

Wills, Trusts,  
and Estates

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Class 15

# Administration of Trusts – General Rules

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- Jurisdiction:
  - For **chattel**, the state of domicile of the settler usually controls
  - For **land**, the place where the property sits have jurisdiction
  - Under the UPC, any trust that is administered to probate is governed by the state of the probate proceeding
- Trustee Appointments:
  - For an *inter-vivos* trust: It's really just a contract, so the court can't just fire a trustee
  - For a **testamentary** trust, the trustee derives power from the court, so the court can fire trustees or modify their powers, etc.

# Duties and Responsibilities of the Trustee

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- Duty of **Care**: Must be cautious with the trust assets
- Duty of **Loyalty**: No “self-dealing”
- Duty to **Safeguard** the trust assets
- Duty to **Segregate** trust assets and not to commingle trust assets with private funds
- Duty to **Account** and keep the books of the trust
- Duty to make the trust assets as **productive** as possible without taking unnecessary risks

# Quiz Time!

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# Rights and Powers of the Trustee

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- [Powers generally spelled out by the trust]
- Even without there being spelled out in the trust, these are generally implied:
  - Power to incur reasonable expenses to maintain trust property
  - Power to lease or sell trust property
  - Power to prosecute or settle claims against or by the trust
  - Right to receive reasonable compensation