

**TOTTEN TRUST**  
**Everyday Law Encyclopedia**

A Totten Trust is one that is created during the lifetime of the grantor by depositing money into an account at a financial institution in his or her name as the Trustee for another. This is a type of revocable Trust in which the gift is not completed until the grantor's death or an unequivocal act reflecting the gift during the grantor's lifetime. An individual or an entity can be named as the beneficiary. Upon death, Totten Trust assets avoid probate. A Totten Trust is used primarily with accounts and securities in financial institutions such as savings accounts, bank accounts, and certificates of deposit. A Totten trust cannot be used with real property. A Totten Trust provides a safer method to pass assets on to family than using joint ownership. To create a Totten Trust, the title on the account should include identifying language, such as "In Trust For", "Payable on Death To", "As Trustee For", or the identifying initials for each, "IFF", "POD", "ATF". If this language is not included, the beneficiary may not be identifiable. A Totten Trust has been called a "poor man's" trust because a written trust document is typically not involved and it often costs the trustmaker nothing to establish.

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## **TOTTEN TRUST**

### **Wikipedia, the free encyclopedia**

A Totten trust (also referred to as a "Payable on Death" account) is a form of trust created where one party (the settlor of the trust) places money in a bank account or security with instructions that upon the settlor's death, whatever is in that account will pass to a named beneficiary. For example, a Totten trust arises where the account is titled in the form "[depositor], in trust for [beneficiary]". It is not a legal trust, but arises out of equity, as a matter of fairness.

The name is derived from *Matter of Totten*, 179 N.Y. 112 (1904), the case decided by the Court of Appeals of New York which established the legality of this practice. Although this method of creating a trust did not meet the formal requirements of trust creation, or the testamentary formalities required to make a valid will, the Court noted that such an arrangement typically involved a small amount of money left by a person of modest means, who could not otherwise afford to establish a legal mechanism for passing the specified property. For this reason, the device is sometimes called a "poor man's will". The funds in question are not subject to probate and, if held in a bank account, are insured in the same manner as any deposit. The beneficiary has no access to the account until the depositor's death and need not be notified that the account exists.

Most U.S. States now recognize the validity of Totten trusts. The Restatement 3d of Trusts Section 26 and the Restatement 3d of Property Section 7.1 comment i also recognize its validity. Such a device can be revoked at any time by the settlor, either by closing the account or by executing a will which disposes of the property in the account. The funds in the account can be reached by the creditors of the settlor during the settlor's life. If the intended beneficiary predeceases the settlor, then the gift will lapse, and will generally not be saved by an anti-lapse statute.

Totten trusts can only be created with certain types of depository accounts or securities; in particular they cannot be used to convey real property.

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