

A complete listing of the proceedings and speakers is available on [the Institute's Web site](#)

Report 7

Wednesday, January 7 (continued)

3:45 - 5:15 p.m. - Special Sessions II

Session II-C - The Future of the Transfer Tax System: Reform or Repeal?

Dennis I Belcher

Lloyd Leva Plaine

Mary Louise Fellows

Reporter: Carol Warnick Esq.

In discussing the original votes on the subject, Dennis noted that one Senator said this legislation is the biggest piece of nonsense. You could not put 10 people and a keg of beer in a room and come out with a worse proposal.

Where are we now? Last year, President Bush said he will continue to press Congress to make tax cuts, including the end of the death tax.

What has happened to the Bush tax cut packages? He has always had to deal. The White House may not get exactly what it wants, but they do get something done. What does that mean? Do not underestimate President Bush. He has not given up on the abolition of the death tax.

Dennis Belcher said that he had assumed that estate tax repeal was a dead issue in 2004, but will come up again in 2005, because that is after elections. However, he has now heard that the Republicans were concerned about their ability to hold on to a total repeal and so a deal was proposed in the fall to lower rates significantly and raise exemptions significantly and make the 2057 deduction unlimited. In his view, the closer the rates get to the capital gains tax, the less significant the estate tax will be. Something may come up this year after all.

What does it cost to repeal the estate tax? Over \$200 BILLION in one year if it were done away with today. Can Congress afford it? Very costly to repeal.

However, we cannot underestimate the sentiment in the country on the death tax. Whenever you see a poll, think about who did it and what their motivation is. National Public Radio, Kaiser Family Foundation and the Kennedy School did a national survey in March of 2003 regarding Americans' views on taxes. Question: There is a federal estate tax. Do you favor or oppose keeping the estate tax? 54% said get rid of it. Then they asked the question in the death tax format (used the word "death tax" instead of "estate tax"). This time, 60% favored eliminating it. Reasons given: The money is already taxed once, it might force the sale of small businesses and family farms, and it might affect me or my family some day.

Then they asked specific questions to see how much the people know and understand. 56% said get

rid of it if the exemption amount is \$1M. 72% said eliminate it if the exemption amount were \$5 million. 75% said eliminate it the estate tax if the exemption amount were \$25M. The answers do not make sense and people obviously do not understand it. But there is a significant feeling among Americans that we should make significant changes to or eliminate the estate tax. Politicians listen to that.

They then discussed the Task Force on Transfer Tax Reform which is a multi-organizational group comprised of representatives from ACTEC, the Section on Real Property, Probate and Trust of the ABA, the ABA's Section on Taxation, the AICPA, The American College of Tax Counsel, and the American Bankers Association. The Task Force was charged with preparing a comprehensive report for submission to Congress, the Treasury and the public which analyzes technical and transitional consequences of the significant changes enacted in 2001 with respect to the gift, estate and generation skipping transfer taxes, and various alternative legislative measure that might be adopted to eliminate the substantial uncertainties that tax payer and their advisers now face under the existing transfer tax system.

The remainder of the session went through various discussions with regard to issues to be raised in this report, which is not yet finalized.

Second, here are some **follow up items** of news from the **Exhibit Hall** as reported by Gene Zuspann Esq. and Jason Havens Esq. and supplemented and edited by yours truly.

We took a closer look at the Faster fiduciary accounting program now that the West FATE program has been taken over by Fast-Tax (formerly Zane). While it seems very good, the making of entries takes some time and effort and is done by the selection of a type of transaction from the menu bar. All the Reports produced by their system comply with the National Fiduciary Accounting Standards (as do the Reports of most of these accounting programs). They do not yet have the ability to value securities on line through EVP or Appraise, but they are "working on that." The software itself is rather pricey, especially for a solo or small office, the same being \$2,500 per year for the Web-based version (the client data stays on your PC) and \$4,500 for the CD-ROM version, with a monthly maintenance fee after the first year. They offer on-site training for \$750 per day plus expenses, but we feel such training should not be necessary for such a program if it is well designed and truly user friendly.

The ACTEC Fiduciary Accounting System that was developed by Fellows of the American College of Trust and Estate Counsel (www.actec.org) in 1995 and consists of templates and Report formats that are designed to work with all versions of Quicken, both DOS and Windows, is still alive and well and can be ordered from ACTEC for a mere \$75 by going to the on-line order form on the public side of the ACTEC Web site at <http://www.actec.org/public/quickenorder.asp>. Note that, for reasons that are unknown to us, sales of this product outside the College currently are restricted only to attorneys, although we are personally aware of various other allied professionals who have been able to obtain and currently are using this program. Rumor has it consideration is being given to developing a version of this program that will function with Quick Books.

No official word yet on what Brentmark has done or plans to do with the former US Trust Form 706 software program, but we are trying to find out something for you.

Forms 1041 - what software are you using, going to use, etc. now that the West EPS Form 1041

program is no more? The answer is far from clear, except people generally seem to be not happy with what they are currently using, and this includes such products as the FAST-TAX Form 1041 (formerly Zane), ProBATE's Form 1041, Kleinrock's ATX, etc. A lot of people were using and very much liked the Shepards/West Form 1041 DOS-based program, but that one disappeared a year ago, and the first West Windows version of the same for use last year that West issued to replace it was an absolute failure. Some people have moved over to Profx, but it is expensive and not for someone who only does a few returns each year.

Other tax preparation programs (Forms 706 and 709) - everyone is waiting to see what the fall out is going to be from the sale of the West EPS Form 706 and 709 products to FAST-TAX, as West issued the last version of its Form 706 product for decedents dying in 2003 in December of 2003, and none of the West DOS-based FET, FGT or FIT programs that many of us loved and used for so long exist any more.

ProDoc DAE software - currently they service Texas and Florida. They had a Colorado probate system at one time too, but abandoned that after a few years when Colorado moved to a new caption format that was designed to accommodate the electronic filing of all their probate pleadings through their state-wide Lexis-Nexis CourtLink system. ProDoc is considering moving into California too.

EstateDoc Systems - we are informed that this system has modules for all of the Returns (Forms 706, 709 and 1041) and that they are in the process of combining all of these into one system. They will also be including probate forms for select states in some of their systems. Sounds like this product might merit a closer look by some of us.

The preliminary consensus on document assembly for this year seems to be that, while it is nice that Wealth Transfer Planning and Lawgic are back and alive and well, the product that is currently generating the most interest is WealthDocs Version 6 from WealthCounsel, largely due to its integration with and use of HotDocs 6 vs. a proprietary engine. However, the Lawgic booth was generating quite a lot of interest with regard to its announcement of plans to develop a New York EP system that will be authored by Carlyn McCaffery of the New York City law firm of Weil, Gotshal & Manges, LLP, the immediate past president of ACTEC. Also, Jim Eidelman is in Miami demonstrating his WinDraft Word-based system that is in use by several firms across the United States.

Stand by for more technology news yet to come.....

GENERAL INFORMATION ABOUT INSTITUTE:

Inquiries/Registration:

University of Miami School of Law

P.O. Box 248087

Coral Gables, FL 33124-8087

Telephone: 305-284-4762 / FAX: 305-284-6752

Web site: www.law.miami.edu/heckerling

E-mail: heckerling@law.miami.edu

=====

Headquarters Hotel - Fontainebleau Hilton

4441 Collins Avenue

Miami Beach, FL 33140

Telephone (305) 538-2000, FAX (305) 674-4607

=====