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# Per Capita vs. Per Stirpes

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*Per Capita*, Latin for “by the head” and *Per Stirpes*, Latin for “by the root” are terms used in estate planning to describe how an individual’s assets are to be distributed at death. They are often encountered when an individual names an alternate beneficiary to receive assets such as life insurance death benefits or the funds in IRAs or other retirement plans. Such planning is needed as a primary beneficiary may predecease the estate owner.

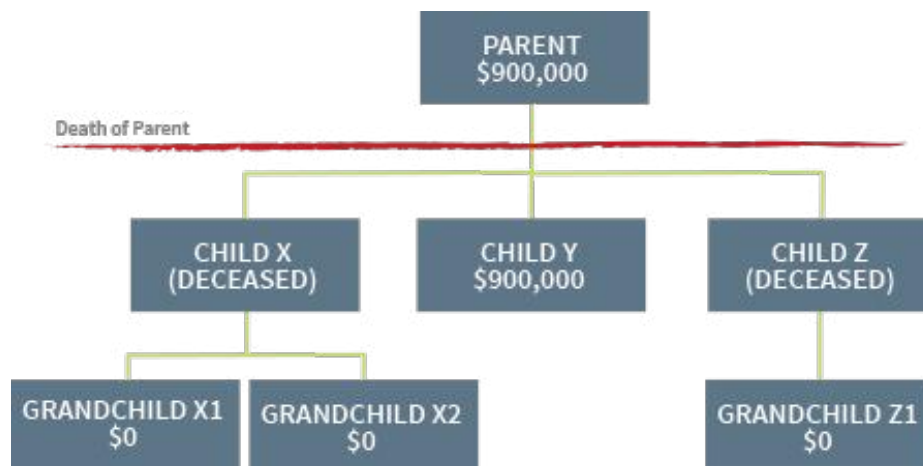
They are also found in cases where someone dies without a will. A person who dies without a will is said to have died “intestate”; each state has laws to deal with such situations.

It’s important to understand that the meaning of these terms can vary from state to state. The examples which follow are designed to illustrate how Per Capita and Per Stirpes are generally understood to operate. Individual state law, however, may lead to a different result, even if the same term is used. The guidance of a knowledgeable estate planning attorney, familiar with local law, is highly recommended.

In these examples, assume that a Parent has three children, Child X, Child Y, and Child Z. There are three grandchildren, two born to Child X and one born to Child Z. At the Parent’s death, how would the Parent’s assets be distributed assuming that both Child X and Child Z have predeceased the Parent?

## “Simple” Per Capita

In what might be called a “simple” Per Capita distribution, the Parent’s entire estate, \$900,000, passes to the sole surviving child, Child Y. The grandchildren receive nothing.



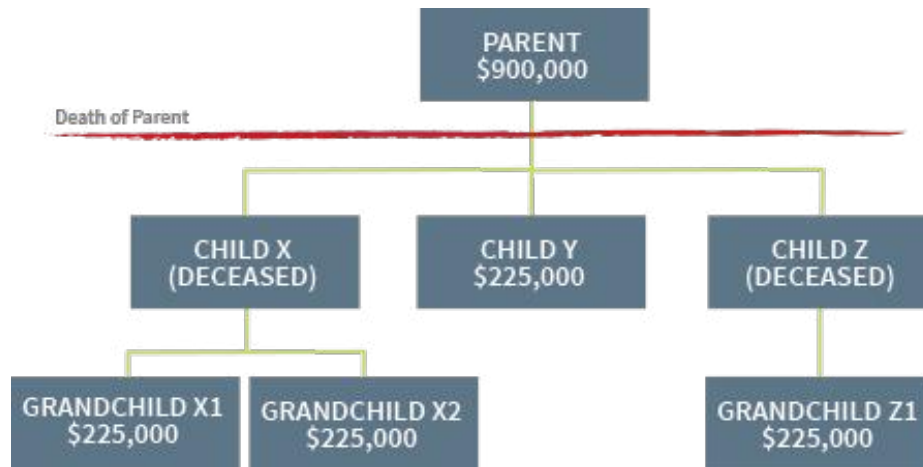
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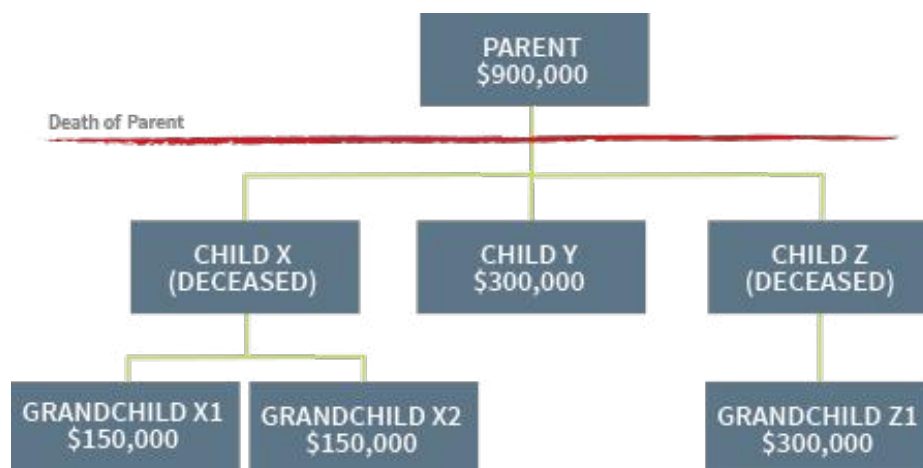
### Per Capita

In another version of the Per Capita distribution, all family members who survive the Parent receive an equal share of the Parent's estate. Thus, Child Y and the grandchildren each receive \$225,000 ( $\$900,000 \div 4$ ).



