Earnings. A taxpayer's gross income from salary, commissions, sales, fees, etc., before deductions for federal, state or other income taxes.

Beneficial Interest. A financial or other valuable interest arising from an insurance policy regardless of who formally owns the policy.

Beneficiary. An individual, institution, trustee or estate which receives, or may become eligible to receive, benefits under a will, insurance policy, retirement plan, annuity, trust, or other contract.

Beneficiary Designation Form. A form provided by an insurance company, or another company holding a tax-deferred asset, which allows you to change the beneficiary designations on that policy or account.

Bequest. An old legal term meaning to give a gift or leave property under the terms of a will.

Binder. A temporary, binding agreement, secured by a payment to evidence good faith, used until a formal contract takes effect.

Bond. An insurance policy used to ensure a legal representative will do his job and not misuse or steal funds he is controlling. The bond guarantees that a certain amount of money will be paid if a party is injured due to acts of the legal representative.

Bond Power. A Bond Power is a form often used in lieu of signing directly on a bond.

Book Value. An accounting term. The book value of a stock is determined from a company's records, by adding all assets then deducting all debts and other liabilities, plus the liquidation price of any preferred issues. The sum arrived at is divided by the number of common shares outstanding and the result is book value per common share. Book value of the assets of a company or a security may have little relationship to fair market value.

Broker. An individual or firm which acts as an intermediary between a buyer and seller, usually charging a commission. For securities and most other products, a license is required.

Buy-Sell Agreement. An agreement between the owners of a business that provides that the shares owned by any one of them who dies or withdraws from the business shall be sold to and will be purchased by the surviving co-owners or by the entity itself at a value or formula previously agreed upon by the parties and stipulated in the agreement. Also applies to buyout arrangements between owners and key employees.

By Right of Representation. Common terminology for the Latin term, Per Stirpes. This is the most common way of distributing an estate such that if one of the children is dead, his children share equally in his share of the estate distribution. This term is often summarized by the phrase, "if the parent is dead his children stand in his shoes."

Bypass Trust. An estate planning device (also called a credit shelter trust, family trust, or B trust in "AB" plans where the A trust funds for the marital deduction) used to minimize the combined estate taxes payable by spouses whereby, at the death of the first spouse, the estate is divided into two parts and one part is placed in trust usually to benefit the surviving spouse without being taxed at the surviving spouse's death, while the other part passes outright to the surviving spouse or is placed in a marital deduction trust.

C

Capital Gain or Capital Loss. The profit or loss from the sale of a capital asset.

Capitalization. The total amount of the various securities issued by a corporation. Capitalization may include bonds, debentures, preferred and common stock, long term debt and surplus. Bonds and debentures are usually carried on the books of the issuing company in terms of their par or face value. Preferred and common shares may be carried in terms of par or stated value. Stated value may be an arbitrary figure decided upon by the board of directors or may represent the amount received by the company from the sale of the securities at the time of issuance.

Cash Basis Method. A method of determining when income must be reported and when expenses can be deducted. It is used by most individual taxpayers. Certain partnerships, corporations, and other taxpayers may not use the cash method. Under the cash method, income is generally reported in the tax year money is received, and expenses are usually deducted in the tax year they are paid.

Cash Surrender Value. The equity amount available to the owner of a life insurance policy should he or she decide it is no longer wanted. Calculated separately from the legal reserve.

Cash Value. The equity amount available to the policy owner when a life insurance policy is surrendered to the company, or the amount upon which the total available for a policy loan is determined. During the early policy years in a traditional whole life policy, the cash value is the reserve less a surrender charge; in the later policy years, the cash surrender value usually equals or closely approximates the reserve value.

Certification and Affidavit of Trust. A document that contains all information needed by those you do business with. It enables you to avoid disclosing the particulars of your living trust plan.

Certification (Certified Copy). A statement by an authorized party that the copy is a true and correct copy and is still in full force and effect.

Certified Financial Planner (CFP). Professional designation granted to someone who has attained a high degree of technical competency in financial planning and has passed a series of professional examinations by the College for Financial Planning.

Charitable Gift Annuity. An arrangement whereby the donor makes a gift to charity and receives back a guaranteed lifetime (or joint lifetime) income based on the age(s) of the annuitant(s).

Charitable Lead Trust. An arrangement whereby the charity receives an income from a trust for a period of years, then the remainder is paid to non-charitable beneficiaries (generally either the donor or his or her heirs).

Charitable Remainder Annuity Trust. A charitable trust arrangement whereby the donor or other beneficiary is paid annually an income of a fixed amount of at least 5% but not more than 50% of the initial fair market value of property placed in the trust, for life or for a period of up to 20 years; one or more qualified charitable organizations must be named to receive the remainder interest upon the death of the donor or other income beneficiaries, and the value of the charitable remainder interest must be at least 10% of the net fair market value of all property transferred to the trust, as determined at the time of the transfer.

Charitable Remainder Trust. A trust used to make large donations of property or money to a charity so the person making the gift or donation can obtain a tax advantage. In a charitable remainder trust, the donor reserves the right to use the trust property during his life or some other specified time period, and when the agreed period is over the property goes to the charity.

Charitable Remainder Unitrust. A charitable trust arrangement whereby the donor or other beneficiary is paid annually an income of a fixed percentage of at least 5% but not more than 50% of the annually revalued trust assets, for life or for a period of up to 20 years; one or more qualified charitable organizations must be named to receive the remainder interest upon the death of the donor or other income beneficiaries, and the value of the charitable remainder interest must be at least 10% of the net fair market value of all property transferred to the trust, as determined at the time of the transfer.

Chartered Financial Consultant (ChFC). Professional designation granted to an individual who has attained a high degree of technical competency in the fields of financial planning, investments, and life and health insurance and has passed ten professional examinations administered by The American College.

Chartered Life Underwriter (CLU). Professional designation granted to an individual who has attained a high degree of technical competency in the fields of life and health insurance and who is expected to abide by a code of ethics. Must have minimum of three years of experience in life or health insurance sales and have passed ten professional examinations administered by The American College.

Closely-Held Business. A business organization in which the ownership is held by a limited number of people often with the same family rather than owned by the public at large.

Codicil. A supplement, amendment, or addition to a will executed with all the formalities of the will itself. It may explain, modify, add to, subtract from, qualify, alter, or revoke provisions in a will.

Collateral Assignment. When a life insurance contract is transferred to an individual or other party as security for a debt. This usually temporary assignment does not transfer all policy rights.

Collateral Assignment Method (Split Dollar). A policy ownership arrangement under a split-dollar arrangement using life insurance where the employee (or a third party) owns the policy and names a personal beneficiary but assigns part of the policy or death benefit to the employer as collateral for the employer's premium advances under the policy.

Common Disaster Clause. A statement in a will telling how property is to be distributed if would-be devisees die from the same accident.

Community Property. Some state laws require that all assets acquired during a marriage belong equally to both spouses, except for gifts and inheritances given specifically to one spouse. The eight states with such laws are known as community property states. The eight states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington. Puerto Rico also uses the community property system, and Wisconsin has a modified community property system.

Complex Trust. See Accumulation Trust

Concealment. Deliberate failure of an applicant for insurance to reveal a material fact to the insurer.

Conditions. Provisions inserted in an insurance contract that qualify or place limitations on the insurer's promise to perform.

Conservator. A person who is appointed by a court to manage the estate of a protected person who, because of age, intellect, or health, is incapable of managing his or her own affairs.
Conservatorship. A court controlled program where a conservator is appointed by the court to manage the monetary affairs of a person(s) who is unable to manage his/her own affairs.

Consideration. One of the elements of a binding contract; the exchange of values by the parties to the contract. Such values may be money, promises, property, etc. In insurance, the policy owner's consideration is the first premium payment and the application; the insurance company's consideration is the contract itself.

