A-B Trusts: The two "sub-trusts" are created when a person dies: the "A" Trust - also referred to as the "Marital Trust"- will be maintained for the benefit of the surviving spouse - and the "B" Trust - also referred to as the "By-Pass Trust", "Credit Shelter Trust" or "Family Trust" - will contain assets of a value equal to the deceased spouse's remaining estate tax exclusion amount and will also be held for the benefit of the surviving spouse during his or her lifetime. Upon the death of the surviving spouse, the B-Trust will pass to the children (or other beneficiaries) without any additional estate tax, irrespective of the value of the B-Trust at that point.

Administration: The process of probate, when the personal representative collects assets of the decedent, pays claims, and distributes the remainder of the estate according to the will, or according to the Law of Descent and Distribution.

Administrator: The person or corporate fiduciary appointed by the Probate Court to manage the probate estate where no executor (personal representative) has been appointed to do this job, or where the appointed executor is unable or unwilling to serve.

Applicable Exclusion Amount: The amount of property owned by a decedent effectively exempt from the federal estate and gift tax. ($1,500,000 in 2004.)

Assignment: Transfer of title of an asset from one owner to another, such as from a person to a trust.

Attorney-In-Fact: The person named as an agent under a Power of Attorney to conduct the affairs and deal with the property of another.

Beneficiary: The person named in a will or trust to receive property from the maker of the will or trust.

By-Pass Trust: The Trust created to hold assets of a value equal to the decedent's exclusion amount, $1,500,000 in 2004, on such terms that those assets will "by-pass" further estate taxes when the initial beneficiary of the trust dies. (Same as "Credit Shelter Trust", "Family Trust", and "B-Trust".)

Capacity: The legal competence to effectively perform a given act (e.g. to write a Will or Trust, to enter into a binding contract).

Charitable Remainder Annuity Trust: A charitable remainder trust in which the named beneficiaries receive a fixed payment of not less than five percent of the fair market value of the original principal over the course of a specified period after which the remaining principal passes to charity.

Charitable Remainder Trust: A trust in which individuals are named as beneficiaries to receive income for a period of time (as the lifetimes of the beneficiaries) after which the principal passes to charity Note: Charitable remainder trusts qualify for tax exemptions under section 664 of the Internal Revenue Code.

Charitable Remainder Unitrust: A charitable remainder trust in which the named beneficiaries receive payments of a fixed percentage and not less than five percent of the value of the trust assets as determined annually for a specified period after which the remainder passes to charity.

Charitable Trust: A trust created for the purpose of performing charity or providing social benefits Note: Unlike most trusts, a charitable trust does not require definite beneficiaries and may exist in perpetuity.

Conservatorships: Court proceeding initiated to supervise management of the property and affairs of an incapacitated or incompetent person.

Credit Shelter Trust: Synonym for "B-Trust", "By-Pass Trust" and "Family Trust". (See above.)

Crummey Trust: An irrevocable trust established to qualify contributions for the annual federal gift tax exclusion (currently $11,000) for gifts of a present interest. So-called because the trust contains "Crummey Powers," enabling a beneficiary to withdraw assets contributed to the trust for a limited period of time.

Decedent: A deceased person, especially one who has lately died.

Designated Beneficiary: An individual beneficiary of a retirement account (IRA, 401(k), 403(b), etc.) who qualifies as a person whose life expectancy may be used, either jointly or singly, for determining minimum annual distributions.

Designated Beneficiary Trust: A specially designed trust that qualifies its beneficiary for "designated beneficiary" status under Internal Revenue Regulation 1.409(a)9.

Durable Power of Attorney: A legal instrument whereby one appoints and empowers another person as agent to deal with one's property and personal affairs. It remains effective even after the maker becomes incapacitated.

Equitable Title: Beneficial ownership of an asset; the right to use, spend, consume and/or enjoy an asset or its income.

