

Trusts and Wills

Terms and Definitions

Beneficiary: Someone named in a legal document to inherit money or other property. Wills, trusts, and insurance policies commonly name beneficiaries; beneficiaries can also be named for "payable-on-death" accounts.

Bequeath: To leave property at one's death; another word for "give."

Bequest: A gift of an item of personal property (that's anything but real estate) made at death.

Bond: A kind of insurance policy that protects inheritors against loss that the personal representative of an estate (the administrator or executor) might cause.

Custodian: The person named to manage property inherited by a minor, under a law called the Uniform Transfers to Minors Act, which has been adopted in almost every state.

Codicil: If you wish to make a change or addition to your will, you can add a codicil to it. This amendment keeps the original will in place but adds or changes some terms.

Devise: A gift of real estate left at death. Also a verb meaning to give at death.

Devisee: Someone who inherits real estate through a will.

Executor: The person named in a will, and appointed by the probate court after the will-maker's death, to wind up the affairs of a deceased person. In some states, executors are called "personal representatives."

Executrix: An old-fashioned term for a female executor. Most wills these days use "executor," whether the person is a man or woman.

Gift and estate tax: A tax imposed on large transfers of property (during life or at death) by the federal government. Some states have their own estate taxes as well.

Grantor: Someone who creates a trust; a settlor.

Guardian: If you have young children you can name a guardian who will be legally responsible for their care after your death.

Failed or lapsed gift: A gift made in a will that cannot be given to the intended recipient because that person has not survived the will-maker and the will does not state what should happen to the gift.

Heir: Someone who inherits property under state law if there's no valid will.

Inheritance tax: A state tax imposed on people who inherit property. Only a few states impose inheritance tax, and most exempt close family members from the tax. There is no federal inheritance tax.

Intangible property: Assets that can't be touched, such as an ownership interest in a corporation. Documents—stock certificates, for example, are evidence of who owns intangible property.

Intestate: A person who dies without a will is intestate. State intestacy laws then decide who your heirs are.

Irrevocable trust: An irrevocable trust cannot be changed or altered.

Issue: Direct descendants, including children, grandchildren, etc. A spouse, brothers, sisters, parents, and other relatives are not issue.

Legacy: A gift of personal property left at death.

Legatee: Someone who inherits personal property.

Personal property: All assets except real property.

Personal representative: Another name for the executor or administrator of an estate. Some states use this term (often abbreviated "PR") instead of executor; some states use either.

Per capita: A way of dividing property among the descendants of a deceased heir beneficiary.

Per stirpes: A Latin term that means "right of representation." (See that term, below.)

Pour over will: This type of will is used with a living trust. A living trust is created to distribute all of your assets. A pour over will is created as insurance. If any assets exist at the time of your death that are not in the trust, the will places them into the trust.

Probate: The legal process through which a court examines, approves, and enacts the terms of a will is known as probate. The process can take several months and includes court fees.

Real property: Real estate—that is, land and things permanently attached to it, such as houses.

Residue or residuary estate: All property subject to a will that isn't given away specifically in the will. Often, a will leaves certain valuable items to named beneficiaries and then "the rest and residue of my estate" to another beneficiary.

Revocable trust: A trust that the settlor can revoke at any time during his or her lifetime.

Right of representation: A way of dividing property among the descendants of a deceased heir or beneficiary. The general idea is that the children of a deceased beneficiary inherit that person's share—for example, if a father leaves property to his daughter, and at his death the daughter has already died, leaving two grandchildren, the grandchildren would take their mother's share.

Seized of: An old way of saying "having possession of." For example, a will might state "I leave to my wife all property I am seized of at my death."

Settlor: The person who creates a trust.

Successor trustee: Person who is second in line to take over as trustee of a trust if the original trustee can no longer serve.

Tangible property: Items that can be touched. (Compare "intangible property.")

Testamentary: Having to do with a will. For example, a trust that is set up in a will is called a testamentary trust.

Testator: Someone who writes and executes (signs) a will.

Testatrix: The old-fashioned term for a female will-writer.

Trustee: Someone who has legal authority over the assets in a trust.