

“Trust property cannot be held under attachment nor sold upon execution for the trustees personal debts”

Hussey v. Arnold 182 U.S. 461, 21 S. Ct.645

The fact that the trustees hold the property does not mean that the trustees own the personal property. Trust property cannot be held under an attachment nor sold upon the execution of trustee's personal debts. Trustees and beneficiaries cannot be held liable for debts incurred by the trust. If in fact, a trust has been created, the certificate holders are not liable on the obligation incurred by the trustees or managing agents appointed by the trustees. **Hussey V. Arnold 70 NE 87: Mayo V. Morin, 24 NE 1083.**

Pursuant to 695.30(a) of the CPC for the State of California and similar Civil Procedure Codes of other states; "property of the judgment debtor that is not assignable or transferable is not subject to the enforcement of a money judgment”.



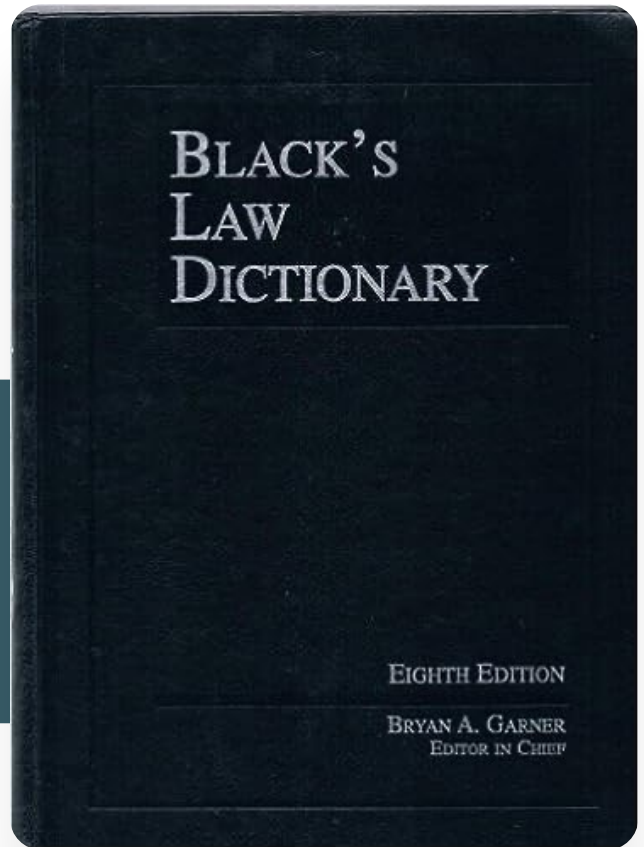
In Weeks v. Sibley DC 269F. 155, Edwards V. Commissioner. 415F.2d, 578, 582 10th Cir. (1969) and Philips v. Blanchard 37 Mass 510, the courts ruled that a Spendthrift Trust Organization is not illegal even if formed for the express purpose of reducing or deferring taxes.

Edison California Stores, Inc. v McColgan. 30 Cal 26472.183 P2d 16. **ruled that persons may adopt any lawful means for the lessening of the burden of income taxes; The Department of the Treasury, IRS Handbook for Special Agents p. 412, Tax Avoidance Distinguished from Evasion states; “Avoidance of Taxes is not a criminal offence. Any attempt to reduce, avoid, minimize, or alleviate taxes by legitimate means is permissible”.**

Pursuant to **Narragansett Mut. F. Ins. Co. v. Burnhamun 51 r1371, 154 a 909**, It is not an evasion of legal responsibility to take what advantage may accrue from the choice of any particular form of organization permitted by law.

A "Trust" is defined by Black's Law Dictionary "as right of property, real or personal, held by one party for the benefit of another." The trustee(s) holds the legal and equitable title to the property for the benefit of the beneficiaries.

The "right to contract" is guaranteed under the United States Constitution Article §10. Courts can determine the enforceability of contracts, generally on public policy grounds.



Contract clause of the Constitution

• Article 1 Section 10 Clause 1 of the US Constitution:

"No State shall ... pass any ... Law impairing the Obligation of Contracts."

• Landmark judgment: *Fletcher v. Peck* (1810) – Supreme Court ruled that contract no matter how obtained cannot be invaded by state legislation.

The Supreme Court case *Eliot v. Freeman* 220 US 178 ruled that a Spendthrift Trust Organization is not subject to legislative control.

Eliot v. Freeman Nos. 448, 496, Argued January 19, 1911, Decided March 13, 1911 - 220 U.S. 178

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS

It was the intention of Congress to embrace within the corporation tax provisions of the Tariff Act of August 5, 1909, c. 6, 36 Stat. 11, 112, only such corporations and joint stock associations as are organized under some statute, or derive from that source some quality or benefit not existing at the common law.

A trust formed in a state, where statutory joint stock companies are unknown, for the purpose of purchasing, improving, holding and selling land, and which does not have perpetual succession but ends with lives in being and twenty years thereafter, is not within the provisions of the Corporation Tax Law.



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