

PROGRAM

This e-mail includes the program and the summaries from the 37th Annual Heckerling Institute on Estate Planning.

As we have done in January for the last six years, and again with the permission of the University of Miami School of Law Center for Continuing Legal Education, we will be posting to this list throughout the coming week highlights of the proceedings of the 37th Annual Philip E. Heckerling Institute on Estate Planning that is being held January 6-10, 2003 at the Fontainebleau Hilton Resort and Towers in Miami Beach, Florida.

A complete listing of the proceedings and speakers is available on the Institute's Web site. The URL for that site is <http://www.law.miami.edu/heckerling>.

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37TH ANNUAL HECKERLING INSTITUTE ON ESTATE PLANNING

Sunday, January 5

12:00 – Registration

6:00 p.m.

Monday, January 6

8:00 a.m. Registration

8:00 – Complimentary Continental Breakfast

9:00 a.m.

9:00 – *OPTIONAL PRE-CONFERENCE FUNDAMENTALS PROGRAM –*

10:30 a.m. / ERISA for Estate Planners

10:45 a.m. –

12:15 p.m. Natalie B. Choate

Everything you need to know about estate planning for qualified retirement benefits except the minimum distribution rules: the types of retirement plans (defined benefit, Keogh, 401(k), ESOPs), and implications of each for your client's estate plan. Navigating the sea of plan administration: information you need to know and how to get it, spousal rights under federal law, prohibited transactions, plan-owned life insurance, contrast between qualified plans and IRAs (and which one is better for whom: the "Rollover Roadmap"). Special income tax deals for certain people – don't let your client miss out. Estate tax issues: the latest on valuation and available discounts. Disclaimers: be sure you know what you're doing when you adopt a "disclaimer plan" for retirement benefits. With forms, case studies, and specific planning ideas.

10:30 – Break

10:45 a.m.

2:00 – Introductory Remarks

2:10 p.m.

Tina Portuondo, Institute Director

2:10 – Recent Developments in Estate, Gift and Income Taxation – 2002

3:30 p.m. Part One

Carlyn S. McCaffrey

Dan T. Hastings

Howard M. Zaritsky

Materials by Richard B. Covey and Dan T. Hastings

3:30 – Break

3:45 p.m.

3:45 – Recent Developments in Estate, Gift and Income Taxation – 2002

5:15 p.m. Part Two

6:00 – Complimentary Reception for Registrants

7:00 p.m.

Tuesday, January 7

8:00 – Complimentary Continental Breakfast

9:00 a.m.

9:00 – A d v e n t u r e s in Life Insurance! (And You Thought It Would Be Boring)

9:45 a.m.

Jonathan G. Blattmachr

This presentation will cover how to obtain income tax "deductions" for term premiums paid, how to avoid GST tax for a life insurance trust without using GST tax exemption, how to double the power of *Crummey* withdrawal rights, and how to plan with split-dollar life insurance.

9:45 – Turning the Tables: When Do the IRS Actuarial Tables Not Apply?

10:30 a.m.

Lawrence P. Katzenstein

This presentation will examine when departures from the IRS actuarial tables are permitted or required, including situations of under-productive property and increased risk of mortality, and will consider the implications of recent decisions permitting departures from the tables in valuing the right to receive state lottery payments.

10:30 – Break

10:45 a.m.

10:45 – What To Do With Art and Other Valuable Stuff

11:30 a.m.

Ralph E. Lerner

When a client owns valuable collectibles it can require unique planning techniques to save taxes. This presentation will address income tax, gift tax, and estate tax planning for collectibles, valuation issues, IRS guidelines and procedures, and the complications caused by a client's emotional attachment to his or her "stuff"!

11:30 a.m. – Charitable Lead Trusts Re-Examined: The Dawning of a Golden

12:15 p.m. Age?

Edward Jay Beckwith

In light of recent changes, both in tax laws and the financial markets, it is likely the charitable lead trust will become even more popular over the balance of this decade. This session will examine the factors contributing to this likely trend as well as the more creative uses and abuses of charitable lead trusts.

12:15 – Lunch Break

2:00 p.m.

2:00 – Drafting After EGTRRA (and Other Recent Developments):

3:30 p.m. How Different Is It?

Pam H. Schneider

Paul M. Frimmer

Carol A. Harrington

The panelists will discuss how the language in their documents has changed (or not changed, as the case may be) in light of the purported "repeal of the death tax," technical GST tax changes included in EGTRRA, and other recent

developments. The focus will be on specific will and trust provisions.

