

fp alpha  $\alpha$

- **Estate Planning  
Glossary**



## Glossary

### A

---

**Agent** (POA and Trust)

Fiduciary named to act on behalf of the “principal,” most often under a durable power of attorney or a durable power of attorney for healthcare.

**Accumulated earnings/income** (Trust)

Some trusts will continue to track the net income from prior accounting periods that was not distributed out to the beneficiaries.

### C

---

**Contingent Gifts** (Will and Trust)

A “catch-all” if the named beneficiaries or members of a class of beneficiaries fail to survive the person making the gift. It is common to name “heirs” or direct the assets to charity.

**Crummey/Crummey Power** (Trust)

Most often associated with an ILIT, this refers to a trust provision that grants the beneficiary(ies) a power to withdraw any funds gifted to the trust, subject to certain limitations. The purpose of this power is to convert what would normally be considered a “future gift” to a “present interest gift,” which is important because only present interest gifts qualify as annual exclusion gifts.

### E

---

**Executor** (Will)

The fiduciary responsible for managing an estate and ensuring that the terms of the Last Will are executed. While less common, “executrix” used as female gendered variation.

### F

---

**Family Trust** (Will and Trust)

Typical name of the “B Trust” in an “A-B trust” estate plan. This trust uses the first to die spouse’s lifetime estate tax exemption to fund the trust. The trust will typically benefit the surviving spouse but can benefit multiple generations at once. Trustee is usually directed to distribute net income and given discretion over the distribution of principal.

### G

---

**Grantor** (Trust)

(See also Settlor) The person that transfers assets into a trust.

## H

**HEMS (Health, Education, Maintenance, and Support)** (Trust)

The most common found in irrevocable trusts. Directs the trustee to distribute funds for typical life expenses, but is considered to legally restrict the trustee from making distributions “for anything at all.” Often modified with “in accustomed manner of living” to indicate that HEMS might differ across families, regions, net worth, etc.

## M

**Marital Trust** (Trust and Will)

Typical name of the “A Trust” in an “A-B trust” estate plan. After funding the B-trust, this trust receives the remaining assets owned by the first spouse to die. This trust will be designed to include the assets of the A-Trust in the estate of the surviving spouse.

## N

**Net Income** (Trust)

Trust accounting is complex and should involve the advice of a qualified accountant. Under most default rules, trust income consists of the dividends, interest, and any income (e.g., rental income) derived from a trust asset. Of particular note, the default rule is that capital gains are not income but rather principal for trust accounting purposes. To arrive at “net” income, you need to deduct any expenses, fees, and taxes and a typical default approach is that one-half of these deductions are applied to income while the other half is applied to principal. Thus, typical “net income” is

$$\text{Net Income} = (\text{Dividends} + \text{Interest} + \text{Other income}) - 0.5 (\text{Expenses} + \text{Fees} + \text{Taxes})$$

Note that additional complex rules apply to retirement income (e.g., IRA and annuity distributions benefitting a trust) and may default to a 10% income, 90% principal split.

## P

**Principal** (Trust)

The value of a trust that is not income (or accumulated income if tracked). Note that principal may include income from prior accounting periods that was not distributed and added into the principal value.

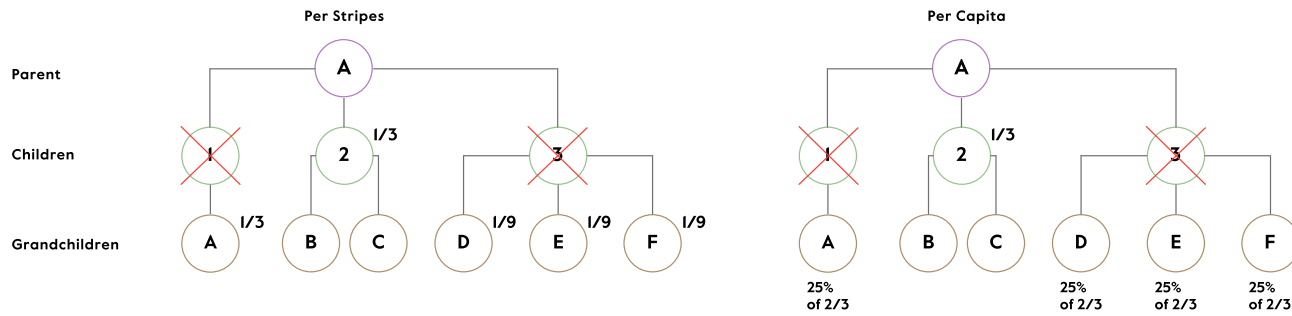
**Principal** (POA)

The person creating and signing the Power of Attorney. The Agent must act on behalf of the Principal and in the Principal’s best interests.