Constructive Receipt Doctrine. A federal tax rule, which provides that when a taxpayer has an unrestricted right to receive a pecuniary benefit, that is when it is made available without a substantial risk of forfeiture, the benefit is considered to have been received for income tax purposes whether or not it was actually received.

Contingency. The possibility of coming to pass; an event which may occur.

Contingent Beneficiary. The person or entity who will receive the proceeds if the primary beneficiary dies or is no longer in existence, or if the primary beneficiary disclaims the proceeds, on the death of the insured.

Contract. An agreement between two or more parties. It may be oral, but generally it is written.

Convertible. Term life insurance that can be exchanged for a cash value life insurance policy without evidence of insurability.

Corporate Owned Life Insurance (COLI). Life insurance owed by a corporation, insuring the lives of its employees.

Corpus. Trust property; the principal sum as distinguished from interest or income.

Corpus of a Trust. The term used to designate the body of assets placed in a trust. The trust holds title to all property included in the corpus.

Cost of Insurance (COI). The cost of insurance rate charged on the difference between the death benefit and account value, also known as the net amount at risk. The cost of insurance rate is set to cover more than the cost of providing the death benefit. The cost of insurance rate helps cover administrative costs, taxes, and other expenses. The cost is deducted from the account value monthly.

Credit Shelter Trust. An estate planning device (also called a bypass trust, family trust, or B trust in "AB" plans where the A trust funds for the marital deduction) used to minimize the combined estate taxes payable by spouses whereby, at the death of the first spouse, the estate is divided into two parts and one part is placed in trust usually to benefit the surviving spouse without being taxed at the surviving spouse's death, while the other part passes outright to the surviving spouse or is placed in a marital deduction trust.

Creditor. A person or institution to whom money is owed.

Cross Purchase Buy Sell Plan. In a cross purchase plan, the surviving owners (rather than the business itself) agreed to buy the deceased or departing owner's business interests. That purchase is made for an agreed-on price or according to an agreed-on formula.

Crummy Trust. A trust established granting a beneficiary a limited power to withdraw income or principal or both. This power is exercisable during a limited period of time each year and is non-cumulative. The power of withdrawal is generally limited to the amount excludable from gift tax liability under the annual gift tax exclusion or to the greater of $5,000 or 5 percent of the trust property.

Cumulative Planned Premium. The total of the planned premiums scheduled to be paid to date by the policy owner.

Cumulative Loan. The total of the annual loans and loan interest, if accrued, to date.

Cumulative Retirement Income. The total of the annual retirement income distributions projected to be taken to date from an insurance policy whether by way of loans or withdrawals.

Custodial Parent. The parent given custody and responsibility by the divorce court for the children of the divorced couple.

Custodianship. An ownership arrangement in which property management rights are given to a custodian for the benefit of a child beneficiary under the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act; a custodian's duties resemble those of a trustee, although the custodian does not take legal title to the trust property and custodianship ends when the minor reaches the age of majority as specified by state law. May also apply to property management rights of individuals who are determined to be incompetent to handle their own affairs.

D

Death Benefit Only Arrangement (DBO). A type of deferred compensation arrangement in which an employer agrees to pay only a death benefit to a deceased employee's heirs rather than the customary retirement benefit (and perhaps ancillary benefits) associated with conventional deferred compensation.

Death Taxes. Taxes levied on the property of a deceased person. Federal death taxes are usually referred to as estate taxes. Local and state death taxes are often referred to as inheritance taxes, or simply death taxes.

Debtor. A person who owes money.

Decedent. The person who has died.

Declarations. Statements in an insurance contract that provide information about the property or life to be insured and used for underwriting and rating purposes and identification of the property or life to be insured.

Deed. A written document used to evidence ownership and/or transfer title to real estate.

Deferred Compensation Plan. A plan in which the executive elects to defer compensation into an account in the expectation of receiving the deferrals plus earnings at retirement; may involve company contributions.

Defined Benefit Plan. A plan in which the company specifies the benefit the plan will deliver. Typically involves only company contributions; company bears the investment risk. (Examples: pension or cash balance plan).

Defined Contribution Plan. A plan in which the company defines the contribution it will make to the employee's account in the plan rather than a fixed benefit the employee will receive. Typically involves both company and employee contributions; employee bears the investment risk.

Devise. When used as a noun, real or personal property given to another by will. When used as a verb, to dispose of real or personal property by will.

Devisee. Any person designated in a will to receive real or personal property.

Direct Skip. An outright generation-skipping transfer, either by gift or at death, to a recipient, known as a "skip person," who is two or more generation levels below the transferor. This type of property transfer prompts the generation-skipping transfer tax.

Direct Transfer. The movement of a tax-deferred retirement asset from one plan or custodian directly to another. A direct transfer is not a withdrawal and does not incur any taxes or penalties.

Disclaimer. The refusal of a beneficiary to accept property willed to him. When a disclaimer is made, the property is generally transferred to the person next in line under the will. A disclaimer is also called a renunciation.

Dispositive Provision. A clause in a will or trust that gives away property.

Disinterested Witness. A witness who is not a beneficiary or relative of the policyholder.

Disposition. The parting with or giving away of property.

Disinherit. Cutting a person off from his or her inheritance in an estate where he or she would have been a natural heir.

Doctrine of Independent Significance. The legal power to make reference in one document to an independent document that stands alone. By making reference to the independent document, the law will allow the independent document to be incorporated into the document making reference to it.

Donee. One who receives a gift.

Donor. A person who makes a gift. The person setting up a trust can be called donor, trustor, grantor, or settlor.

Domicile. That place where a person has voluntarily fixed his/her habitation, not for a temporary or special purpose but with a present intention of making it his/her home unless and until something, which is uncertain and unexpected, shall happen to induce him/her to adopt some other permanent home.

Dower. The life estate of a widow in the property of her husband. At common law a wife had a life estate in one-third (in value) of the property of her husband who died without leaving a valid will or from whose will she dissented. In many states common law dower has been abolished by statute or never has been recognized.

Durable Power of Attorney. A written legal document which allows one person (the principal) to authorize another person (the attorney-in-fact or agent) to act on his or her behalf with respect to specified types of property, and which may remain in effect during a subsequent disability or incompetency of the principal.

Durable Power of Attorney for Health Care. A document established by an individual (the principal) granting another person (the agent) the right and authority to handle matters related to the health care of the principal.

Due-on-Sale Clause. A clause in a mortgage document which requires that the mortgage be paid in full if the encumbered property is transferred.

E

Economic Benefit. The value of the death benefit protection provided to employee under a split dollar plan, as defined by IRS revenue rulings and notices. The economic benefit amount is equal to the employee death benefit multiplied by the economic benefit rate, plus the cost of "other benefits" that are owned, controlled by or otherwise provided to the employee under the policy. The economic benefit rate is an age specific rate per thousand, which may be determined from government tables.

Economic Benefit Doctrine. A federal tax rule, which provides that when an employer provides an economic benefit to an employee, that benefit is includable in the employee's gross income even if not received in cash or property.

Employee Benefit Plan. A plan established or maintained by an employer or employee organization, or both, for the purpose of providing employees a certain benefit, such as pension, profit-sharing, stock bonus, thrift medical, sickness accident, or disability benefits.

Employee Benefit Trust. A trust established to hold the assets of an employee benefit plan.

Employee Stock Ownership Plan. An Employee Stock Ownership Plan (ESOP) is essentially a stock bonus plan in which employer stock is used for contributions. A "KSOP" plan also includes §401(k) Plan features.

Employer contributions are tax deductible and are not currently taxed to the employee. Earnings accumulate income tax deferred and distributions are generally taxed as ordinary income.