3:30 – Break

3:45 p.m.

3:45 – Did They Get It Right? The Final Minimum Distribution Rules

4:30 p.m.

Louis A. Mezzullo

A discussion of the final regulations dealing with required minimum distributions, including planning issues and problem areas.

Tuesday, January 7 (continued)

6

4:30 – State Law Developments – Searching for Revenue and Other

5:15 p.m. Quests

William Lapiana

This program will discuss recent developments in state law, both decisional and legislative, with a special emphasis on state responses to the elimination of the federal state death tax credit. If time permits, mention will also be made of non-tax developments.

Wednesday, January 8

8:00 – Complimentary Continental Breakfast

9:00 a.m.

9:00 – Worth the Effort Even Beyond the Grave – An Update of Post-Mortem

9:45 a.m. Planning Issues

Steve R. Akers

The extremely broad range of post-mortem planning strategies can be daunting. A good planner must be knowledgeable of a wide array of individual and fiduciary income tax, gift tax, estate tax, and GSTT planning traps and strategies. This session will address important planning issues and current developments.

9:45 – From the Far Bank of The River Styx: Post-Mortem Problems and

10:30 a.m. Opportunities With Family Partnerships

Daniel H. Markstein, III

This presentation will focus on planning for the payment of estate tax, funding charitable and other bequests, and dealing with existing and newly created partnerships after the death of the propertied spouse.

10:30 – Break

10:45 a.m.

10:45 a.m. – Question & Answer Session

12:15 p.m.

Carlyn S. McCaffrey

Dan T. Hastings

Howard M. Zaritsky

12:15 – Lunch Break

2:00 p.m.

2:00 – FUNDAMENTALS PROGRAM – Estate Planning in a Low Interest

3:30 p.m. / Rate Environment (Runs concurrently with the Special Sessions)

3:45 –

5:15 p.m. Lawrence P. Katzenstein

What estate planning techniques work best when interest rates are low? What techniques work better when interest rates are high? What techniques are unaffected by interest rates? This program will examine these questions and look at the effect of varying interest rates on a variety of estate planning techniques.

2:00 – Special Sessions I

3:30 p.m.

I-A – CASE STUDY – The 529 Drop-Kick Through the Financial Goalposts of Education Savings

Susan T. Bart

Learn how to create a game plan for education savings by combining 529 savings accounts with other techniques from your playbook and how to

Tuesday, January 7 (continued)

7

implement a successful 529 play by selecting the right state program, using trusts and other entities as account owners, and coordinating the estate plan.

I-B – Our Best Ideas That We Are Willing To Talk About

S. Stacy Eastland

Jonathan G. Blattmachr

Ellen K. Harrison

The panelists will discuss their best ideas with respect to estate planning, charitable planning, insurance planning, option planning, and post-mortem planning.

I-C – Charitable Planning: What's on Your Desk?

Jerry J. McCoy

Edward Jay Beckwith

Ralph E. Lerner

This charitable "Hot Topics" session will review recent developments and discuss questions previously submitted by attendees. Registrants will be invited to submit noteworthy planning problems in advance of the session.

I-D – Fielding the Throwback and Other Considerations for NRAs With U.S. Heirs

Henry Steinway Zeigler

An increasing number of high net worth non-U.S. families have at least one child who is a U.S. taxpayer. This presentation will address some of the opportunities and pitfalls for multinational families with U.S. heirs, with emphasis on foreign vs. domestic trusts and entities and how to save U.S. taxes for the heirs after the death of the nonresident alien parent.

I-E – Ethics as Part of the Daily Mix – Has Enron Raised the Bar?

Joseph G. Gorman, Jr.

J. Donald Cairns

Judith W. McCue

A discussion of many situations that arise regularly in an estate planner's practice, with a focus on what, from a practical viewpoint, should be done, and how to do it.

3:30 – Break

3:45 p.m.

3:45 – Special Sessions II

5:15 p.m.

II-A – CASE STUDY – Moving the Immovable – Protecting Real Estate From Creditors

Alexander A. Bove, Jr.

A discussion and case study illustrating creative solutions to the perennial dilemma faced by estate and asset protection planners: How to protect investment real estate from creditors without losing the benefits of ownership for the client and her family.