**Per capita** (Will and Trust)

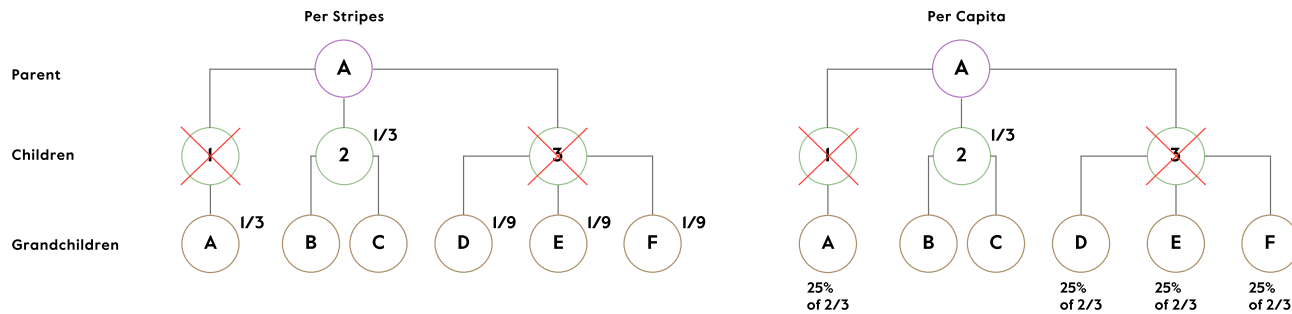
Contrast with per stirpes, per capita allocates any assets passing to a later generation due to a beneficiary predeceasing the person making the gift in equal shares to all the later descendants. For instance, if a person makes a gift to their 3 children and 2 of those children predecease, but 1 of those children has 1 child and the other as 2 children, per capita would give each grandchild a one-third share of the two-thirds value passing to the descendants. Under per stirpes the single child would’ve received one-third of the value, while the other two children would’ve only received one-sixth of the value.

■ Estate Planning • Glossary



**Per stirpes** (Will and Trust)

A default method of division for distributions made to the descendants of a beneficiary who predeceases you. Under this approach, the assets are divided into equal shares based on the surviving members of the generation closest to the person making the gift (i.e., if person making the gift has 3 children and 6 grandchildren, and a child predeceases, the assets are still divided into 3 equal shares). That equal (1/3) share is then divided into as many equal shares as there are surviving descendants (6) of the predeceased beneficiary.



**Power of Appointment** (Will and Trust)

Grants the beneficiary flexibility to alter the distribution of a trust from the trust's original terms.

Most powers are limited, meaning they cannot be exercised in favor of the beneficiary, the beneficiary's estate, or the beneficiary's creditors. Some powers are general, meaning the beneficiary can direct the assets as they determine best. Powers can also be either testamentary, meaning only exercised at the beneficiary's death, often via the beneficiary's Last Will, or inter-vivos, meaning the power is exercisable to some extent during the beneficiary's lifetime.

**Q**

**Qualified Terminable Interest Property ("QTIP")** (Will and Trust)

This is an election that is often made by a trustee over the Marital or A-Trust in an A-B trust estate plan. This election allows the Marital Trust to qualify for the unlimited marital deduction and inclusion of the value of the Marital Trust in the surviving spouse's estate. However, these trusts are often more restrictive than the typical Marital Trust, providing the first to die spouse with greater control over the assets. Thus, these are commonly seen in estate plans of blended families and spouses that have had multiple marriages.

## R

---

**Residual Gifts** (Will and Trust)

Also called the “residuary estate,” this is what is left in an estate or trust after the payment of all taxes, expenses, fees, and specific bequests. Most often, this remainder is divided equally among a class of descendants.

## S

---

**Settlor** (Trust)

(See also Grantor) The person that transfers assets into a trust.

**Springing Power** (POA)

Most commonly seen in powers of attorney, this is a power that does not become effective until a defined occurrence happens. Typically, it is the “incapacity” of the principal who created the power of attorney however that term is defined by the document.

**Specific Gifts/Bequests** (Will and Trust)

These are gifts of a specific asset or a specific amount of money. They are ordered first such that they receive precedence over any “residual gifts” if an estate or trust does not have sufficient funds.

**Successor Trustee/Executor** (Will and Trust)

The fiduciary named to succeed the first or previously named fiduciary.

## T

---

**Trustee** (Trust)

The fiduciary responsible for managing a trust and ensuring that the terms of the trust document are executed. Add more details on who this is and what they do.

**Testator/Testatrix** (Will)

(See also Executor) These are the male/female gendered terms for the person that executed a Last Will and Testament.