Endorsement. Written provision that adds to, deletes, or modifies the provisions in the original contract.

Endorsement Method (Split Dollar). A life insurance policy ownership arrangement under a split-dollar arrangement in which the employer owns the policy and an endorsement to the policy spells out the employee's rights.

Equity Split-Dollar. An arrangement in which the employer's share of the cash value and death benefit of life insurance on an employee's life is confined to its aggregate net premium payments; any cash value in excess of the employer's premiums inures to the benefit of the other party (employee or third party). The taxation of this arrangement is addressed in IRS Notice 2001-10.

ERISA. The acronym for the Employee Retirement Income Security Act of 1974, a federal law that established minimum standards for certain employee benefit plans, especially qualified employer retirement plans.

Errors and Omissions Insurance. Liability insurance policy that provides protection against loss incurred by a client because of some negligent act, error, or omission by the insured.

Escheat. A legal word that describes the situation where property transfers to the ownership of the state government because there are no legal inheritors to claim it.

Estate. The aggregate of all assets and debts held (owned) by an individual during his or her life or at the time of his or her death.

Estate Planning. Process designed to conserve estate assets before and after death, distribute property according to the individual's wishes, minimize federal estate and state inheritance taxes, provide estate liquidity to meet costs of estate settlement, and provide for the family's financial needs.

Estate Taxes. Taxes imposed on the "privilege" of transferring property by reason of death. Estate tax is most commonly used in reference to the tax imposed by the Federal Government rather than the state government. Estate taxes are intended to raise revenue for the government and break up a family's wealth, so that the nation's wealth doesn't concentrate in the hands of a few families.

Executor/ Executrix. The person (male/female) named in a will to manage a decedent's estate. The more modern term is a "personal representative," which removes any reference to the sex of the person.

Exempt Property. Property not exceeding $10,000 in value in excess of any security interests in household furniture, automobiles, furnishings, appliances and personal effects to which a surviving spouse is entitled from the estate. This property is protected from creditors and devisee claims.

Exemption Equivalent. When property is given as a gift or passed to heirs as part of an estate, it is subject to federal estate and gift tax laws. Each person is given a tax credit (the "unified credit") that can be used to offset the tax assessed against a specific amount of property. The amount of property that results in a tax exactly equal to the unified credit is known as the "exemption equivalent" (see Appendix 1 for exemption equivalent values). Technically, no property is exempt from federal estate and gift taxes, but the term exemption equivalent is commonly used. Stated another way, the unified credit is equal to the amount of tax due on a gift or estate transfer of property that has a value equal to the exemption equivalent amount.

F

Fair Market Value. The price at which an item can be sold at the present time between two unrelated people, neither under compulsion to buy or sell.

Family Allowance. The surviving spouse and minor children are entitled to a reasonable family allowance in cash from the estate for their maintenance during the period of probate administration. The personal representative may determine the family allowance in a lump sum not exceeding $18,000, or periodic installments not exceeding $1,500 per month for one year.

Family Attribution Rules. A federal tax rule that may cause the ownership of stock by one family member to be attributed to another for purposes of determining the income tax consequences of a distribution by the corporation in redemption of the stock.

Family Trust. Another name for a living trust.

Fee Simple Ownership. Outright ownership of property with absolute rights to dispose of or gift it to anyone.

Fiduciary. A person with the legal duty to act primarily for another's benefit in a position of trust, good faith, candor and responsibility. "Fiduciary" is often used as an alternative term for "trustee."

Fiduciary Duty. The duty of a fiduciary to act in a position of trust, good faith, candor and responsibility, on behalf of another. The duty is one of the best defined responsibilities under the law and is very strictly enforced by the courts.

Five and Five Power. A provision that allows a trust beneficiary to withdraw the greater of $5,000 or five percent of the principal from a trust without causing the entire trust property to be included in his or her estate for federal estate taxation.

Fixed-Period Option. Life insurance settlement option in which the policy proceeds are paid out over a fixed period of time.

Formal Probate Proceedings. Those conducted before a judge with notice to interested persons for probate of a will or appointment of a personal representative.

Fraud. The use of deception for unlawful gain.

Funding Administrator. Person who is assigned to do the work of transferring the client's assets from his personal name to the name of his trust.

Funding Instrument. An insurance contract or trust agreement that states the terms under which the funding agency will accumulate, administer, and disburse the pension funds.

Funding Worksheet. Excel worksheet that lists details of the client's assets and provides spaces to track progress of the funding process. Same as trust financial statement.

Future Interest. An ownership interest in property in which unlimited possession or enjoyment of property is delayed until some future time.

G

General Partner. A general partner is a partner of a partnership who is personally liable for all partnership debts and is permitted to participate in the management of the partnership.

General Partnership. A partnership that has only general partners and no limited partners. Each partner is liable for all partnership debts and there is no limited liability.

General Power of Appointment. A power of the donee (the one who is given the power) to pass on an interest in property to whomever he pleases, including himself or his estate.

General Power of Attorney. A legal document that, when properly executed, gives one person (the agent) full legal authority to act on behalf of another (the principal). The scope of the document can be as broad or narrow as you desire as defined in the document. A general power of attorney becomes invalid when the principal dies or becomes incompetent.

Generation Skipping Transfer (GST). A transfer of property, usually in trust, that is designed to provide benefits for beneficiaries who are two or more generations younger than the generation of the grantor.

Generation Skipping Transfer Tax (GST). A transfer tax generally assessed on transfers to grandchildren, great grandchildren and others who are at least two generations younger than the donor.

Generation Skipping Transfer Tax Exemption. An exemption from generation-skipping tax for transfers by an individual either during life or at death.

Generation Skipping Trust. Any trust having beneficiaries who belong to two or more generations younger than the grantor.

Gift. A voluntary transfer of property for which nothing of value is received in return. If the Internal Revenue Service is to recognize a transfer as a gift, the donor(s) must unconditionally transfer all title and control of the property to the recipient(s) at the time the gift is given.

Gifting. A means of implementation of an estate plan through gifts to intended successors in the ownership of assets owned by the person(s) making the gifts.

Gift Taxes. Taxes levied by the Federal Government on gifts. Gift taxes and estate taxes have been "merged" into a single tax called the "unified tax.

Grace Period. Period of time during which a policyowner may pay an overdue premium without causing the policy to lapse.

Grantee. A person to whom property is transferred by deed or to whom property rights are granted by means of a trust instrument or some other document.

Grantor. The originator of a transfer. The creator of a trust is usually designated as the grantor of the trust.

Grantor Retained Annuity Trust. A trust in which the grantor retains the right to a set annual dollar amount (the annuity) for a fixed term and gives the principal to others, such as the grantor's children, at the end of that term. If the grantor survives until the end of the annuity term, all of the trust principal will be excluded from the grantor's estate for estate tax purposes. A grantor retained annuity trust is sometimes referred to as a "GRAT."

Grantor Trust. For purposes of the income taxation of trusts, a trust in which the grantor or a third party, because of certain rights to income or principal or certain powers over the disposition of income and principal, is treated as the owner of the trust and taxed on the income thereof. The right to revoke the trust is sufficient to make the trust a grantor trust. Consequently, a grantor trust is not treated as a separate entity for income tax purposes.

Gross Estate. For federal estate tax purposes, the total value of all property—real or personal, tangible or intangible—that a decedent had owned or had control over at the time of death.

Group "Carve Out" Life Insurance Plan. This plan is an alternative to group term insurance. It provides life insurance coverage to selected employees by "carving out" all or a portion of their coverage under an employer sponsored group term plan and then provides them with individual policies. The plan can be designed as either a Bonus §162 Plan or a split dollar plan.