II-B – Transfer Tax Audit Issues: What's Hot, What's Not

Norman J. Benford Mary Lou Edelstein

Martin E. Basson John W. Porter

This panel, representing the views of the practitioner and Internal Revenue Service, will take a practical approach to the discussion of significant current

issues in estate, gift, and generation-skipping tax audits, including valuation matters (discounts, present interest qualification, built-in gain, impact of post-death events, use of appraisers, adequate disclosure rules, and defined

Wednesday, January 8 (continued)

8

value issues); procedural considerations (tips for effective appellate practice, fast track mediation, burden of proof issues); and *Graegin* notes and other deduction issues.

II-C – Advanced Investments in Life Insurance Strategies – Use of Hedge Funds in Offshore Private Placement Life Insurance

Lawrence Brody Leslie C. Giordani

Timothy P. Flaherty John B. Lawson

This panel will discuss the use of hedge funds in private placement variable life insurance policies, issued by non-U.S. based insurance carriers. The panel will discuss attributes of hedge funds and why they and other tax inefficient investments may make sense in a variable life policy, the U.S. tax considerations of variable life insurance, including diversification and investor control issues, the advantages and disadvantages of private placement life insurance, the advantages and disadvantages of private placement variable life insurance offered by non-U.S. insurance carriers, and the special issues involved in the purchase by U.S. persons of policies issued by foreign carriers.

II-D – Back to the Future: Carryover Basis in 2010

William Lapiana

Susan Porter

This program will discuss the carryover basis provision scheduled to come into effect in 2010, especially what can and should be done now to plan and draft for the possible future.

II-E – Ethics as Part of the Daily Mix – Has Enron Raised the Bar?

(Repeat of Session I-E)

Joseph G. Gorman, Jr.

J. Donald Cairns

Judith W. McCue

Thursday, January 9

8:00 – Complimentary Continental Breakfast

9:00 a.m.

9:00 – Estate Planning With GRATs and Near-GRATs – Opportunities and

9:45 a.m. Pitfalls of a Cloudy Crystal Ball

John R. Price

Despite important recent developments, including the *Walton* decision, the taxation of GRATs and near-GRATs remains a work-in-progress, with continuing uncertainty regarding some critical issues. This presentation will provide a road map of the tax issues, discuss the opportunities and pitfalls of GRATs, sales to IDITs, and private annuities, and review the issues that should be considered in deciding whether to use one of these popular techniques.

9:45 – Unwinding the Discount Entity: What Happens When the Family

10:30 a.m. Wants To Take Their Share and Run?

Richard B. Robinson

The use of valuation discount planning entities such as FLPs can produce major income tax headaches when one or all of the family wants out. This program will identify income tax problems and provide exit strategies to minimize the income tax costs to the family.

10:30 – Break

10:45 a.m.

Wednesday, January 8 (continued)

9

10:45 – What Do You Mean, Subpoena? I'm a Lawyer!

11:30 a.m.

Russell G. Allen

State law rules governing civil discovery of attorney-client communications and attorney work product vary significantly. Federal law, different still, applies in most of our tax controversies. This program will provide a primer for trusts and estates lawyers, focusing on problems commonly encountered in estate planning and administration.

11:30 a.m. – One Percent, Two Percent, Three Percent, Four – No Matter What

12:15 p.m. You Pay, the Bene Wants More

Susan Porter

This presentation will cover practical problems facing professional fiduciaries when exercising discretionary powers pursuant to either local law or the governing instrument.

12:15 – Lunch Break

2:00 p.m.

2:00 – FUNDAMENTALS PROGRAM – Everything You Ever Wanted To

3:30 p.m. / Know About Generation-Skipping But Were Afraid To Ask

3:45 – (Runs concurrently with the Special Sessions)

5:15 p.m.

Jon J. Gallo

This presentation is designed for estate planners with a working knowledge of estate and gift taxation, but who are uncomfortable when faced with planning and drafting multi-generational estate plans. Special attention will be given to interrelated marital deduction/generation-skipping drafting issues, as well as planning and drafting the multi-generational life insurance trust.

2:00 – Special Sessions III

3:30 p.m.

III-A – CASE STUDY – Unwinding Discount Entities

Richard B. Robinson

Using typical client fact patterns, this session will examine income tax traps and pitfalls when unwinding family limited partnerships and family corporations that were used to obtain valuation discounts.

