

# POWERS OF APPOINTMENT – An Invaluable Tool

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## **The Basics**

A power of appointment is the power given to dispose of assets at a later time. The grantor of the power can create a broad or limited powers by giving general powers of appointment or limited powers of appointment. Powers of appointment can also be exercised immediately or upon a specified occurrence or after a condition is met.

According to Black Law's Dictionary ( 5<sup>th</sup> Ed.), the definition of a power of appointment is, “ a power or authority conferred upon one person by deed or will upon another (called the “donee”) to appoint....the person or persons who are to receive and enjoy an estate or an income therefrom or from a fund, after the testator's death, or the donee's death, or after the termination of an existing right of interest.”

Title 60 O.S. Sec. 751 defines “donee” as follows: 1. "Beneficiary" means and includes any person entitled, but for his disclaimer, to take an interest, as grantee; as donee; under any assignment or instrument of conveyance or transfer; by succession to a disclaimed interest, other than by will, intestate succession or through the exercise or nonexercise of a testamentary power of appointment; as beneficiary of an inter vivos trust or insurance contract; pursuant to the exercise or nonexercise of a nontestamentary power of appointment; as donee of a power of appointment created by a nontestamentary instrument; or otherwise under any nontestamentary instrument;

Title 60 O.S. Sec. 175.82 (10) defines "Power of appointment" as an inter vivos or testamentary power to direct the disposition of trust property, other than a distribution decision by a trustee to a beneficiary. Powers of appointment are held by donees, not the