Group Life Insurance. Life insurance provided on a number of persons in a single master contract. Physical examinations are not required, and certificates of insurance are issued to members of the group as evidence of insurance.

Group-Term Life Insurance Program. An employer may provide employees with life insurance coverage through an IRC §79 group-term policy, the first $50,000 of which generally produces no taxable cost to the employee.

Guaranteed Investment Contract (GIC). A debt instrument issued by an insurance company, usually in a large denomination, and often bought for retirement plans. The interest rate paid is guaranteed, but the principal is not.

Guaranteed Insurability. An insurance policy in which the insurer is required to renew the policy for a specified amount of time regardless of changes to the health of the insured. The agreement requires that premiums are paid on time and that the insurer makes no changes except if a premium change is made for an entire class of policyholders. Also called guaranteed renewable or conversion privilege or convertible term insurance.

Guaranteed Net Surrender Value. The guaranteed surrender value which equals the guaranteed net policy value minus the surrender charge, if any.

Guarantor. A party who guarantees repayment of a loan, using their own assets if necessary.

Guardian. A person legally empowered and charged with the duty of taking care of another who, because of age, intellect, or health, is incapable of managing his or her own affairs. The guardian manages the person. A conservator manages the property of a minor or incapacitated person. A person can be appointed both guardian and conservator.

H

Heir. A person entitled by law to inherit part or all of the estate of an ancestor who died without leaving a valid will as determined by the state statutes for intestate succession.

Heirloom. A personal possession that usually has a sentimental value which exceeds its monetary value.

Holographic Will. A will written entirely in the testator's own handwriting signed and dated. This type of will is not valid in all states.

Homestead Laws. State laws which protect your house, clothing, and personal property, up to a specific dollar amount, from being taken away by most types of lawsuits or bankruptcies.

Household Items. The phrase in a will which indicates everything which may be used for the convenience of the house such as tables, chairs, bedding, etc. Apparel, books, weapons, and the like are not included.

Human Life Value. For purposes of life insurance, the present value of the family's share of the deceased breadwinner's future earnings.

I

Incapacitated. A person who is legally incapable of managing his or her own business affairs. A person may be permanently or temporarily incapacitated. A probate court usually decides if a person is incapacitated or not. "Incapacitated" is often used interchangeably with "incompetent."

Incapacity. The lack of ability to act on your own behalf.

Incidents of Ownership. All or any management control over a trust or an insurance policy. In relation to an insurance policy, incidents of ownership include the right to change the beneficiaries, borrow cash value, and change the ownership, among other rights.

Income Beneficiary. The beneficiary of a trust who is entitled to receive the income from it.

Income in Respect of a Decedent (IRD). Income earned by a decedent or income to which the decedent had a right prior to death, but which was not properly includible in his or her gross income prior to death

Incontestable Clause. A provision in a life insurance policy that prevents the insurer from revoking coverage because of alleged misstatements by the insured after a specified period, usually about two years.

Income Tax. A tax assessed on gain made by an individual or entity.

Incompetent. A person who is legally incapable of managing his or her own business affairs. A person may be permanently or temporarily incompetent. A probate court usually decides if a person is incompetent or not. "Incompetent" is often used interchangeably with "incapacitated."

Independent Trustee. A trustee who is unrelated to the person who establishes a trust (the grantor) and the beneficiaries of the trust. Unrelated attorneys, banks, corporations, etc., are usually chosen to act as independent trustees. The IRS requires a trust to have an independent trustee if the trust is to achieve certain estate tax and income tax benefits available to irrevocable trusts (not living trusts).

Individual Retirement Account (IRA). A tax-deferred retirement account for an individual that can be established by a person with earned income. Earnings accumulate tax-deferred until the funds are withdrawn beginning at age 59 ½ or later (or earlier, with a 10% penalty).

Informal Probate Proceedings. Those conducted without notice to interested persons by the clerk of the court for probate of a will or appointment of a personal representative.

Inherit. To take or receive property by legal right from a deceased person.

Inheritance Tax. A tax imposed upon the transfer of property from a deceased person's estate. "Inheritance Tax" is a term which is usually applied to the taxes charged by a state, where as the taxes imposed by the Federal Government are usually referred to as estate taxes.

Initial Funding. Initial Funding includes the initial funding contact with the client, preparing the initial funding instruction letters and other documents, and the initial contact with financial institutions

Initial Reserve. In life insurance, the reserve at the beginning of any policy year.

Installment Sale. A sale in which taxable gain is recognized over a number of years as the payment for the property sold is received.

Insurable Interest. The expectation of a monetary loss that can be covered by insurance.

Insurance. Pooling of fortuitous losses by transfer of risks to insurers who agree to indemnify insureds for such losses, to provide other pecuniary benefits on their occurrence, or to render services connected with the risk.

Insurance Trust. An irrevocable trust established to own an insurance policy or policies and thereby prevent them from being included in the insured's estate.

Insuring Agreement. That part of an insurance contract that states the promises of the insurer.

Intangible Property. Property that cannot be touched and that represents real value such as bonds, stock certificates, promissory notes, certificates of deposit, bank accounts, contracts, leases, and other similar items.

Inter vivos Trust. A type of trust created during the settlor's lifetime. Also called a living trust.

Interest Credit. The nonguaranteed amount credited to the policy's account value based upon a rate of interest specified by the insurance company.

Interest Option. Life insurance settlement option in which the principal is retained by the insurer and interest is paid periodically.

Intergenerational Succession. Succession in property ownership in which the property is transferred from one generation to another; usually from members of an older generation to members of a younger generation.
Intestate. A term used when a person dies without leaving a valid will.

Intestate Succession. The order of persons entitled to received property distributed by a state court when the deceased failed to write a will or trust, or the will or trust has failed to legally distribute the deceased person's property.

Insurance Trust. An irrevocable trust used to hold insurance and pass it on to your heirs without any estate taxes on the death benefits of the policy.

Issue. A legal term used in wills and trusts meaning one's children, grandchildren, etc., either through birth or adoption.

Investment Gain/Loss. The total increase or decrease in account value as a result of investment division performance during the policy year.

Irrevocable. A term used to describe a trust in which the trustor (maker of the trust) has, by the terms of the trust agreement, specifically given up the power to alter, amend, or terminate the trust either entirely or in part.

Irrevocable Beneficiary. Beneficiary designation allowing no change to be made in the beneficiary of an insurance policy without the beneficiary's consent.

Irrevocable Trust. A trust that cannot be changed or terminated after it is established.

J

Joint Ownership. The situation where two or more people own the same piece of property together. The property can be "owned" by the people as joint tenants, tenants in common, tenants by the entirety and other legally defined relationships.

Joint Tenancy. When two or more people take title to the same property and simultaneously each owns 100% of the property, or has full rights to the property. At the death of one joint tenant, his or her share immediately transfers to the ownership of the survivor(s).

Joint Tenancy with Rights of Survivorship (JTWRS). The holding of property by two or more individuals in a manner that upon the death of one tenant, the survivor(s) succeed to full ownership by operation of law.

Jurisdiction. The location where a person has access to the court system. The place where a person lives usually determines which court has the legal right to adjudicate his or her claims, probate proceedings, or other matters. The location of real property can also determine the "jurisdiction" of legal matters related to that property.

K

Kiddie Tax. Unearned income (dividends, rents, interest, etc) of a child under age 14 will be taxed to the child at the parent's highest income tax rate.

Keogh Plan. A designation for retirement plans available to self-employed taxpayers. Such plans provide the self-employed tax benefits similar to those available to employees under qualified pension and profit sharing plans.

L

Lack of Marketability Discount. When the value of an asset is less than its initial or expected fair market value due to unusual circumstances that make it not readily saleable. For example, a limited partnership interest.