III-B – Transfer Tax Audit Issues: What's Hot, What's Not

(Repeat of Session II-B)

Norman J. Benford Mary Lou Edelstein

Martin E. Basson John W. Porter

III-C – Post-Mortem Planning in Transition

Steve R. Akers

This workshop will focus on post-mortem planning issues during the transition years of the "phase out" of the estate tax.

III-D – Fiduciary Firewalls: A Look at Blind Trusts

Edmond M. Ianni

Blind Trusts, originally (and still) utilized by public officials to avoid conflicts of interest, are widely used in the private sector. In an environment of heightened

Thursday, January 9 (continued)

10

corporate scrutiny and regulation, blind trusts continue to provide a wealth management solution for business insiders. This presentation will examine the practical uses and benefits of blind trusts, particularly in the corporate sector. We will review how blind trusts can accomplish different wealth management strategies and how to structure them.

III-E – Timely Tech Topics & Ticklers – "Must Have" Software, "Must Know" Technology, and "Must Do" Stuff

Joseph G. Hodges, Jr.

Albert S. Barr, III

A summary and an overview of "must have" software; effective (and easy to set up and administer) professional web sites; obtaining client information without having to meet with the client; the current state of data gathering and document assembly programs; the future of e-filing of estate planning and administration documents; and lots of helpful tech tips for both large and solo/small firms along the way.

3:30 – Break

3:45 p.m.

3:45 – Special Sessions IV

5:15 p.m.

IV-A – CASE STUDY – Post-Mortem Planning With Partnerships

Daniel H. Markstein, III

Several case studies will be used to examine problems and opportunities that may arise with post-mortem planning for family partnerships.

IV-B – GRATs

John R. Price

This session will focus on hypotheticals that involve the consideration of settled and unresolved tax issues.

IV-C – The FLP Side: Fiduciary Liability Potential

Russell G. Allen

Susan Porter

Knowing that the fiduciary must act reasonably for the benefit of all beneficiaries and may not delegate to others, how is the fiduciary to carry out responsibilities to avoid incurring liability when today's beneficiaries' expectations are often in conflict and the financial marketplace is ever-changing? This discussion will examine the effect of the USA Patriot's Act on confidentiality, transition problems with the Principal & Income Act (including significant state law variations), discretionary distribution controversies, investment-related matters (including the issues of what is concentration and the definition of diversification), tax-related conflicts, and the attorney-client and attorney work product discovery controversies.

IV-D – Pleasing Mother Earth and the IRS: Using Conservation Easements To Save Open Space, Income and Estate Taxes

David J. Dietrich

This program will examine federal regulatory and selected state law requirements for conservation easements to achieve charitable income, federal estate

Thursday, January 9 (continued)

and gift tax planning. The program will give examples of specific conservation easement language, will discuss practical drafting considerations for urban and rural open space easements, and will emphasize the integration of conservation easement planning with estate and income tax planning.

IV-E – Split-Dollar Life Insurance

Lawrence Brody

Jonathan G. Blattmachr

Mary Ann Mancini

This panel will consider the provisions of the long awaited proposed regulations on the treatment of split-dollar arrangements and possible planning techniques.

Friday, January 10

8:00 – Complimentary Continental Breakfast

9:00 a.m.

9:00 – The Durable Power of Attorney: Why You Should Give More

9:45 a.m. Attention to Estate Planning's Stepchild

Karen E. Boxx

Durable powers of attorney are extremely common and deceptively simple. They create a unique yet ill-defined fiduciary role, somewhere between an agent and a trustee. This presentation will cover the scope of the fiduciary role, the problems and possible solutions regarding the document's effectiveness, including multistate use, and recent statutory trends.

**9:45 – Terrorism or Its Prospect – The Impact on Estate Planning
10:30 a.m.**

Roy M. Adams

Since the terrible day of September 11, 2001, our world is no longer the same and neither are the concerns and needs of many of our clients. Many have reconsidered where they live, where they own property, and what types of trusts they will use. This delicate topic must be addressed because it is on the minds of so many with whom we counsel. In this program, Roy Adams will analyze the major issues we need to address in light of the new fears that exist, and will also look at how we can help ease some of those fears through prudent planning.

10:30 – Break

10:45 a.m.

10:45 a.m. – CASE STUDY – Wrapping It Up – Applying What We Have Learned

12:00 p.m.

Louis A. Mezzullo

One or more case studies will be used to demonstrate the practical application of many of the planning techniques discussed during the Institute.

GENERAL INFORMATION:

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