When asked to sign a lease, a contract, or a will, do you actually read the document before you sign it? If you don’t, chances are you lack a basic understanding of the legal principles used to make business decisions. This course can remedy that. It is designed to familiarize you with how basic legal principles affect your personal and professional life. By gaining a working knowledge of the law as it applies to business practices in the United States, you can better protect both your personal and business interests.

The information needed to achieve this goal is presented in a textbook titled *Basic Business Law* (second edition) and this study guide. The textbook, which was published by Regents/Prentice Hall in 1994, was written by Charles Hemphill Jr. and Judy Long. The study guide, written by staff at The Hadley School for the Blind, is designed to guide you through the textbook.
Study guides are a popular tool for completing distance education courses. They identify what you should be able to do after completing each chapter. They summarize and occasionally amplify the material included in the textbook. They also include the assignments that enable your instructor to evaluate your progress throughout the course. To benefit the most from this type of distance learning, follow the directions in this study guide, which explain how to proceed through each chapter of the textbook.

This course covers the first 18 chapters in the textbook. “Business Law 2” covers the remaining 14. The study guides for both courses divide the textbook into units even though the textbook does not do so. In this course, Unit 1 covers Chapters 1–4. Chapter 1 examines how business law developed into the body of rules that control trade and commerce today. Chapter 2 describes how the legal system that now supports trade and commerce in the United States evolved. Chapter 3 examines the role of courts in the legal system of the United States. Chapter 4 illustrates how courts handle lawsuits.
Unit 2 covers Chapters 5–8. Chapter 5 identifies the components of a contract and illustrates various types of contracts. Chapter 6 describes how contract agreements are made. Chapter 7 examines how consideration affects the validity of a contract. Chapter 8 identifies those who can make contracts.

Unit 3 covers Chapters 9–13. Chapter 9 describes how a valid and enforceable contract is written. Chapter 10 describes the discharge (i.e., completion) of a contract, and also explains what happens if one of the parties to a contract fails to meet its terms and conditions. Chapter 11 illustrates the various types of torts (i.e., wrongful acts other than a breach of contract for which relief may be obtained in the form of damages or an injunction) and identifies those who can be held responsible for committing such wrongs. Chapter 12 explains how to create and maintain agency relationships. Chapter 13 describes the liabilities associated with agency relationships and suggests ways to terminate agency agreements.

Unit 4 covers Chapters 14–18. Chapter 14 identifies various types of personal property and describes how
personal property can be acquired. Chapter 15 outlines the forms of ownership that apply to real property and describes ways people can obtain and dispose of this type of property. Chapter 16 considers the rights and obligations of landlords and tenants, then discusses contracts for the sale of real estate. Chapter 17 describes bailment, the legal term that refers to what happens when someone delivers personal property to someone else to use, store, or repair. Chapter 18 explains the essential role wills and trusts play in ensuring a desirable distribution of real and personal property among heirs and beneficiaries.

You need no prerequisite courses before starting this course. To complete it, however, you will need the materials that The Hadley School for the Blind has provided and writing materials in the medium of your choice. If you are taking the audiocassette version of this course, you will also need your own cassette player. For your convenience, each cassette is tone indexed. When fast-forwarding or rewinding the study guide cassette, you will find that chapters are identified by double tones, assignments with single tones. When fast-forwarding or rewinding the
recorded textbook, you will find that chapters are identified by double tones, while directed readings that do not begin chapters are identified by single tones.

The study questions in each chapter of this study guide are for your personal development only. So do not mail your answers to these questions to your Hadley instructor. You are required, however, to submit the assignments included in each unit. As you complete each one, mail it to your instructor at The Hadley School for the Blind, 700 Elm Street, Winnetka, IL 60093. You may send your assignments in an envelope labeled “Free Matter for the Blind” provided they are in braille or large print (14 point or larger) or on cassette or computer diskette. If you prefer to send your assignment electronically, contact your instructor to obtain an e-mail address.
Chapter 18: 
Wills and Trusts

Chapter 14 identified various types of personal property and described how it can be acquired. Chapter 15 identified the forms of ownership that apply to real property and described ways people can obtain and dispose of this type of property. Chapter 16 considered the rights and obligations of landlords and tenants, then discussed contracts for the sale of real estate. Chapter 17 described bailment, or what happens when someone delivers personal property to someone else to use, store, or repair. This chapter explains the essential role wills and trusts play in ensuring a desirable distribution of real and personal property among heirs and beneficiaries.