Land Contract. A method of selling real estate in which the seller provides the financing and retains title until the contract is paid in full.

Lateral Succession. Succession in property ownership in which the property is transferred between members of the same generation.

Law of Large Numbers. Concept that the greater the number of exposures, the more closely will actual results approach the probable results expected from an infinite number of exposures.

Legal Reserve. Liability item on a life insurer's balance sheet representing the redundant or excessive premiums paid under the level-premium method during the early years. Assets must be accumulated to offset the legal reserve liability. Purpose of the legal reserve is to provide lifetime protection.

Letters of Administration. Document issued by the probate court giving the administrator authority to administer the estate.

Letters Testamentary. Document issued by the probate court giving the executor authority to administer the estate under the provisions of the decedent's will.

Liability. A financial obligation, debt, claim, or potential loss.

Life Estate. The right to have all of the benefit from a property during one's lifetime. The person with the right doesn't own the property, and when he or she dies, the property is not included in his or her estate.

Life Income Option. Life insurance settlement option in which the policy proceeds are paid during the lifetime of the beneficiary. A certain number of guaranteed payments may also be payable.

Life Insurance Planning. Systematic method of determining the insured's financial goals, which are translated into specific amounts of life insurance, then periodically reviewed for possible changes.

Life Insurance Trust. A type of irrevocable trust used to hold life insurance. When a life insurance policy is held in an insurance trust, it is protected from estate taxes when the insured dies; provided the trust is established properly, managed properly, and the insured does not retain any "incidents of ownership."

Limited Liability Company (LLC). An entity formed under state statute that has the legal characteristic of limited liability similar to that of a corporation, while it may qualify to be treated as a partnership for tax purposes.

Limited Partner. A partner in a partnership who can't participate in the management of the partnership's business. A limited partner's liability is limited to loss of his investment in the partnership.

Limited Partnership. Form of partnership composed of both a general partner(s) and a limited partner(s); the limited partners have no control in the management of the company and are usually financially liable only to the extent of their investment in the partnership.

Lineal Descendant. One who is, by blood relationship, in the direct line of descent from an ancestor.

Living Trust. A type of revocable trust used in estate planning to avoid probate, help in situations of incompetency, and allow "smooth" management of assets after the death of the grantor or person who established the trust. The trust can be effective in eliminating or reducing estate taxes for married couples. Revocable Living trusts are established during the life of the grantor, who retains the right to the income and principal and the right to amend or revoke the trust. When the grantor dies, the trust becomes irrevocable and acts as a substitute for a traditional will.

Living Will. A document defining your "right to die." It usually states that you do not want to have your life artificially prolonged by modern medical technologies. You can specifically define the means which you do not want used or do want used.

Loan. Money that is lent. In life insurance a loan can be taken against the cash value of a life insurance policy. If the insured dies while there is an outstanding loan balance, the amount of the loan and any unpaid interest due will be deducted from the death proceeds.

Loan Interest Charge. The annual interest expense charged to the policy owner on the amount borrowed from a policy's cash value. If loan interest is not paid in cash, it is added to the outstanding loan balance. The unpaid loan interest will then increase the amount borrowed.

M

Marital Deduction. The unlimited deduction allowed under federal estate tax law for all qualifying property passing from the estate of the deceased spouse to the surviving spouse. The value of the property passing to the surviving spouse under the marital deduction is "deducted" from the deceased spouse's estate before federal estate taxes are calculated on the estate. Proper planning and use of the deduction allows more property to pass estate tax free to the family.

Marital Deduction Trust. The trust which "receives" the property passed under the marital deduction laws, from the deceased spouse's estate to the surviving spouse. Property in the marital deduction trust will be included as part of the surviving spouse's estate (for estate tax purposes) when he or she dies.

Medallion Guarantee. A Medallion Guarantee is a means of assuring a transfer agent that a signature is genuine. Although they are similar in nature, a Notary Stamp is not an acceptable substitute for a Medallion Guarantee. You can obtain a Medallion Guarantee from a financial institution or brokerage firm.

Medical Information Bureau (MIB). Bureau whose purpose is to supply underwriting information in life and health insurance to member companies, which report any health impairments of an applicant for insurance.

Minor Child. A person who has not yet reached the legal age of majority. This age of majority is 18 in the state of Wisconsin. The term does not apply to an emancipated minor. A minor does not have the legal capacity to govern his or her own affiars.

Minority Discount. A discount applied to the value of an interest in a corporation, limited liability company or limited partnership that is not publicly marketable to reflect the fact that a minority interest in the company has less value than a controlling interest, since the holder of the former cannot control business actions.

N

Needs Approach. Method for estimating amount of life insurance appropriate for a family by analyzing various family needs that must be met if the family head should die and converting them into specific amounts of life insurance. Financial assets are considered in determining the amount of life insurance needed.

Net Taxable Estate. The value of an estate upon which the federal estate tax is levied. The net taxable estate or "net value" is the total or "gross value" of the estate less liabilities, expenses and other deductions allowed by the tax laws**.**

Net Amount at Risk. In life insurance, the difference between the face value of a life insurance policy and its cash value (also known as "pure amount of protection").

Nonforfeiture Law. State law requiring insurance companies to provide at least a minimum nonforfeiture value to policyowners who surrender their cash value life insurance policies.

Nonqualified Deferred Compensation Plan. A contractual arrangement that calls for paying an individual or group of executives future benefits. It does not qualify for favorable tax treatment, but has far fewer restrictions than qualified plans. Non-qualified plans are unsecured and subject to risks; they must remain "unfunded" to avoid current taxation.

Notary Public. One who is authorized by the state or federal government to administer oaths and to attest to the authenticity of signatures.

Notice. The legally prescribed process of making someone aware of a legal proceeding or matter.

Notarized. The affirmation of an agent (the notary) of the state affirming that the signature on the document being "notarized" is in fact the signature of the person purportedly signing the document.

O

Ownership Clause. Provision in life insurance policies under which the policyowner possesses all contractual rights in the policy while the insured is living. These rights can generally be exercised without the beneficiary's consent.

P

Partition. The judicial separation of the respective interests in property of joint owners or tenants in common so each may take possession, enjoy, and control his or her share of the property.

Partnership. A type of unincorporated business organization in which multiple individuals, called general partners, manage the business and are equally liable for its debts.

Per Capita. A method of distributing an estate such that all of the surviving descendants share equally in the property. Also know as Pro Rata.

Per Stirpes. The most common way of distributing an estate such that if one of the children is dead, his or her children share equally in his or her share. Also know as By Right of Representation.

Perpetuities Savings Clause. A "safety net" clause included in most trusts, which automatically terminates the trust at the last possible moment to prevent any possible violation of trust law caused because the general terms of the trust did not properly provide for a termination of the trust as required by law. Under most state laws a trust must have a finite "life" and end prior to the time required by law.

Personal Letter. A letter directing the distribution of personal items. This letter is referenced in a person's will and is recognized by the courts upon the death of the person making the will and letter.

Personal Property. Assets whose ownership arises either out of physical possession of the property, or as the result of a document showing ownership. Examples: livestock, machinery, stored grain, bank deposits, stocks and bonds, checking and savings accounts, automobiles and other transportation and recreational vehicles. In Montana, all property other than real estate.

Phantom Stock Plan. An incentive compensation arrangement where the employee is credited with a hypothetical number of shares (phantom stock units) of the company. These units are credited to the employee's account, which is dynamic in that it includes future dividends and stock splits. Upon termination of employment, the employee is entitled to a cash amount based on the per share equivalent value of each of the phantom stock units credited to his or her account.