Estate: The total collection of a decedent's assets whether or not they pass through probate.

Estate Planning: A process by which a person designs a strategy and prepares documents to conserve, protect, and distribute estate assets before and after death for the benefit of loved ones, taking into consideration the effect of state and federal tax and administrative laws and regulations. It can also involve planning for the use of your assets for your care if you become unable to manage your affairs during your lifetime.

Estate Tax: Tax imposed by U.S. government and most states on the transfer of property from a decedent to his or her heirs or beneficiaries. The estate tax is levied on and measured by the size of the decedent's estate, rather than on the amount received by any particular beneficiary.

Exclusion Amount: The new term -"applicable exclusion amount"- used by the Taxpayer's Relief Act of 1997 to identify the amount of property owned by a decedent effectively exempt from the federal estate and gift tax ($1,500,000 in 2004). See "Unified Credit".

Exemption Equivalent: Old term for applicable exclusion amount (See above).

Executor (male)/Executrix (female): The one nominated in a Will and thereafter appointed by the Probate Court to manage and distribute a decedent's estate in accordance with the terms of the Will. May also be referred to as a Personal Representative.

Family Trust: A Trust established to benefit one's spouse, children and/or other family members. Often used in reference to the By-Pass Trust discussed above.

Fiduciary: A person or corporation who occupies a position of trust and accountability (e.g. Trustee, Administrator, Executor, Guardian, Conservator).

Fractional Interest: The less than 100% share of ownership held by a joint owner of an asset.

Funding A Trust: Re-registering legal title to one's assets in the name of the Trustee of a Trust.

Generation Skipping Transfer (GST) Tax: A federal tax imposed on certain transfers, either by gift or at death, between a donor/decedent and a person more than one generation removed (e.g., a grandchild). Currently the tax rate is a flat 48% on all such transfers; however, each individual currently has a $1,500,000 exemption (2004) available from the GST tax. The GST Tax is scheduled to be abolished in 2010, but reinstated in 2011.

Gift Tax: Federal tax on completed gifts from one person to another. Under the Internal Revenue Code, the Gift Tax applicable exclusion amount is $1,000,000. There is currently an annual exclusion of $11,000 applying to each gift of a present interest from a donor to each donee.

Gift Trust: An Irrevocable Trust established to act as the repository of gifts to its beneficiaries, drafted such that the gifts to the trust will be excluded from the donor's taxable estate at death. (See "Crummey Trust".)

Grantor: The person who establishes a Trust. Also referred to as the "Trustor" and "Settlor" of the Trust.

Gross Estate: The total value, for estate tax purposes, of everything in which one has an ownership interest at the time of death.

Guardianships: A Court supervised proceeding where a guardian is appointed or selected by the Court to act on the behalf of an incapacitated person or a minor. A guardian must be appointed if the incapacitated person did not designate an agent in a Durable Power of Attorney while he or she was well.

Heir: The person entitled to a distribution of an asset or property interest under applicable state law, in the absence of a Will. (Note that "heir" and "beneficiary" are not synonymous, though they may refer to the same individual in a particular case.) Your heirs are the ones who will inherit your property if you die with no valid Will or Trust in effect.

Inheritance Tax: Tax imposed by some states on the amount received by a particular heir or beneficiary.

Insurance Trust: An irrevocable trust established to own life insurance on a person, so designed as to exclude the proceeds of the policy - the death benefit - from the insured person's taxable estate at death.

Intestate/ Intestacy: When one dies without a valid will, such that the decedent's estate is distributed in accordance with state law. (See "Heir" above.)

Intervivos: A term used to describe a trust that was created during the lifetime of the grantor, rather than a testamentary trust created by a will.

Inventory: A list of the assets of the decedent or disabled person that is prepared by an attorney and signed by the fiduciary (personal representative or conservator/guardian). This is required to be filed in Probate court.

