



## SELECTED FINANCIAL AND ESTATE PLANNING TERMS

**Administrator** - a fiduciary appointed by a Probate or Surrogate's Court to oversee the estate of a decedent who dies without a will.

**Buy-Sell Agreement** - a legal and binding contract between shareholders, LLC members or partners which, among other things, generally provides for transfers upon the death of a business owner and the means of funding such a buyout (most frequently with life insurance).

**Charitable Lead Trust** – an irrevocable trust which involves a gift of property to an irrevocable trust with payments by the trust to a qualified charity for a specified term of years or for the life of (typically) the grantor. Once all the required payments have been made, the charity's "lead" interest terminates and the trust property is distributed to designated third parties. A charitable lead annuity trust usually provides for a fixed percentage of the trust's assets, revalued annually, to be paid to the qualified charity. In both cases, the present value of the transferred property to be distributed to designated third parties at the termination of the "lead" interest will be a taxable gift.

**Charitable Remainder Trust** - a charitable remainder trust involves a transfer of property to an irrevocable trust with payments by the trust to a noncharity beneficiary (typically the grantor) for a specified term of years or for the life of the grantor. Once all of the required payments have been made, the grantor's "lead" interest terminates and the trust property will be distributed to designated qualified charities as remaindermen.

**Credit Shelter Trust** - a trust, generally set up in a will, which provides that an amount (the "exemption equivalent") equal to the maximum which can pass free of federal estate taxes (currently \$12,060,000) shall be set aside before any gift to the surviving spouse which qualifies for the marital deduction. The purpose is to assure that both husband and wife take full advantage of the individual estate tax exemptions (i.e. \$12,060,000 each or \$24,120,000 free of estate taxes for their generation).

**Durable Power of Attorney (Health Care)** - sometimes called a "living will" or "health care proxy," this is a legal document which appoints an Agent to act for someone who becomes incompetent -usually because of a medical condition. This also addresses issues like life support and medical review.

**Durable Power of Attorney (Financial)** - a legal document which appoints an Agent to take care of the financial affairs of someone who becomes incompetent -usually because of a medical condition.

**Estate Tax** - an excise tax levied on the estate, rather than the beneficiaries.

**Estate Freeze** - a mechanism which attempts to “freeze” the value, for estate tax purposes, of an asset, and shift any future appreciation to a younger generation.

**Executor** - a fiduciary appointed in a will and confirmed by a Probate or Surrogate’s Court to oversee the estate of a decedent who dies with a will.

**Form 706** - Federal Estate Tax Return for taxable estates (currently \$12,060,000 and over) to be filed with full payment 9 months after death.

**Future Interest** - a postponed property right (e.g. as a remainder beneficiary).

**Generation Skipping Transfer Tax** - a backup estate tax mechanism which seeks to assure that each generation (i.e. grandparents, parents, and children) is subject to the estate tax as assets are transferred down through a family.

**Gift Tax Exclusion** - the right to give \$16,000 per year per donee (\$ 32,000 if the gift is deemed to be joint from a husband and wife) free of gift and estate taxes. In order to qualify the gift must be a “present interest”. Generally, a gift in trust does not qualify unless the trust has a “Crummy clause” (i.e. a withdrawal right) or qualifies under the Uniform Gifts to Minors Act.

**GRIT** - “Grantor Retained Interest Trust”. A GRIT involves the transfer of property to an irrevocable trust with the grantor retaining an income interest for a specified term of years. When the retained interest expires, the trust property will pass to a third-party remainder beneficiary. The value of the remainder interest is a taxable gift by the grantor.

**Guardian** - a fiduciary appointed by a Court to administer the affairs of someone under a legal disability (e.g. a minor or an incompetent).

**Inheritance Tax** - an excise tax levied on the recipient or beneficiary.

**Intestacy** - the status of dying without a valid will. In this case the assets are distributed in accordance with local law rather than any expressed wish of the decedent.

**Irrevocable Trust** - a trust which by its terms may not be changed. This often avoids estate tax on the appreciation of assets transferred to such trust (from the date of transfer to the date of death).

**Life Insurance Trust** - an irrevocable trust generally made owner and beneficiary of a life insurance policy on the life of the Grantor to avoid both income and estate taxes on the death benefits.

**Marital Deduction** - a transfer to a spouse which escapes the Unified Transfer Tax.

**Present Interest** - a current property right (e.g. as an income beneficiary).

**Private Annuity/PATY** - a private annuity involves the transfer (generally by the parent) of property to a transferee (generally a child or a trust for the child) in exchange for the transferee making payments to the transferor for the transferor's lifetime. A private annuity for a term of years (PATY) is similar to a typical private annuity except that the transferee's payments terminate upon the earlier of the transferor's death or after a specified term of years.

**Probate** - the process under which a will is filed with a Probate or Surrogate's Court (or other Court of appropriate jurisdiction) and the "probate" assets are administered. These proceedings are public records.

**QTIP Trust** - "Qualified Terminable Interest Property" Trust. A Trust with income to the spouse which qualifies for the marital deduction but allows the Donor to decide who gets the remaining principal upon the death of the spouse.

**Revocable Trust** - a trust which the Grantor may amend or revoke, at his or her whim, during life; it becomes irrevocable at death. This avoids "probate" and passes outside the terms of the will. This type of trust offers no tax benefit and is includible, in full, in the gross estate of the decedent at its fair market value on the date of death (or alternate valuation date).

**Right of Election** - right of a surviving spouse to contest distributions under a will if such spouse is not left his or her statutory share.

**SCIN** - a self-canceling installment note (SCIN) involves the sale of property to the buyer (usually a child) who issues an installment note to the seller (usually a parent). The installment note provides for the termination of the buyer's payments upon the earlier of the seller's death or the buyer's payment of all required installments.

**Split Purchase** - a split purchase involves the acquisition by one party (generally the parent) of a life estate in the purchased asset and by another party (generally the child or a trust for the child) of a remainder interest in the purchased asset. The amount to be contributed by the life tenant and the remainder beneficiary towards the purchase price will usually be determined under an actuarial valuation method.

**Trust** - legal document which creates a 3-party arrangement with a (i) Donor (also called Grantor or Settlor) who gives property to a (ii) Trustee who administers it as a Fiduciary for the benefit of the (iii) Beneficiary. Often there is an Income Beneficiary and a Remainderman.

**Unified Transfer Tax** - an excise tax levied on the combination of gift transfers and estate transfers. The amalgamation of the former gift and estate taxes.

**Will** - a legal document which disposes of a decedent's "probate" property. Must be signed in accordance with legal formalities. It is an "ambulatory" instrument (i.e. only takes effect upon death) and can always be replaced by a new will or amended in part by a "Codicil".