Planned Premium. The premium amount specified by the policy owner as the amounts intended to be paid at fixed intervals over a specified period of time. Premiums may be paid on a monthly, quarterly, semi-annual or annual basis. If policy values are adequate, the specified premium need not be paid, and can be changed at any time. Within limits, premium payments that are more or less than the specified premium amount may be permitted.

POD Account. A bank account that is designed to avoid probate. It is a contract between the bank and the account holder guaranteeing that, upon the account holder's death, the bank will pay the balance of the account to whomever is designated to receive the account.

Policy Basis. The policy basis represents the policy owner's investment in the policy. Policy basis is used in determining the taxable portion of a policy distributions when a taxable event occurs. For example, the portion of the surrender proceeds or withdrawal distribution that exceeds the policy basis is reported as taxable income (gain).

Policy Loan. A loan made by an insurance company to a policyholder on the security of the cash value of the policy.

Pooled Income Fund. A trust arrangement which accepts gifts of cash or certain properties from persons who want to provide support for the charitable organization; gifts made to the fund are commingled and invested by the trustee and units of participation are awarded to the donor for his or her gift; income is then paid to the donor proportionate to his or her share of fund earnings.

Pour-over Trust. A trust designed to receive property that is "poured over" into it. The property is usually "poured over" or received from a pourover will through the probate process.

Pour-over Will. A will which contains a clause that transfers some or all of the assets that pass through the will into a trust for final distribution from the trust. The will's assets are said to "pour over" into the trust.

Power of Appointment. A right given to another in a written instrument, such as a will or trust that allows the other to decide how to distribute your property. The power of appointment is "general" if it places no restrictions on who the distributees may be. A power is "limited" or "special" if it limits the eventual distributee.

Power of Attorney. A written legal document that gives an individual the authority to act for another. If the authority is to act for the principal in all matters, it is a general power of attorney. If the authority granted is limited to certain specified things, it is a special power of attorney. If the authority granted survives the disability of the principal it is a durable power of attorney.

Prenuptial Agreement. A contract between two potential marriage partners specifying how the property owned by each prior to marriage and owned individually or jointly during marriage will be divided should the couple divorce.

Pretermitted Child. One who may, under certain circumstances, become an heir by birth or adoption subsequent to the date of execution of a testator's will.

Primary Beneficiary. The person or entity named in a policy to receive the proceeds on the death of the insured if such person is alive or such entity is in existence. If the primary beneficiary is not alive or in existence on the death of the insured, or if the primary beneficiary disclaims the proceeds, the proceeds are payable to the contingent beneficiary.

Private Annuity. A means of transferring property from one owner to another by "selling" it for an unsecured promise to pay the original owner an income for life. The sale price is based on fair market value at the time of sale.

Probate. The legal process which facilitates the transfer of a deceased person's property whether they leave a will or don't leave any will. The court establishes the authenticity of the will (if any), appoints a personal representative or administrator, identifies heirs and creditors, directs payment of debts and taxes, and oversees distributions of the assets according to the will or state law in the absence of a will.

Probate Court. The part of the judicial system dedicated to handling probate matters which includes settlement of intestate and testate estates, adoptions, appointment of guardians, name changes, and other matters.

Probate Estate. A deceased person's property which is subject to the probate process. Property held in a living trust is usually not considered part of the probate estate.

Probate Fees. The fees, often a percentage of the estate, paid to the attorney and others who handle the probate proceeding.

Projected Benefit Obligation (PBO). An accounting term representing the anticipated value of retirement benefits to be earned by an employee by his/her retirement date.

Promissory Note. A signed paper promising to pay another a certain sum of money.

Proving a Will. The process of establishing the validity of a will before the probate court.

Q

QTIP Trust. A Qualified Terminable Interest Trust (Q-Tip) is a type of trust which provides an unlimited marital deduction for qualified property put into the trust. However, rather than permitting the surviving spouse to have full power to distribute the property to anyone he or she wishes, the trust restricts the ability of the surviving spouse to distribute the property in the trust to a select group of individuals, such as the children, as agreed when both spouses were alive. Without the new QTIP laws, any attempt to "tie down" the property and restrict the surviving spouse's rights to transfer the trust property would have resulted in the property not qualifying for the marital deduction tax benefit.

Qualified Domestic Trust. A trust arrangement which allows property transferred to a surviving spouse who is not a U.S. citizen to qualify for a special exclusion in lieu of the regular marital deduction; and which ensures that, at the death of the surviving spouse who is not a United States citizen, the assets placed in such a trust will incur federal estate taxation since the tax was avoided at the first spouse's death

Qualified Plan. Plans that qualify for favorable tax treatment under the Internal Revenue Code, and are subject to restrictive rules and extensive regulations. Qualified plans are secured by a trust, as opposed to a nonqualified plan.

Qualified Stock Option Plan. A tax favored plan for compensating executives by granting incentive stock options (ISOs) to buy company stock. If the plan meets the requirements of IRC §422, the executive is not taxed at the time of the grant or the time of the exercise of the option. Taxation occurs when the stock purchased under the option is sold by the executive. Corporation granting the option does not ordinarily receive a tax deduction.

Qualified Terminable Interest Property (QTIP). Property qualifying for the marital deduction at the election of the donor or the decedent's personal representative. The spouse retains a qualified income interest in the property for life, with the income payable at least annually. The corpus ultimately passes to a specified remainderman, under a special power of appointment given to the spouse.

Quitclaim Deed. A document (a deed) that transfers a person's interest in a piece of real estate, without the warranties or guarantees that are made in a warranty deed.

R

Rabbi Trust. A trust, owned by the company, that holds assets to help meet non-qualified benefit payments. Rabbi trusts are taxable trusts, and trust assets must be available to corporate creditors in the event of a bankruptcy.

Rate. Price per unit of insurance.

Ratio Percentage Test. A test that a qualified pension plan must meet to receive favorable income tax treatment. The pension plan must benefit a percentage of employees that is at least 70 percent of the highly compensated employees covered by the plan.

Real Property. Real estate, minerals and royalty interests, growing timber, land and buildings attached to the land.

Rebating. A practice-illegal in virtually all states-of giving a premium reduction or some other financial advantage to an individual as an inducement to purchase the policy.

Remainderman. One entitled to the remainder of a life estate after a particular reserved right or interest has expired.

Representative. Someone who is authorized to act on your behalf, such as an executor or a trustee.

Revocable. A trust in which the trustor (maker of the trust) has, by the terms of the trust agreement, reserved the power to alter, amend or terminate the trust and to receive the property back from the trustee.

Revocable Beneficiary. Beneficiary designation allowing the policyowner the right to change the beneficiary without consent of the beneficiary.

Revocable Living Trust. See Living Trust

Revocable Trust. A trust that can be changed after it is established. Assets can be added or removed from the corpus of the trust, the beneficiary(ies) can be changed, and other changes including termination of the trust, are allowed.

Rider. Term used in insurance contracts to describe a document that amends or changes the original policy.

Right to Die. The right to decide not to have life prolonged by extraordinary, artificial means.

Right of Election. The surviving spouse's right to a share of the augmented estate rather than accepting the amount provided by will or intestate succession statues. The percentage is based on the length of marriage.

Right of Representation. Term used by a testator to describe the division of property among different degrees of kinship.

> For example: A had children B and C. B had one child B1 and C had two children C1 and C2. If A had in his will that his property be divided by representation, and B and children of C were survivors, then B would receive one-half and the children C1 and C2 would split the other half (1/4 to each). If the property had been divided per capita, than all would have received equal shares of one-third each.

Roth IRA. Individuals with earned income are permitted, under certain circumstances, to set aside a limited amount of such income per year for a retirement account. The amount so set aside cannot be deducted by the taxpayer, but is not subject to income tax upon withdrawal.