### Per Capita with Representation

In a Per Capita with Representation situation, the Parent's estate of \$900,000 is split three-ways, with \$300,000 going to Child Y and another \$300,000 passing to Child Z's survivor, Grandchild Z1. However, the children of Child X, Grandchild X1 and Grandchild X2, will split (\$150,000 each) what would have been Child X's one-third portion of the Parent's estate. This type of distribution can result in unequal treatment of surviving grandchildren.



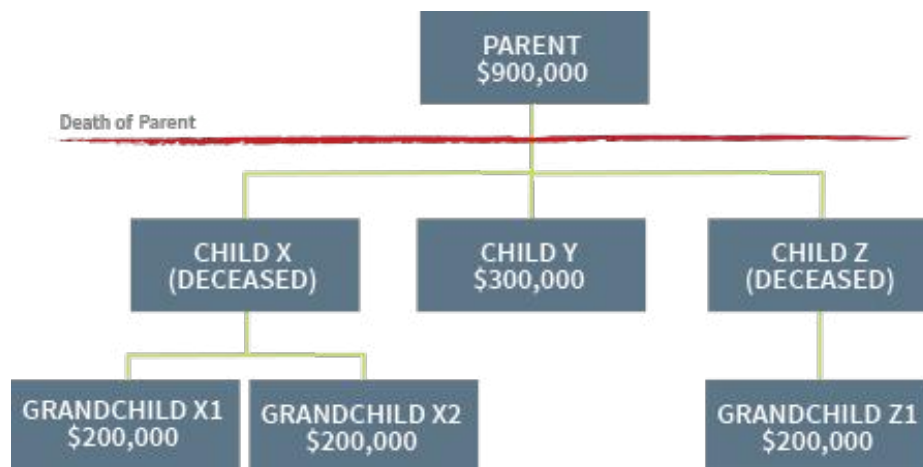
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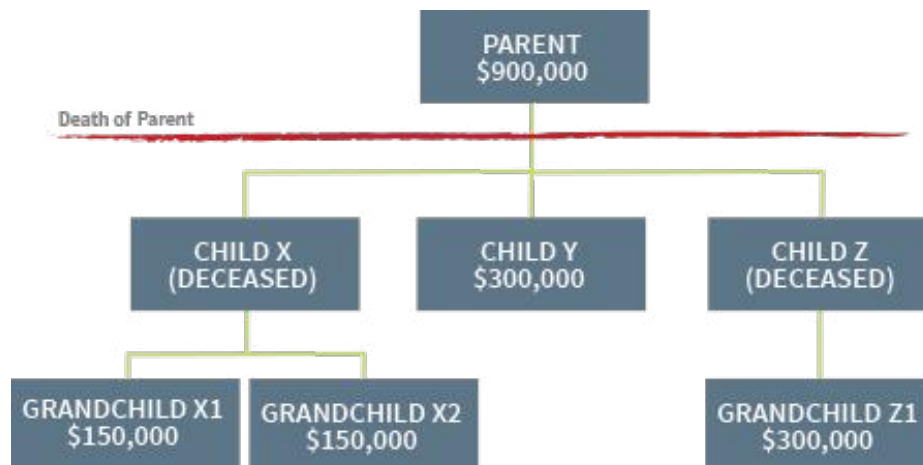
### Per Capita at Each Generation

A Per Capita at Each Generation distribution usually results in a more even-handed treatment of the surviving grandchildren. In this example, the Parent's estate is again divided into three parts. Child Y receives \$300,000. The remaining portion of the Parent's estate, \$600,000, is divided equally, with each grandchild receiving \$200,000.



### Per Stirpes

With regard to grandchildren, a Per Stirpes distribution often has the same result as a Per Capita with Representation distribution. In our example, a Per Stirpes distribution would leave \$300,000 to Child Y and another \$300,000 to Grandchild Z1. The children of Child X, Grandchild X1 and Grandchild X2, will split (\$150,000 each) what would have been Child X's one-third portion of the Parent's estate.



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### Seek Professional Guidance

Estate planning can be complex and confusing. The advice and guidance of experienced legal, tax, and financial professionals is strongly recommended.

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# Disclosure Notice

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The information that follows is intended to serve as a basis for further discussion with your financial, legal, tax and/or accounting advisors. It is not a substitute for competent advice from these advisors. The actual application of some of these concepts may be the practice of law and is the proper responsibility of your attorney. The application of other concepts may require the guidance of a tax or accounting advisor. The company or companies listed below are not authorized to practice law or to provide legal, tax, or accounting advice.

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