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Estate Planning Terms and Definitions

Advance Directive - a written statement of a person's wishes regarding medical treatment, often including a living will, made to ensure those wishes are carried out should the person be unable to communicate them to a doctor.

Agent - a person who acts on behalf of another person or group

Assets - a useful or valuable thing, person, or quality

Attorney in Fact – An attorney in fact is a person who is authorized to perform business-related transactions on behalf of someone else such as the principal of a company. In order to become someone's attorney in fact, the principal must sign a power of attorney document.

Death Tax - another term for estate tax (used by critics of the tax).

Estate - all the money and property owned by a particular person, especially at death.

Estate Tax - Estate Tax is a tax on your right to transfer property at your death. The tax levied on an heir's inherited portion of an estate if the value of the estate exceeds an exclusion limit set by law. The estate tax is mostly imposed on assets left to heirs, but it does not apply to the transfer of assets to a surviving spouse.

Executor - a person or institution appointed by a testator to carry out the terms of their will.

Incapacity - physical or mental inability to do something or to manage one's affairs.

Inheritance Tax - a tax imposed on someone who inherits property or money.

Joint Tenants - A joint tenancy or joint tenancy with right of survivorship (JTROS, JTWROS or JT TEN WROS) is a type of concurrent estate in which co-owners have a *right of survivorship*, meaning that if one owner dies, that owner's interest in the property will pass to the surviving owner or owners by operation of law, and avoiding probate.

Living Will - a written statement detailing a person's desires regarding their medical treatment in circumstances in which they are no longer able to express informed consent, especially an advance directive.

Orphans' Court – The Orphans' Court is Maryland's probate court and presides over the administration of estates. The point is that when a decedent dies owning assets that do not otherwise automatically pass to the decedent's beneficiaries or heirs, Maryland laws provide for an orderly process to transfer those assets. In the District of Columbia, this court is called Probate Court.

Payable on Death (POD) - Payable on death (POD) is an arrangement between a bank or credit union and a client that designates beneficiaries to receive all the client's assets. The immediate "transfer" of assets is triggered by the death of the client.

Personal Administrator - An administrator or administratrix is a person appointed by the court to administer the estate of someone who died without a will.

Personal Representative - Some states (e.g., Maryland and the District of Columbia) have now adopted statutes that replace the term "executor" with "personal representative" so the terms are often used interchangeably.

Power of Attorney – A power of attorney is a document you can use to appoint someone to make decisions on your behalf. The person you designate is called an "attorney-in-fact." The appointment can be effective immediately or can become effective only if you are unable to make decisions on your own.

Probate – Probate is the process of proving a will is valid and thereafter administering the estate of a dead person according to the terms of the will. It is a judicial act or determination of a court having competent jurisdiction establishing the validity of a will.

Tenancy by the Entirety - A tenancy by the entirety (sometimes called a tenancy by the entireties) is a type of concurrent estate formerly available only to married couples, where ownership of property is treated as though the couple were a single person. Like a Joint Tenancy with Rights of Survivorship, the tenancy by the entirety also encompasses a right of survivorship, so if one spouse dies, the entire interest in the property is said to "ripen" in the survivor so that sole control of the property ripens, or passes in the ordinary sense, to the surviving spouse without going through probate.

Tenants in Common - Tenancy in common is a form of concurrent estate in which each owner, referred to as a tenant in common, is regarded by the law as owning separate and distinct shares of the same property. By default, all co-owners own equal shares, but their interests may differ in size.

Transfer on Death (TOD) – Transfer on death (TOD) registration allows you to pass the securities you own directly to another person or entity (your "TOD beneficiary") upon your death without having to go through probate. State law, rather than federal law, governs the way securities may be registered in the names of their owners.

Transfer on Death Deed (TOD Deed) – A transfer on death deed allows a property owner to directly transfer the ownership of real estate at the owner's death to whomever the owner designates by name. It is a method for avoiding probate of real estate when the owner does not need the tax benefits of a trust. The District of Columbia and Virginia permits this form of deed transfer.

Trust – A trust is created by the owner, also called a "settlor", "trustor" or "grantor" who transfers property to a trustee. The trustee holds that property for the trust's beneficiaries. Trusts exist mainly in common law jurisdictions. They have existed since Roman times.

Will - A document in which a person specifies the method to be applied in the management and distribution of his estate after his death. A will is the legal instrument that permits a person, the testator, to make decisions on how his estate will be managed and distributed after his death.