Irrevocable Trust: A trust that cannot be revoked, modified or amended once it has been established. Irrevocable trusts are often used in tax planning to get property "out" of a person's estate so that it will not be subject to estate tax upon his or her death.

Joint Ownership: Any arrangement through which title to an asset is shared by more than one owner. (See "Joint Tenancy," "Tenancy-by-the-Entirety," "Tenancy-in-Common.")

Joint Tenancy: A form of joint ownership of property that carries an automatic right of survivorship, such that title to the property automatically vests in the surviving joint tenant(s) by operation of law upon the death of one joint tenant. (Contrast with "Tenants-in-Common".)

Law of Descent and Distribution: A state statute that determines the distribution of the property of a decedent who died without a valid will (intestate) to the decedent's heirs.

Legal Title: quot;Registered ownership" of an asset. Refers to the person(s) whose name is on the deed, signature card, registration certificate, etc.

Life Estate Deed: A real estate transfer document which an owner signs and records during his or her lifetime, but which transfers title to the real estate to the beneficiary at the owner's death. This is an instrument used in small estates to avoid probate of the homestead instead of creating a trust.

Marital Deduction: The deduction against gross estate value accorded by the Internal Revenue Code for transfers by gift or upon death to one's spouse. Under current law the marital deduction is unlimited, e.g. there is <u>no</u> estate or gift tax on qualifying transfers of any amount to a U.S. citizen spouse. (See QDOT below with respect to non-U.S. citizen spouses.)

Marital Trust: Trust established to hold the surviving spouse's share of property upon the death of first spouse to die (see "A-B Trust" above). This trust qualifies for the marital deduction (See above.)

Personal Property: "Tangible" personal property refers to household furnishings, jewelry, etc. "Intangible" personal property refers to financial assets such as bank accounts, stocks, bonds, insurance, etc.

Personal Representative: An executor or administrator (See above.)

Pour-Over Will: A Will used in conjunction with a Revocable Living Trust to dispose of any property owned by the decedent at time of death which was not transferred to the Trust. The Pour-Over Will also revokes all prior wills, but unlike traditional wills it does not contain detailed dispositive provisions; rather it directs distribution of all individually owned property of the Testator to the Trustee of his/her Trust. The Trust instrument contains detailed instructions relating to the distribution of the property. Like all Wills, a Pour-Over Will must be admitted to probate to be effective.

Power-of-Attorney: A legal instrument whereby one appoints and empowers another person as agent to deal with one's property and affairs. (See Attorney-in-Fact above). A General Power-of-Attorney is one which gives the Attorney-in-Fact broad, plenary powers; a Special Power-of-Attorney limits the attorney-in-fact's authority to a particular property or transaction. Also see Durable Power of Attorney above.

Present Interest: To be eligible for the annual $11,000 exclusion from the Federal Gift Tax, the gift must be of a "present interest." In other words, the gift must belong to the donee with "no strings attached."

Probate: The court supervised process of distributing property left in a will or in accordance with the law if no valid will exists. Since there is court oversight for the entire process, the Testator/Testatrix and his or her heirs can count on a full and fair administration and distribution of the estate.Probate is necessary whenever a deceased person leaves titled assets in the decedent's alone.

Qualified Domestic Trust (QDOT): A marital trust used for the benefit of a non-U.S. citizen spouse containing special provisions specified by the Internal Revenue Code such that transfers to the QDOT qualify for the estate tax marital deduction.

Qualified Personal Residence Trust (QPRT): An Irrevocable Trust established to hold title to one's residence. The owner transfers ownership of the house to the trust, retaining the right to reside in the home for a period of years.

Real Property: Land and anything permanently attached to it.

Retirement Accounts: Any of the various accounts, funds or plans established to provide retirement benefits for an individual, created pursuant to federal laws and regulations and providing for tax-deferred accumulation during the life of the account, including IRAs, 401(k)s, 403(b)s, Pension and Profit Sharing Plans, etc. These accounts, with the exception of the new "Roth IRAs" and "Education IRAs", are subject to income tax upon withdrawal. They are also includable in the estate of the owner for Estate Tax purposes.