The basic function of a will is to provide for the appropriate distribution of an individual’s personal and real property after the individual’s death. As this chapter emphasizes, almost anyone who owns property should make a will. The chapter also explains that a trust is a fiduciary arrangement
according to which property or money is held by one party and used for the benefit of another. Trusts can be created during the trustor’s lifetime or by the trustor’s will. This concluding chapter in your course describes not only the legal requirements for wills and trusts, but also the benefits they provide for heirs and beneficiaries. Familiarizing yourself with wills and trusts will improve your working knowledge of the law as it applies to business, thereby enabling you to better protect your personal and business interests.

**Objectives**

After completing this chapter, you will be able to
a. Explain why property owners should make wills
b. Describe how wills are made and changed
c. Distinguish between the different types of trusts
d. Suggest how a trust can be used in estate planning

**Key Terms**

The following terms appear in this chapter. Familiarize yourself with their legal meanings so that you can use them in your course work or on the job.
Administrator/administratrix: The person appointed by a probate judge to settle the estate of a person who dies intestate.

Codicil: A supplement, or addition, to a will.

Executor/executrix: The person named by the maker of a will to settle the maker’s estate.

Holographic will: A will that is dated, written, and signed in the testator's handwriting.

Intestate: Without having made a will.

Probate: The judicial certification of a will.

Wills
The laws controlling the distribution of a person’s property after the person’s death vary considerably from state to state. This is one of the many reasons why a person who owns property should prepare a will to ensure that the property is inherited as the owner would wish. In addition, a person can use a will to reduce or avoid the payment of estate taxes, inheritance taxes, and gift taxes.
This reading describes procedures for preparing wills, making minor changes to wills, and revoking wills. It also discusses the role of probate court in the settlement of estates.

Now read the section of your textbook titled Wills, which appears on print pages 218–223. On the recorded textbook, this section begins at the first double tone on Track 21. As you read, answer the following questions:

1. What is a will?
2. Why is it almost always advisable to write a will?
3. Identify at least three general requirements for a formal will.
4. When may a codicil be used?
5. Describe a holographic will. What are the objections to the use of this type of will?

When you have finished, compare your answers with those that follow.

Suggested Answers

1. What is a will? A will is a revocable legal document by which an individual disposes of property. It takes effect upon the maker’s death.
2. Why is it almost always advisable to write a will? A will ensures that property is disposed of according to the owner’s wishes, rather than according to a distribution system set up by the state legislature. If there is a will, heirs usually receive their property sooner. Moreover, some taxes, fees, and administrative costs may be avoided if the will is properly written.

3. Identify at least three general requirements for a formal will. The general requirements are as follows:
   a. In most states, the will must be typed.
   b. The testator must intend to dispose of property and must intend that the will be a last will.
   c. The testator must have reached a minimum age.
   d. The testator must be of sound mind.
   e. The testator must sign freely in the presence of a legally required number of witnesses.

4. When may a codicil be used? A codicil may be used when an addition or change is made to a will. Generally, a codicil should be used for minor
changes only. If the testator or testatrix wishes to make major changes, that person should write an entirely new will. Furthermore, the new will should explicitly state that it revokes the old will.

5. Describe a holographic will. What are the objections to the use of this type of will? A holographic will is entirely handwritten by the maker. Such a will may be contested if there are few witnesses who can swear that the handwriting is that of the maker of the will.

**Trusts**

The most common type of trust is an express private trust, which is established for the benefit of a private individual. An *inter vivos* (or living) trust is established during the trustor’s lifetime; a testamentary trust is created by the trustor’s will. Additional classifications of trusts discussed in this reading are spendthrift trusts and sprinkling trusts. Spendthrift trusts are for the benefit of people who are not competent to manage their own financial affairs. Sprinkling trusts allow the trustee to distribute the trust income unequally among the beneficiaries. This brief reading
concludes by identifying some benefits of using trusts in estate planning.