Rule Against Perpetuities A rule of common law that makes void any estate or interest in property so limited that it will not take effect or vest within a period measured by a life or lives in being at the time of the creation of the estate plus 21 years and the period of gestation. In many states the rule has been modified by statute. Sometimes it is known as the rule against remoteness of vesting.

S

S Corporation. A corporation whose income is generally taxed to its shareholders, thus avoiding a corporate level tax. An election available to a corporation to be treated as a partnership for income tax purposes. To be eligible to make the election, a corporation must meet certain requirements as to kind and number of shareholders, classes of stock, and sources of income.

Section 2503(c) Trust for Minors. A trust designed to comply with Section 2503(c) of the Internal Revenue Code so that a gift placed in such a trust for the benefit of a minor will qualify for the gift tax annual exclusion although they are not gifts of a present interest.

Section 303 Stock Redemption. When certain requirements are met, this section of the Internal Revenue

Code allows a shareholder's estate or heirs to sell to the deceased's closely held corporation enough stock to pay federal and state death taxes, costs of estate administration, and funeral expenses without the corporation's distribution being treated as a dividend for income tax purposes

Section 401(k) Plan. A qualified profit sharing or thrift plan that allows participants the option of putting money into the plan or receiving funds as cash. The employee can voluntarily elect to have his or her salary reduced up to some maximum limit, which is then invested in the employer's Section 401(k) plan.

Section 457 Plan. A plan which provides an exclusion from gross income for a certain portion of salary deferred by a participant under the plan of a state or local government, a tax-exempt organization (excluding churches), or of an independent contractor of such government or organization (e.g., a physician providing independent services to a hospital).

Section 6166. A section of the Internal Revenue Code that allows for a 14-year spreadout of the estate tax for estates that qualify (generally estates that include closely held businesses or farms).

Secular Trust. An irrevocable trust which is a separate tax-paying entity from the company. Assets contributed to a secular trust are currently taxable to the trust beneficiary. In contrast to a rabbi trust, a secular trust is beyond reach of corporate creditors in the event of bankruptcy.

Securities. Stocks, bonds, notes, convertible debentures, warrants, or other documents that represent a share in a company or a debt owed by a company or government entity.

Self Proving Will. A will which has been properly witnessed (by either two or three witnesses depending on state laws) and the witnesses have signed an affidavit before a notary public stating that all of the proper formalities of the will's execution have been complied with. This usually makes it very easy for the court to "prove" the will.

Separate Property. In community property states, all property which is not held commonly by a married couple is considered separate property. In general, it is property owned by one spouse in which the other spouse does not own an interest.

Settlement Option. Ways in which life insurance policy proceeds can be paid other than in a lump sum, including interest, fixed period, fixed amount, and life income options.

Settlor. A person who establishes a trust. The term settlor is used interchangeably with the terms "trustor" and "grantor."

Simple Trust. Trusts that are established with terms that require the trust to "pay" all of its income out, so that it does not accumulate income on which income taxes would have to be paid.

Simplified Employee Pension (SEP) IRA. A retirement program for self-employed people or owners of small companies allowing them to defer taxes on investments intended for retirement

Sinking Fund Approach. A benefit funding technique wherein assets are set aside in order to accumulate the necessary funds to pay future benefit expenses.

Sole Ownership. Title to property in one name.

Sound Mind. The testator possesses sound mind for the purposes of making a will if he or she: (1) understands the nature of the act of making a will or codicil thereto, (2) knows the extent and character of the property subject to the will, (3) knows and understands the proposed disposition of that property, and (4) knows the natural objects of his or her bounty (i.e. his or her heirs). Whether the testator was of sound mind is tested (determined) by the state of the testator's mind at the time the will or codicil is executed (written and signed) and varies by state.

Spendthrift. An individual who cannot handle money wisely and spends it wastefully.

Split Dollar Plans. A method of purchasing life insurance in which the premium payments and policy benefits are divided, usually between an employer and employee. Many types of split dollar designs are possible. It can be a valuable executive benefit that provides life insurance protection for an executive's survivors at a minimal cost (the economic benefit cost) to the employee.

Split Gift. Each spouse is entitled to give any individual $10,000 in a calendar year and, provided it is given properly, there is no tax consequence to the giver or receiver according to the "annual exclusion" laws. However, if a married couple tries to give more than $10,000 to an individual, they must file a gift tax form declaring that the gift is split between them. If the form is not filed, the IRS cannot determine who gave the gift or gifts, and one member of the couple may be allocated the entire gift amount. Thus, he or she would actually owe a gift tax because his or her gift was over $10,000.

Springing Power. A power to act on the occurrence of some certain criteria, such as an illness or incompetency. The power is said to spring into existence upon the occurrence of the event. The agent's power to act for the principal under a durable power of attorney is usually a springing power.

Sprinkle or Sprinkling Power. The power given a trustee to decide how, when and why to distribute trust income to the trust's different beneficiaries. The sprinkling power allows the trustee to "sprinkle" the trust's income over the beneficiaries. It is a valuable power to give the trustee in irrevocable trusts because is allows the trustee to distribute income to the beneficiaries who will pay the smallest amount of income tax on the distribution.

Sprinkling Trust. A trust that grants the trustee a sprinkling power which allows the trustee to decide how, when and why to distribute the trust income among the trust's beneficiaries.

Spouse. A person’s wife or husband.

State Death or Inheritance Taxes. The tax imposed by the state in which you live and/or where your property is located, if different, on the transfer of that property to another at your death.

Statute of Limitations. A statute, which bars lawsuits upon valid claims after the expiration of a specified period of time. The period varies by state law and for different kinds of claims.

Step Up In Basis. A decedent's capital gains property that passes to others escaping capital gains tax when sold by the person who inherits the property. Persons inheriting capital gains property receive the property at date-of-death fair market value. In effect, the basis in this property is deemed to be "stepped up" and does not reflect the decedent's original cost basis for determining applicable capital gains tax on the sale of the property.

Stock Appreciation Rights Plan (SAR). A right granted to an employee to receive cash and/or stock equal to the increase in value of the company's stock after the date the stock appreciation right (SAR) is granted. Generally no tax consequences to the employer or employee upon the grant of the right. It is treated as an unfunded, unsecured promise to pay money in the future. The employee is ordinarily given the right to decide when the SAR will be exercised and will recognize ordinary income upon exercise in an amount equal to the cash and/or fair market value of the other assets received.

Stock Bonus Plan. A method of compensating selected executives by issuing company stock in lieu of or in addition to cash bonus compensation. The executive is taxed on the value of the stock as ordinary income and any increase in value of the stock is owned by the executive. The bonus is deductible by the employer if it is reasonable compensation for services rendered.

Stock Company. Company owned by stockholders who share in the profits of the company.

Stock Power. Stock Power is a form often used in lieu of signing directly on a stock certificate.

Stock Redemption Plan. In a stock redemption or entity purchase plan, the business agrees to purchase a deceased or departing owner's interest. The purchase is made for an agreed-on price or according to an agreed-on formula.

Succession. A term used to describe transfers of asset ownership through inheritance, gifting, preferential sale, or other means that fulfill the wishes of the person(s) with present ownership of the assets.

Succession Law. Law which governs the disposition of one's estate if there is no will.

Successor Trustee. The trustee who takes over when the initial trustee can no longer function.

Suicide Clause. Contractual provision in a life insurance policy stating that if the insured commits suicide within two years after the policy is issued, the face amount of insurance will not be paid; only premiums paid will be refunded.

Supplemental Executive Retirement Plan. A type of non-qualified deferred compensation plan often used to attract and retain executives. Generally, the promised benefits are paid from the employer's general assets, and no amounts are specifically earmarked for future benefit payments. Usually the employee has no option to receive the funds as current compensation.

