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Wills, Trusts, and Estates for
Legal Assistants

Sixth Edition



Chapter 14

INTER VIVOS TRANSFERS

Chapter Objectives

- List the elements of an inter vivos gift
- List the potential benefits and disadvantages of inter vivos gifts
- Explain the operation of a power of appointment
- Differentiate between vested and contingent remainders
- Describe the mechanisms available for making transfers of property to minors



Inver Vivos Gift

- A gift made during life.



Requirements to Qualify as an Outright Inter Vivos Gift

- 1) **Present Donative Intent.** The donor (person transferring property) must have the present intent to make a gratuitous transfer.
- 2) **Delivery.** The property must be delivered to the donee (person receiving property).
- 3) **Acceptance.** The donee must accept the property.



Benefits of Inter Vivos Gifts

- Donee's immediate enjoyment
- Donor satisfaction
- Donor relieved of responsibility
- Tax reduction
- Creditor protection
- Reduce elective share of surviving spouse



Potential Disadvantages of Inter Vivos Gifts

- Irrevocability
- Lack of control
- Leverage reduction
- Jealousy
- Minors and incompetents lack legal capacity
- Transfer taxation

Future Interests

- An ownership interest in property in which enjoyment takes effect on the occurrence of a designated event.

Vested and Contingent Remainder

- The most common type of future interest a donee may receive is the **remainder**.
- There are two basic types of remainders. First, the **vested remainder**, which gives the donee the right to obtain possession of the property as soon as the preceding estate terminates.
- Second, the **contingent remainder**, which permits the donee to obtain possession of the property only if a condition precedent is satisfied.

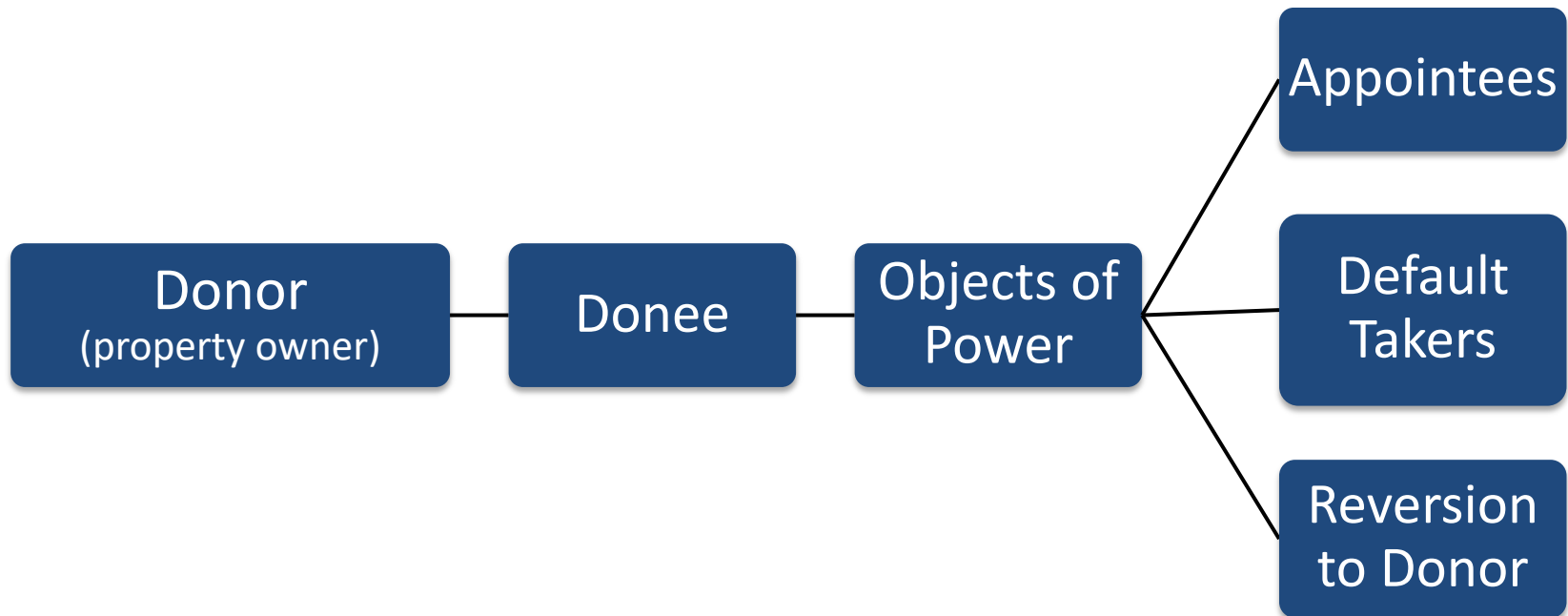


Persons in Power of Appointment Relationship

- Donor
- Donee
- Objects of the power
- Appointees
- Default takers



Power of Appointment



Transfers to Minors

- Minors lack the legal capacity to manage property. Thus, donors who wish to make inter vivos gratuitous transfers to benefit minors need to select an appropriate method to transfer the property. Donors have several techniques available to them.
 - First, the donor could simply make the transfer directly to the minor.
 - Second, the donor could place the property in trust for the benefit of the minor.
 - Third, the donor may transfer the property to a *custodian* for the minor.