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Donative transfers are at the core of family estate planning. This new Restatement that will eventually completely replace Restatement Second, Property (Donative Transfers), offers an authoritative, comprehensive, and thoroughly contemporary treatment of the law of gifts and wills, and especially of the transfer of real and personal property to succeeding generations.

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Volume 2 contains the complete text of Divisions II, III, and IV of the new Restatement. Drawing, like its predecessor, significantly and substantially on contemporary statutory developments and recognizing the close relationship between statute and decisional law in this field, this volume begins by restating the law of nonprobate transfers, including both gifts of personal property and will substitutes such as life insurance, pensions, and employee-benefit accounts. It continues with a consideration of protective doctrines such as undue influence, mental incapacity, and minority, as well as of rules for protecting surviving spouses and of the effect of premarital and marital agreements. The final division collects in one helpful place the vitally important rules and principles for ascertaining a donor's intent within the terms of the relevant donative document, and for determining whether it is possible to reform or modify the document to clearly reflect that intent. Topics here include the type of evidence that can be considered in determining intent, techniques for resolving ambiguities, and doctrines aimed at correcting evident mistakes and achieving the donor's tax objectives.

For further details, see the accompanying abbreviated Table of Contents.

Professor **Lawrence W. Waggoner** of the University of Michigan Law School is Reporter for ALI's **Restatement of the Law Third, Property (Wills and Other Donative Transfers)**, and Professor **John H. Langbein** of Yale Law School is Associate Reporter. Professor Waggoner was also Chief Reporter and Professor Langbein was a member of the Drafting Committee for the Uniform Probate Code.

The remaining Divisions of this Restatement will be published subsequently. Divisions V and VI will discuss, respectively, class gifts and powers of appointment. Division VII will address present and future interests. Division VIII, the final portion, will consider social restrictions on the freedom of disposition, including the Rule Against Perpetuities.

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Restatement of the Law Third, Trusts, Volumes 1 and 2

Providing “user-friendly” responses to the complexities of modern trust usage, the first two volumes of the ALI’s new **Restatement of the Law Third, Trusts**, reflect two central objectives. One is to make it **easier to accomplish the settlor’s intentions** despite technical defects or drafting deficiencies, so long as those intentions have been properly arrived at, are reliably evidenced, and are not unlawful or contrary to public policy.

The second is **to recognize appropriate authority to adapt the settlor’s specific terms to unanticipated circumstances, in furtherance of the settlor’s underlying purposes**. This second objective is increasingly important because of changes, complexities, and opportunities in tax law, other legal developments, improved life expectancies, and the creation of more trusts that endure long after the settlor expressed his or her intentions. Much of this Restatement’s doctrine, representing “default rules” to apply in the absence of specific provisions in the trust, reflects the drafting practices of informed, experienced estate planners.

In addition, during the development of these two new Restatement volumes, and the earlier (1992) “Prudent Investor Rule” volume (go to www.ali.org to purchase), the work on the ALI project has both responded to and influenced important recent uniform acts, such as the Uniform Prudent Investor Act (1994, already enacted in most states) and the Uniform Trust Code (promulgated in 2000); the Restatement Commentary and Reporter’s Notes offer examples and analysis of immense value to judges, practitioners, and educators in understanding and applying these and other bodies of modern legislation.

Critically important developments and issues arising out of the revocable “living” trust movement (subsequent to Restatement Second) are also constructively treated in the new volumes, as are such increasingly important, evolving principles as those for trust reformation (for mistake or desired tax results) and modification (e.g., by court or beneficiaries) or for the interpretation of discretionary beneficial interests (e.g., meaning of standards, relevance of beneficiary’s other resources).

Using flexible language that anticipates and provides for a continuing evolution of social attitudes and individual objectives, these new volumes include consideration of permissible private and charitable purposes and of trust-law policy, increasingly troublesome in such contexts as personally intrusive conditions in private trusts and racial, religious, and gender restrictions in charitable trusts.

For further details, see the accompanying abbreviated Table of Contents.

Professor **Edward C. Halbach, Jr.**, of the University of California at Berkeley School of Law, served as the Reporter for ALI’s **Restatement of the Law Third, Trusts, Volumes 1 and 2**, as well as for the earlier Trusts (Prudent Investor Rule). He has been the ALI’s A. James Casner Reporter since 1993.

The portions of Trusts Third governing trust administration will be published in subsequent volumes. The Institute’s 1992 treatment of the Prudent Investor Rule, presently available in a separate volume, will eventually be updated and integrated with additional new material on administration.

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In the well-established Restatement tradition, both of these authoritative works combine clear black-letter provisions with extensive explanatory Comments, clarifying Illustrations, and detailed Reporters’ Notes. The Comments thoroughly explicate the background, rationale, and applicability of the black-letter provisions, while the Reporters’ Notes document and discuss the sources for the black letter and Comments and provide a convenient basis for further research. The volumes are further enhanced by tables of cases, statutes, Restatement parallel tables, and a table of cross-references to the West Digest System and ALR annotations, and by an Index.