Surrender Charge. The fee charged to a policy owner when a life insurance policy or annuity is surrendered for its cash value.

Surviving Spouse. The husband or wife that lives after the death of his or her spouse.

T

Tangible Property. Property that is capable of being perceived by the senses - generally refers to real estate, personal property, and moveable property that has value of its own and is not merely a representation of real value. Land, machinery, buildings, crops, and livestock are examples of tangible property.

Tax Basis. The owner's cost of an asset for income and estate tax purposes as determined under the Internal Revenue Code and IRS regulations.

Taxpayer Identification Number (Tin). The number used by the IRS to identify the taxpayer. The social security number of the grantor is the TIN of a revocable living trust. (If the trust is joint, either spouse’s social security number can be used.)

Taxable Estate. The portion of an estate that is subject to federal estate taxes or state death taxes. Technically, all of an estate is subject to federal estate taxes, but because of the unified credit, only estates with a value over the exemption equivalent amount actually have to pay any estate taxes (see Appendix 1). Therefore, it is common to refer to an estate with a value over the exemption equivalent amount as a taxable estate and an estate with a value under the exemption equivalent amount as a nontaxable estate.

Tenants by the Entirety. A way of owning property which, for almost all practical purposes, is the same as joint tenants. Tenancies by the entirety are creations of state law and are used only between husbands and wives, whereas joint tenancies can be used by anyone, not just by husbands and wives, who wants to own property jointly.

Tenants in Common. A way of owning property in which two or more owners all "share" ownership of the property. The owners can own various percentages of the whole property, unlike joint tenants which each own an equal share. When one owner dies, his or her share does not "automatically" go to the other owner(s), because tenancies in common do not have a survivorship provision like joint tenancies.

Term Insurance. Type of life insurance that provides temporary protection for a specified number of years.

Testamentary. Pertaining to a will.

Testamentary Trust. A trust established after the death of the grantor under the provisions of the grantor's will.

Testate. One who dies leaving a will.

Testator. One who writes or has written and signs a will.

Title. Document proving ownership of property.

Totten Trust. A bank account that is designed to get around probate. The account is created by a person in his or her own name as the trustee for another person. It is a type of revocable trust until the creator dies, then it is paid out to the designated beneficiary(ies).

Transfer for Value Rule. A federal income tax rule which states that if ownership of a life insurance policy was transferred for a valuable consideration, a portion of the death proceeds may be includible in gross income rather than qualifying for the usual income tax exemption of death proceeds. Five "safe harbor" exceptions to this rule exist. They include: a transfer to the insured, to a partner of the insured, to a partnership in which the insured is a partner, to a corporation in which the insured is a shareholder or officer, and to a corporation from another corporation in a tax-free reorganization.

Transfer on Death (TOD). Designation on securities that allows the naming of a beneficiary to receive them upon death of a party.

Trust. A legal arrangement in which an individual (the trustor) gives fiduciary control of property to a person or institution (the trustee) for the benefit of beneficiaries.

Trust Certificate. A summary of the trust's terms prepared by an attorney that evidences the trust exists.

Trust Corpus or Res. The property of a trust.

Trust Declaration or Trust Instrument. A document defining the nature and duration of the trust, the powers of the trustee, and identifying the trust's beneficiary(ies).

Trustee. The person, or corporate body holding title to the trust property, appointed to execute, administer, and carry out the terms of a trust for the benefit of the beneficiary.

Trusteed Cross-Purchase Buy-Sell Agreement. The use of a third party ("trustee") to hold the life insurance policies that fund a cross-purchase agreement, and to see that the terms of the agreement are fulfilled at an owner's death; may be used to avoid a multiplicity of policies when several owners are involved.

Trustor. A person who establishes a trust. The term trustor is used interchangeably with the terms "settlor" and "grantor."

Twisting. Excessive trading in a client's account by a broker seeking to maximize commissions regardless of the client's best interests, in violation of NASD rules, also called churning or overtrading.

U

Underwriting. The selection and classification of applicants for insurance through a clearly stated company policy consistent with company objectives.

Undivided Interest. The interest or right in property owned by each joint tenant or tenant in common. Each tenant has equal right to use and enjoy the entire property. Unless an agreement to the contrary exists, each tenant is entitled to an income share proportional to his or her ownership interest. If the property is sold, the sale proceeds are shared among tenants in proportion to the ownership shares held by each tenant.

Unified Credit. A tax credit is given to each person by the IRS to be used during his or her life or after his or her death. The tax credit equals the amount of tax (gift or estate) which is assessed on the exemption equivalent value of property. It is considered the "unified" credit because it applies to both gift taxes and estate taxes and results from the IRS's effort to unify these two taxes or make them consistent. It is often thought that the total value of taxed gifts and estate transfers can equal the exemption equivalent before any tax is assessed. This thought is wrong because a tax is actually assessed on the first dollar of taxable gift or estate property. Note: Some property gifted is not exposed to the unified tax; for example, gifts that qualify for the annual gift tax exclusion. Some property transferred in an estate is not exposed to the unified tax, such as property which goes to a spouse and qualifies for the unlimited marital deduction. Although a tax is assessed on gifts valued over the annual exclusion amount and on all the estate assets the individual doesn't actually pay the tax on amounts up to the exemption equivalent maximum because the unified credit is applied against the tax.

Uniform Gift to Minors Act. A series of state statutes that provides a method for transferring property by gift to minors who cannot legally manage the property for themselves. The laws allow an adult to manage the property and yet not have it owned by the adult.

Uniform Probate Code. A standardized code designed by the American Law Institute to streamline the probate process. Many states have not adopted the code as part of their laws.

Universal Life Insurance. Life insurance which combines the low-cost protection of term insurance with a savings component that is invested in a tax-deferred account, the cash value of which may be available for a loan to the policy holder.

Unlimited Marital Deduction. The tax law that allows a person to give an unlimited value of property as a gift, or leave an estate of unlimited value to his or her spouse without a gift or estate tax being assessed.

Unrelated Business Taxable Income (UBTI). Income earned by an otherwise tax-exempt organization from activities unrelated to their tax-exempt purpose can be subject to taxation.

V

Vendee. A purchaser or buyer; one to whom anything is sold.

Vendor. The person who transfers property or goods by sale.

Vest. To confer an immediate, fixed right of immediate or future possession and enjoyment of property.

Vesting. An ERISA guideline stipulating that employees must be entitled to their entire retirement benefits within a certain period of time even if they are no longer with the employer.

Voting Right. The right of a common stockholder to vote for members of the board of directors and on matters of corporate policy - particularly the issuance of senior securities, stock splits and substantial changes in the corporation's business. A variation of this right is extended to variable annuity contract holders and mutual fund shareholders, who may vote on material policy issues.

W

W-9 Form. A form to certify one's tax identification number. Transfer agents are required to obtain this form when assisting with a transfer. Even though a bond may be tax-exempt, transfer agents are required to have a current W-9 form presented for various transfers and payments.

Wait-and-See Buy-Sell Agreement. A special type of buy-sell agreement between the owners of a business and the business itself, in which, typically, the business entity has a first option to purchase a deceased owner's interest; the surviving owners then have a second option to purchase any portion of the interest not already acquired by the business; and finally, the business entity is required to purchase any remaining interest not already sold under the two options.

Waiver-of-Premium Provision. Benefit that can be added to a life insurance policy providing for waiver of all premiums coming due during a period of total disability of the insured.

Warranty Deed. A deed which warrants that certain contracts will "run" (continue) with your property.

Will. A legal document stating the intentions of a deceased person concerning the distribution of his or her property, and management of his or her affairs following his or her death. State law dictates the legality of a will.

Witness. A person who observes the signing of a will and attests to the signature.