Revocable Living Trust: A trust established by an individual, or a married couple, that becomes effective immediately upon establishment while the Trustor is still alive (thus "Living"), remains revocable and amendable during the lifetime of the Trustor (thus "Revocable"), and is used to avoid probate; facilitate some tax planning; provide for management during periods of incapacity without need for guardianship conservatorship; address family circumstances; and provide for ultimate distribution of the estate.

Settlor: Same as "Trustor" or "Grantor". Old term for one who establishes a trust.

Special Needs Trust/Supplemental Needs Trust: A trust established for a disabled person to provide supplemental support without disqualifying the beneficiary from eligibility for governmental assistance programs.

Spendthrift Trust: A trust that is created for the benefit of a spendthrift who is paid income therefrom and that cannot be reached by creditors to satisfy the spendthrift's debts.

Successor Trustee/Substitute Trustee: The trustee who "takes over" upon the death, disability or resignation of the original trustee or a prior trustee.

Tangible Personal Property: Personal property which ordinarily has no registered ownership attached to it, e.g. furniture, clothing, jewelry, antiques, collections, etc., but not cash or other financial assets.

Tenancy-by-the-Entirety: A form of joint ownership of property available only to married couples. Very similar to Joint Tenancy in that title to the property automatically vests in the surviving spouse tenant-by-the-entirety. T-by-E ownership provides some creditor protection in some states.

Tenancy-in-Common: A form of joint ownership in which a deceased tenant's share passes to his/her heirs or beneficiaries through his/her estate. (Contrast with Joint Tenancy.)

Testamentary Trust: A Trust established in a person's Will. A Testamentary Trust only comes into operation after the Will has been probated and the assets have been distributed in accordance with the probate court order. In many states, Testamentary Trusts remain subject to the jusridiction of the probate court.

Testator(male)/Testatrix(female): Person who signs a will.

Transfer Tax: A tax levied when ownership of an asset is given, bequeathed or transferred to another. Includes the Estate Tax, Inheritance Tax, Gift Tax and Generation Skipping Transfer Tax.

Trust: An agreement between the grantor and the trustee, naming the trustee to control the grantor's property, or some of it, for the benefit of a beneficiary. The beneficiaries hold "equitable title" to those assets. The trust agreement defines the trustee's powers and duties. Trusts of various types are frequently used in estate planning to achieve tax, financial, and personal objectives.

Trustee: A person or corporation appointed by the Grantor to manage and distribute Trust assets in accordance with the terms and conditions specified in the Declaration of Trust. A Trust may have one or more Trustees (Co-Trustees) who act together.

Trustor: One who establishes a Trust. The terms "Grantor" and "Settlor" are synonyms for "Trustor".

Trust Estate: The assets transferred to the Trustee by re-registering their legal titles in the name of the Trustee of a Trust. The Trust Estate can include real estate, bank accounts, stock, bonds, brokerage accounts, partnership interests, tangible personal property, and many other types of financial and legal interests.

Unified Credit: The lifetime tax credit available to every U.S. resident (not limited to American citizens) as an offset against federal gift and/or estate taxes. While technically a credit, for discussion purposes estate planners usually talk in terms of the equivalent exemption (the "applicable exclusion amount" in the latest Code terminology). In 2004 it is $1,500,000; by 2009 the exemption will have risen to $3,500,000. In 2010, the Estate Tax is abolished. However, present law provides for the reinstatement of the Estate Tax in 2011.

Will: A will declares who shall inherit an individual's assets (the beneficiaries) and who shall be responsible for distributing them to such beneficiaries (the executor/personal representative). For young parents and couples, a will can also be used to appoint a guardian for their minor children and a trustee to manage the children's money until they are old enough to handle it themselves.