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estates and trusts: an overview

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During the early 1500's in England landowners found it advantageous to convey the legal title of their land to third parties while retaining the benefits of ownership. Because they were not the real "owners" of the land and wealth was primarily measured by the amount of land owned, this made them immune from creditors and may have done away with some feudal obligations. While feudal concerns are no longer existent and wealth is held in many forms other than land (i.e., stocks, bonds, bank accounts), the idea of placing property in third party hands for the benefit of another, the essential idea of a trust, has survived and prospered.

Generally, a trust is a right in property (real or personal) which is held in a fiduciary relationship by one party for the benefit of another. The trustee is the one who holds title to the trust property, and the beneficiary is the person who receives the benefits of the trust. To understand the laws governing trusts, a good starting point is the *Restatement (2nd) of Trusts*.

Many trusts are created as an alternative to or in conjunction with a will and other elements of estate planning. State law establishes the framework for determining the validity and limits for both.

The [Uniform Probate Code](#) has shaped state law in this field. It includes provisions dealing with affairs and estates of the deceased, and laws dealing with specified nontestamentary transfers, like trusts and their administration. The theory behind the Code is that wills and trusts are in close relationship and thus in need of unification. Since its creation, over thirty percent of states have adopted the Code substantially in whole.

Since many individuals neither set up trusts nor execute wills, state intestate succession laws are an important complement to trust and estate law. They determine where an individual's assets go upon death, in the absence of a will.

Federal Material

Federal Statutes

- U.S. Code: [26 U.S.C., Subtitle B - Federal Estate & Gift Tax](#)

Federal Agency Regulations

- Code of Federal Regulations: [26 C.F.R., Chapter 1, Subchapter B - Estate and Gift Taxes](#)

Federal Judicial Decisions

- U.S. Supreme Court: [Recent Trusts and Estates Decisions](#)
- U.S. Circuit Courts of Appeals: [Recent Trusts and Estates Decisions](#)

Other References

Key Internet Sources

- [Internal Revenue Service](#)
- [U.S. House of Representatives Law Library - Trusts and Estates](#)
- [National Association of Financial and Estate Planning](#)

Useful Offnet (or Subscription - \$) Sources

- Good Starting Point in Print: Lawrence H. Averill, Jr., *Uniform Probate Code in a Nutshell*, [West Group](#) (1996)

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