

1

The common law recognises the mechanism of the trust.

Answer:

<https://selffox.com/products/test-bank-equity-and-trusts-1e-atkins>

(A True
)

(B False
)

Feedback:

It is equity that recognises the trust. Historically the trust was an essential vehicle to ensure fairness. Equity valued an approach based on conscience and ensured that assets entrusted to a person (normally a friend or family member) for the benefit of another became the property of the person who was intended to benefit. Without the trust, the person who was entrusted with property would be the legal owner of the property and could not be reprimanded for going back on their promise to look after the property for another. The trust becomes an essential vehicle to regulate property ownership as it ensured that the person holding the property (the trustee) only had the legal title to the property, and the person intended to gain the benefit of the property (the beneficiary) had the equitable title. When the trust comes to an end, the property vests in the beneficiary, who gains both the legal and equitable title of the property.

2

What's the difference between fixed and discretionary express trusts?

Answer:

3

Why are protective trusts difficult to create?

Answer:

4

In which two situations do resulting trusts occur?

Answer:

5

In which case did the court imply a resulting trust as the entire equitable interest had not been used up?

Answer:

6

When does a constructive trust apply?

Answer:

7

What are trusts used for today?

Answer:

8

In which case did Lord Upjohn set out the 'basic difference' between a mere power and a trust power?

Answer:

9

What was the name of the test enunciated by Lord Upjohn in Re Gulbenkian's Settlement?

Answer:

- 10 **When the trust is set up who owns the legal title to the property?**
Answer:
- 11 **Who are the three types of party that are normally required in order for a trust to function?**
Answer:
- 12 **The maximum number of beneficiaries to a trust is 50.**
- (A True
)
(B False
)
- Answer:**
(B) False
- Feedback:** There is no maximum number of beneficiaries to a trust.
- 13 **The common law recognises split ownership of property.**
- (A True
)
(B False
)
- Answer:**
(B) False
- Feedback:** At law, either someone owns property or they do not.
- 14 **Trusts can be set up either in the settlor's lifetime (inter vivos) or upon his death (via his will or by the laws of intestacy.)**
- (A True
)
(B False
)
- Answer:**
(A) True
- Feedback:** Either method of trust creation is valid. However, as will be seen in subsequent Chapters, there are different rules that apply depending on how the trust is created and what form the asset of the trust takes.
- 15 **A power of appointment may be exercised by the donee and a trust must be executed by the trustee.**
- (A True
)
(B False
)
- Answer:**
(A) True
- 16 **Does there have to be a human beneficiary to a trust?**
- (A yes
)
- Answer:**
(A) yes

)

(B
) no

Feedback: Generally yes but there are exceptions to this. This requirement of a human beneficiary is known as 'the beneficiary principle' (as will be seen in Chapter 6).

17

Was a class of 'friends' held to be sufficiently certain in Re Barlow's Will Trust?

(A
) yes

Answer:
(A) yes

(B
) no

Feedback: This was the case as a series of gifts was left to a series of friends. No trust was held to be created.

18

Which of these are types of express trust?

(A) Resulting

Answer:
(B) Fixed

(B) Fixed

(C) Discretionary

(C) Discretionary

(E) Protective

(D) Constructive

Feedback: a and d are forms of implied trust and e is a trust created by a particular statute.

(E) Protective

19

Which of these statements is true:

(A) Implied trusts
) are expressly
created by the
settlor

Answer:
(B) Implied trusts fill gaps

(B) Implied trusts fill
) gaps

(C) Implied trusts are
) implied by equity

(C) Implied trusts
) are implied by
equity

Feedback: implied trusts are not expressly created by the settlor, instead they are construed by the court in certain situations.

20

What is the problem with giving someone temporary custody of your land?

Answer: