

Glossary

Accounting – The record of an account showing the transactions and the submission of such a record to the court or to the beneficiaries of a trust or estate by the fiduciary.

Administrator – An individual or trust institution appointed by a court to settle the estate of a person who had died without leaving a valid will.

Agency – An account to which the title to the property constituting the agency does not pass to the trust institution but remains in the owner of the property, who is known as the principal, and in which the agent is charged with certain duties with respect to the property.

Agent – A person or trust institution that acts for another person by the latter's authority. The agent acts on behalf and is subject to the control of the principal.

Appreciation – Increase in value of property; opposite to depreciation.

Asset(s) – The property in a trust account.

Called Bond – A bond that the debtor has declared to be due and payable on a certain date, prior to maturity, in accordance with the provisions of the bond indenture.

Capital Gains (and Losses) – The difference between purchase price and selling price in the sale of assets. The computation is used primarily in tax computations.

Charitable Trust – A trust created for the benefit of a legal charity.

Claim Against Estate – A demand made upon the estate to do or to forbear some act as a matter of duty. A common example would be the claim submitted by a creditor for a debt owed by the decedent at the time of death.

Codicil – An amendment or supplement to a Will executed with all the formalities of the Will itself.

Corporate Fiduciary – A trust institution serving in a fiduciary capacity, such as executor, administrator, trustee, or conservator.

Court Account – Accounts that require court accountings and approval in their normal conduct. Probate, conservatorships, and testamentary trusts are the most common.

Custodian – One whose duty it is to hold, safeguard, and account for property committed to their care.

Custody Account – An agency account in which the main duties of the custodian (agent) are to safe keep and preserve the property and to perform ministerial acts with respect to the property as directed by the principal. The agent has no investment or managerial responsibilities.

Decedent – A deceased person.

Depository – One who receives a deposit of money, securities, instruments or other property, to be distinguished from depository, which is the place of deposit.

Discretionary Trust – A trust that entitles the beneficiary to only so much of the income and principal as the trustee, in their uncontrolled discretion, shall see fit to give them or to apply for their use.

Dispositive Provisions – The provisions of a Will or trust agreement relating to the disposition and distribution of the property in the estate or trust, to be distinguished from administrative provisions which relate to the handling of the property while it is in the hands of the executor or trustee.

Distribution – The apportionment of personal property, or its proceeds, among those entitled to receive the property according to the applicable statute or distribution or under the terms of the Will or trust agreement.

Distribution in kind – The distribution of the property itself.

Diversification – The process of spreading the investment of a fund both as to type of securities and as to industries.

Donor – One who makes a gift.

Employee Benefit Plan – The plan of an employer to make payments to or for employees such as profit sharing, pension, 401(k), and other retirement programs.

Estate Plan – A definite plan for the administration and disposition of one's property during one's lifetime and at one's death, usually set forth in a Will and one or more trust agreements.

Executor - An individual or trust institution nominated in a Will and appointed by a court to settle the estate of the testator.

Fair Market Value – A price that would induce a willing seller to sell and a willing buyer to buy.

Fiduciary – A trust institution or an individual charged with the duty of acting for the benefit of another party as to matters coming within the scope of the relationship between them. The relationship between a trustee and a beneficiary, an agent and his principal, one partner and another partner and an attorney and his client, each is an example of a fiduciary relationship.

Grantor – A person who transfer property by means of a trust agreement or some other document. Sometimes called a settlor.

Income – The returns from property, such as rent, interest, dividends, profits and royalties; opposed to principal or capital.

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

Insurance Trust – A trust composed partly or wholly of life insurance policy contracts.

Inter vivos Trust – A trust created during the settlor's lifetime, the same as a living trust, to be distinguished from trust under Will or testamentary trust.

Intestate – Without having made and left a Will. A person who dies intestate.

Investment powers – The powers of a fiduciary regarding the investments in the account.

Irrevocable Trust – A trust which by its terms cannot be revoked by the settlor or can only be terminated by settlor with the consent of someone who has an adverse interest in the trust.

Joint Tenancy – The holding of property by two or more persons in such a manner that, upon the death of one joint owner, the survivor or survivors take the entire property.

Life Estate – Either an estate for the life of the life tenant alone or an estate for the life or lives of some other person or persons.

Living Trust – A trust that becomes operative during the lifetime of the grantor, opposed to a trust under Will. The same as an inter vivos trust.

Pour-Over – A term referring to the transfer of property from an estate or trust to another estate or trust upon the happening of an event as provided in the instrument.

Probate – To present a Will to the court for appointment of the executor or administrator, which is the first step in the settlement of an estate.

Remainder Interest – A future interest that will become an interest in possession after the termination of a prior interest created at the same time and by the same instrument as the future interest.

Residuary Clause - The provision in the Will or trust agreement that disposes of all of the decedent's property remaining after the payment of all taxes, debts, expenses and charges and the satisfaction of all other gifts in the Will or trust agreement.

Residue – That portion of a decedent's estate remaining after the payment of all debts, expenses and charges and the satisfaction of all legacies and devises.

Revocable Trust – A trust that may be terminated by the settlor or by another person.

Simple Trust – A term known only in tax laws to describe a trust that is required to distribute all of its income currently and that does not provide for any charitable distribution.

Spendthrift Clause – The provisions in a Will or trust agreement which limit the right of the beneficiary to dispose of his interest, as by assignment and the right of creditors to reach it, as by attachment.

Spendthrift Trust – A trust in which the interest of a beneficiary cannot be assigned or disposed of by him or attached or otherwise reached by his creditors.

Successor Trustee – A trustee following the original or prior trustee the appointment of whom is provided for in the trust instrument.

Testamentary Capacity – Mental capacity to make a valid Will.

Testamentary Trust – A trust established by the terms of a Will.

Testator – A person who has made and left a valid Will.

Trust – A fiduciary relationship in which the trustee is the holder of the legal title to property subject to an equitable obligation to keep or use the property for the benefit of another.

Trust Account – A general term to cover all types of accounts in a trust department, including estates, trusts, agencies, custodies, and conservatorships.

Trust Administrator – A person in the employment of a trust institution who handles trust accounts in the sense of having direct contacts and dealings with trust customers and beneficiaries.

Trust Agreement – A written agreement between grantor and trustee setting for the terms of the trust.

Trustee – A trust institution or individual that holds the legal title to property for the benefit of another.

Trust Estate – All the property in a particular trust account.

Trust Instrument – Any writing – Will, trust agreement, order of court – under which a trust is created.

Trust under Agreement – A trust evidenced by an agreement between the grantor and the trustee.

Trust under Will – A trust created by a valid Will, to become operative only on the death of the testator.

Will – A legally enforceable declaration of a person's wishes in writing regarding matters to be attended to after his death and inoperative until his death.

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