Now read the section of your textbook titled Trusts, which appears on print pages 224–225. On the recorded textbook, this section begins at the second single tone on Track 21. As you read, answer the following questions:

1. How does an express private trust operate?
2. What are some reasons for setting up a trust?
3. How may a trust be used for financial benefit?

When you have finished, compare your answers with those that follow.

**Suggested Answers**

1. How does an express private trust operate? An express private trust is a legal arrangement whereby a trustee holds title to property for the benefit of one or more beneficiaries. The trustee is expected to manage trust funds carefully and disburse income to the beneficiaries.

2. What are some reasons for setting up a trust? One of the most common reasons is to provide for the care and education of minor children.
Trusts may also be set up to provide income for elderly or incompetent individuals.

3. How may a trust be used for financial benefit? If prepared by an expert who knows the intricacies of the law, a trust may be used to reduce taxes and probate costs.

Note: Your textbook includes questions and problem cases at the end of Chapter 18. Nevertheless, you are required only to answer or complete the selected questions and assignments that appear in this study guide. Unless you would like the additional practice that the end-of-chapter activities provide, complete only the assignment that follows at this time.

**Assignment 5**

Complete the following assignment in the medium of your choice. Begin by giving your full name, student ID, address, and phone number. Also mention the name of this course, Assignment 5, your instructor's name, and the date you plan to send this assignment to the Hadley School. Then answer the following questions. This assignment is worth 30 percent of your course grade.
Case 1

Harold Loy, the owner of the Top Hat Cafe, wants to retire. Tina and Tom Bailey decide to lease his premises and open a vegetarian diner, the Rabbit Patch. Harold agrees to lease the restaurant to the Baileys for two years.

1. What type of tenancy is involved here?
2. In most states, what formalities would be required to finalize the lease agreement?
3. Tom and Tina want to tear out the booths that Harold installed in the cafe. Can they do this? Why or why not?
4. The Baileys plan to finance their diner by selling the following items. Identify each as real property, tangible personal property, or intangible personal property.
   a. A silver tea set inherited from Tina’s grandmother
   b. A lakefront lot
   c. Stocks in McDonald’s

5. During the opening day ceremonies for the Rabbit Patch, the mayor asks Tom to store her briefcase in a safe place while she gives a short
speech and enjoys her meal. What is the legal term for this arrangement?

6. When the Baileys arrive at the diner one morning, they find that their landlord is already inside. Harold says he is just checking to make sure everything is tidy. Is he entitled to do this without their permission? Why or why not?

7. A customer at the Rabbit Patch suffers a mild concussion when he trips on a floor mat and falls against a door frame. Who is responsible for this accident: Harold, the Baileys, or the customer?

Case 2

The Rabbit Patch is so successful that the Baileys need larger premises. This time, they decide that ownership is preferable to renting.

8. According to your text, what are the characteristics of ownership? Name at least two.

9. The Baileys find a small country inn that would be ideal for their purposes. Which type of deed will give them the most protection: a quitclaim deed, a warranty deed, or a grant deed? Why?

10. The deed to the inn specifies that an acre of land on the northern boundary of the property is to be
preserved as a wildlife sanctuary. What is this restriction called? Are the Baileys bound by it?

11. When the Baileys take possession of the inn, they discover that the former owner has removed the antique oak mantelpiece from over the fireplace. Was she entitled to do this? Why or why not?

12. The Baileys live in a state with community property laws. How does this affect the ownership of their restaurant?

Case 3

The Rabbit Patch has been a prosperous business for four years by the time the Baileys have their first child.

13. The day after the baby is born, her grandfather sets up a trust fund to provide for her education. What type of trust fund is this?

14. In legal terms, is this an inter vivos trust or a testamentary trust? Why?

15. The Baileys decide to write a new will to make provisions for their daughter. List at least three criteria for a legal will.
Short Essay

16. Why is it important for every person to make a will? What problems or conditions might cause a person to neglect this responsibility? How can these difficulties be overcome?

Once you have completed this assignment, send it to your instructor.

This is the end of “Business Law 1.” The remaining chapters in the textbook *Basic Business Law* are covered in the course “Business Law 2.” After you successfully complete “Business Law 1,” you are welcome to enroll in “Business Law 2” if you want to continue improving your working knowledge of the law as it applies to your personal and business interests.