

# Terminology: Estate and Trust Services



When considering estates, trust, and powers of attorney the terminology can be confusing and may be interchangeable between provinces. This guide is intended as an overview of some of the more common terms.

## Will and estates

- **Will** A legal document that states your wishes for the distribution of assets on death and provides instructions for the management of your estate.
- **Testator** The person making the Will.
- **Executor** Named in your Will to be responsible for the administration of your Estate. May also be referred to as a Trustee or Personal Representative. In Quebec an Executor is called a Liquidator.
- **Beneficiary** Receives specific gifts, part of or all the residue of an estate once administered.
- **Residue** What is left of an estate once specific gifts, debts, taxes, and costs have been paid.
- **Administration** The process of dealing with your Estate after you have passed.
- **Probate** A court application that verifies the Will. This is usually required before an Estate can be administered.
- **Administration clauses** Contained within the Will and gives powers and authority to the Executor in the management of the estate.
- **Guardians** Person or persons named in a Will to take care of minor children.

## Trusts

- **Trust** A way of holding assets for the benefit of another. Assets will be under the control of a Trustee but held for the benefit of the Beneficiary.
- **Trustee** Responsible for the management and control of a Trust and its assets.
- **Beneficiary** A person or group for who the Trust is designed to benefit.
- **Settlor** The person setting up the Trust.

- **Testamentary Trust** Written in a Will and does not come into effect until the Testator passes away.
- **Intervivos Trust** A Trust established and comes into effect while you are still alive. Intervivos means ‘while alive’ or ‘between the living’.
- **Qualified Disability Trust** A specific Trust for a beneficiary under a disability. Can have preferential tax treatment.
- **Henson Trust** A specific Trust for a beneficiary under a disability that might be in receipt of provincial disability benefits. Usually written in a Will.
- **Alter Ego Trust** A specific Trust available to Canadian residents over 65. An individual can transfer personal assets in a trust for themselves. Often used for protection or probate planning.

### **Incapacity**

- **Power of Attorney (POA)** A document that gives authority for another to act on your behalf. Usually this is in respect to property or financial affairs.
- **Enduring POA** A legal document that gives authority for another to act on your behalf - specifically intended to continue in the event that you lose capacity and cannot make decisions yourself. This is called a Mandate in Quebec.
- **Personal POA** A legal document that gives authority for another to act on your behalf in respect to personal decisions such as accommodation or care. This can also be referred to as a Representation Agreement or a Personal Directive.
- **Health Care Directive** Some provinces require a separate document to give authority to another to make medical or end of life decisions on your behalf if you cannot. This document can also set out what your medical or end of life preferences may be.

### **Charitable giving**

- **Donor Advised Fund/Charitable Giving Fund** A charitable giving vehicle that can be established during your lifetime or in your Will. Contributions made to the fund will generate an immediate tax receipt and grants can be made to charities over a period of time. Often used as part of a charitable giving strategy.
- **Charitable Foundation** An organization to facilitate charitable giving typically funded by endowments and donations. Can hold individual Donor Advised Funds.



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