

# **Trust as a tool for intergenerational asset transfer**

## **Abstract**

This thesis examines trusts, and in particular trusts established for private purpose, as a still relatively new potential tool for intergenerational asset transfer. It is apparent that the general public are increasingly concerned with the matter of how their assets will be dealt with after their death and are aware of some of the difficulties of inheritance proceedings. Ten years after the Civil Code came into force, the trusts have found their place in practice, but given the specific and unique nature of the concept, there are still a number of unresolved questions that have not yet been answered by legislation or case law.

In addition to the current legal regulation in the Civil Code, the subject of examination is not only the historical predecessors of trusts, but also contemporary similar legal institutes in other countries, in particular the Quebec fiduciary law, which the Czech legislator based on and adopted in content.

The author also deals with what is probably the most controversial aspect of the legal regulation of trusts among lawyers, namely the issue of changing the statute, inclining towards the stricter view according to which a change of the statute other than the one made by the court is not allowed.

Furthermore, the focus is on the relationship of the trust to the inheritance law, in particular the rights and protection of the forced heir, where disputes arise in practice as to their relationship to the property allocated by the settlor to the trust and whether this property becomes part of the legacy after the death of the settlor.

Last but not least, this thesis also describes all the tax aspects of the trust in order to provide the reader with a comprehensive idea of whether or not it is convenient to set up a trust and to use it for the intergenerational transfer of assets.

In the conclusion, the author considers to what extent legislative intervention in the current legislation is desirable, whether some disputes could be overcome by case law or whether it would be sufficient to let the trust fund live its own life.

**Key words: trust, intergenerational asset transfer, forced heir.**