Common Estate Planning Terms

If you're not familiar with them take a quick pass at them now.

Administrator: The individual or organization approved by a probate court to settle the affairs of a person who died without a valid will.

Advance Health Care Directive: A legal document, a form of a power of attorney, that gives the person(s) you select the power to make medical and health-care decisions for you in the event that you are unable to make those decisions yourself.

Beneficiary: The person named in an insurance contract, retirement plan, will, or trust agreement who will receive the right to benefits, income, or property, upon the occurrence of some event, such as a death.

Charitable ("Immortality") Trust: A trust that is set up to provide an ongoing current benefit, such as a scholarship, or to grant funds for future generations.

Charitable Lead Trust (CLT): A CLT is often viewed as the opposite of a charitable remainder trust. A donor transfers property to the lead trust, which pays a percentage of the value of the trust assets to a named charity, usually for a term of years. At the end of the trust term, the remaining assets in the trust and any growth it has realized are distributed to your heirs or the beneficiaries you elect. Although there is no income tax deduction when you create a charitable lead trust, your gift or estate tax is greatly discounted and any growth is passed to your heirs' gift and estate tax free.

Charitable Remainder Trust (CRT): A trust into which assets are contributed and which provides a donor with an income-tax deduction and a beneficiary with income over a defined period of time, with the remaining principal going to a charity at the end of the term.
Decanting: Is the process of transferring assets from one trust into another. Trust decanting allows a trustee to establish a new trust with more beneficial trust, eliminating some unfavorable elements within a previous trust.

Donor Advised Fund (DAF): A DAF is a charitable giving vehicle that's administered by a public charity created to manage charitable donations on behalf of individuals, families, or organizations.

Durable Power of Attorney for Financial Management: A legal document that gives the person(s) you select the power to manage your assets in the event that you are unable to do so. It does not cover assets that are in a trust, as these are managed by the trustee.

Estate: The total of all types of property owned and debts incurred by a person at a particular time, usually upon his or her death.

Estate Planning: The process of developing appropriate strategies to accumulate, preserve, manage, and transfer assets over one's lifetime, disability, and upon death. This is based upon your current personal values and objectives using appropriate legal documents, titling of assets, and beneficiary selections to implement them.

Estate Tax: There is an estate exclusion of $5 million indexed for inflation after 2011, per person, and a top estate tax rate set at 40%. For decedents dying in 2016 the exclusion is $5.45 million.

Executor: The individual or organization appointed in a will to administer the disposition of an estate according to the instructions set forth in the will.

Fiduciary: A person who assumes responsibility for a position of trust.

Generation-Skipping Tax (GST): A tax applied when the recipient of a gift or bequest is two or more generations younger than the giver (for example, a gift from a grandparent to a grandchild). Generation-skipping tax exemption is $5 million indexed for inflation after 2011, per person, and a GST Tax rate of 40%. For 2016, the exemption is $5.45 million. Gift Taxes: Lifetime gifts made in excess of the annual gift tax exclusion per donee ($14,000 in 2016 subject to inflation adjustments) are subject to gift taxes. Gifts made in 2016 receive an exclusion amount of $5.45 million indexed for inflation with additional gifts taxed at a top tax rate of 40%.

Guardian of the Person: The individual appointed in a will or by a court to care for minor children or an incompetent adult.

Guardian of the Estate: The individual appointed in a will or by a court to care for the property of minor children or that of an incompetent adult.

Inheritance Tax: The state tax paid on the value of property and money received from another person at their death. Not all states have an inheritance tax.

Irrevocable Trust: A trust in which the trustor—the individual who supplies the assets used in setting up a trust—does not retain the right to revoke or amend the trust.

Life Insurance (Wealth Replacement) Trust: A trust that is usually set up as an irrevocable trust for the purpose of receiving life insurance proceeds. Properly structured, proceeds from this trust are estate tax free.

Living (Inter vivos) Trust: A trust that is created while the grantor is alive. It may be revocable or irrevocable.

Portability: Beginning for taxpayers dying after 2010 the estate tax exclusion provides for "portable" between spouses. This means that the surviving spouse's exemption is increased by any exemption not used at the first spouse's death.

Caution: portability is not automatic; to preserve portability and make the unused deceased spouse's exemption available to the surviving spouse, an election must be made on the estate tax return of the first spouse to die.

Power of Appointment: A power or authority, which may be conferred by one person to another to manage assets and perform services.

Power of Attorney: A written instrument authorizing a person to act as the financial agent or attorney-in-fact in performing specific acts on behalf of another.

Probate: The legal process of administering the non-trust assets of the estate of a deceased person.

Qualified Terminal Interest Property (Q-TIP) Trust: A trust created at death by a will or living trust which provides all of the income to the surviving spouse for life. Upon that survivor's death, assets go to beneficiaries previously designated by the deceased spouse. Properly set up, this trust avoids any estate taxes on the estate of the first spouse. However, at the surviving spouse's death, the Q-TIP will be included within the estate of the surviving spouse. Depending on the overall size, it may be taxed as part of his or her estate.

Testamentary Trust: A trust created by a will to commence upon the death of the person who made the will (the testator).

Trust: A legal agreement designed to manage and control certain assets, held by the trustee for the benefit of others.

Trustee: The person, persons or organization appointed by the trustor to manage the assets and distributions of the trust.

Trustor / Grantor / Settlor: The individual who provides the assets used in setting up a trust.

Unified Credit: The estate and gift tax system in the United States is "unified." When computing the estate tax that may be due upon a person's death, the IRS takes into consideration taxable gift transfers by the decedent during his/ her lifetime.

Unified Credit (By-Pass) Trust: A trust created either through one's will or through a living trust that allows the unused portion of the unified credit to be placed in trust for a surviving spouse or other beneficiaries.

Will: A legal document through which a person directs the disposition of his or her estate upon death.

Common Estate Planning Mistakes to Avoid

1. Lack of planning
2. Unorganized finances
3. Not having a will, trust, durable power of attorney, or advance health care directive
4. Having out-of-date estate planning documents
5. Having “do it yourself” wills and trusts / no second opinion
6. Not selecting backup executors, trustees, and guardians
7. Not coordinating your beneficiaries with your estate plan
8. Not coordinating your life ins. ownership with your estate plan
9. Not coordinating property title with your estate plan
10. Not enough life, disability, long-term care, & liability insurance
11. Not providing executors & trustees with an up-to-date location sheet and not talking with them about your estate plan
12. Procrastination