

## ESTATE PLANNING GLOSSARY

### **Last Will and Testament:**

- Directs disposition of property at death
- Does not affect property titled as joint tenants with right of survivorship or financial accounts with beneficiary designations.

### **Durable Power of Attorney:**

- Allows someone to make financial and medical decisions for you.
- Intended to avoid guardianship in the event of incapacity.

### **Living Will Declaration:**

- Directs the removal of life support where no reasonable hope of recovery from terminal condition, end-state condition, or persistent vegetative state.

### **Testamentary Trust:**

- Trust created in will usually for minor children or young adults and receives death benefits such as life insurance, annuities, qualified retirement plans, 401(k)s, and IRAs.

### **Revocable Trust:**

- Separate Trust which can be changed at any time prior to death and which can own and receive death benefits.
- Used where assets consist of second homes, rental property, small businesses that are not publicly traded (LLCs, corporations), and stocks individually held.
- Used where children or spouses cannot manage money.

### **Portability:**

- Election on timely filed estate tax return to claim last deceased spouse's unused estate tax exemption.
- Election is lost if estate tax return is not filed within 9 months of spouse's death, even though estate tax return is not required since deceased spouse's estate does not exceed estate tax exemption (\$5,430,000 for 2015).

### **Special Needs Trust:**

- Trust intended to protect public assistance benefits such as Medicaid.

### **Probate:**

- Legal proceeding to administer assets which are not titled as joint tenants with rights of survivorship or do not have beneficiary designations.

### **Disposition Without Administration:**

- Probate of estates not exceeding paid funeral bill (up to \$6,000) plus \$1,000.
- Lawyer not required.

### **Summary Administration:**

- Probate of probate assets \$75,000 or less, excluding the home for relatives.
- Administration usually completed within 30 – 60 days.

### **Ancillary Administration:**

- Probate of non-resident owned real property.

### **Formal Administration:**

- Probate of all other estates. Attorney fees at least 3% of gross inventory value. Excludes value of homestead going to relatives (protected homestead).
- Time for completion 6 months – 1 year, sometimes longer.