Preface and Acknowledgments to the Fifth Edition

This fifth edition of *An Estate Planner’s Guide to Qualified Retirement Plan Benefits* brings the first, second, third, and fourth editions current through October 2015.

Louis A. Mezzullo
November 2015
Preface and Acknowledgments to the Fourth Edition

This fourth edition of *An Estate Planner’s Guide to Qualified Retirement Plan Benefits* brings the first, second, and third editions current through May 1, 2007. It reflects changes made by the Pension Protection Act of 2007 and the final regulations issued in April 2002, dealing with the required minimum distribution rules under Code § 401(a)(9), as well as a number of administrative pronouncements.

Louis A. Mezzullo
June 2007
Preface and Acknowledgments to the Third Edition


In preparing the third edition, Katherine E. Ramsey, an attorney with the firm of Mezzullo & Guare, PLC, reviewed the draft and made many valuable suggestions to improve accuracy and readability. My secretary, Pat Butler, was invaluable in completing the third edition. As I mentioned in the preface to the first edition, despite all this assistance, I remain the only guilty party for any errors or omissions (and would appreciate hearing about them from the reader).

Louis A. Mezzullo
October 2001
Preface and Acknowledgments to the Second Edition

This second edition of *An Estate Planner’s Guide to Qualified Retirement Plan Benefits* brings the first edition current through October 21, 1997. It reflects changes made by the Unemployment Amendments of 1992, the Small Business Job Protection Act of 1996, and the Taxpayer Relief Act of 1997 (including a pending Tax Technical Corrections Act of 1997 which has been passed by the House Committee on Ways and Means) as well as case law and regulatory changes made since the first edition, including the Supreme Court’s decision in *Boggs v. Boggs*, 117 S. Ct. 1754 (1997). In addition, several new appendices have been added: Appendix B, Using an IRA for Charitable Giving, which is an update of an article that appeared in the March/April 1995 issue of *Probate and Property*, authored by me and published by the American Bar Association Section of Real Property, Probate and Trust Law; Appendix C, Forms, including beneficiary designation forms and trust language forms; and Appendix D, Hypothetical Retirement Plan Scenarios, which illustrates the planning points made in the body of the text.

In preparing the second edition, Thomas C. Foster, an attorney with the firm of Mezzullo & McCandlish who specializes in employee benefits and related issues, reviewed the draft and made many valuable suggestions to improve accuracy and readability. Timothy H. Guare, also an attorney with Mezzullo & McCandlish who specializes in estate planning, also reviewed the draft and made suggestions to improve readability. I am indebted to Edward F. Martin, of New Orleans, Louisiana, for his help in revising the section on community property law considerations. I am also grateful to Maria M. Carnevale, a student of the University of Oregon School of Law, who reviewed the draft for accuracy and checked the endnotes. Finally, my secretary, Andrea D. Tyree, who suffered through innumerable drafts in bringing the first edition to its completion, also was invaluable in completing the second edition. As I mentioned in the preface to the first edition, despite all this assistance, I remain the only guilty party for any errors or omissions (and would appreciate hearing about them from the reader).

Louis A. Mezzullo
October 1997
Preface and Acknowledgments to the First Edition

This monograph is designed for the non-ERISA specialist who engages in estate planning on a somewhat regular basis. Therefore, more knowledge in estate planning than in employee benefits was assumed in its preparation. Every attempt was made to tie the discussion to estate planning practices. While the law in this area is in dire need of reform, little attention was given to proposed changes in the law or regulations, since this work is designed as a guide to the law as it now exists. There are at least two exceptions. First, there is a brief discussion concerning the suggested changes in the requirements under the minimum distribution rules that must be satisfied by a trust in order to qualify as a designated beneficiary. Second, the current ruling position of the Internal Revenue Service (“IRS”) with respect to qualifying plan benefits and IRAs for the marital deduction is questioned.

It is hoped that this monograph will permit the non-ERISA specialist to have more confidence when discussing qualified retirement plan benefits and IRAs with his or her clients. Although prepared for the Real Property, Probate and Trust Law Section of the American Bar Association, it is designed to be used by trust officers, financial planners, certified public accountants, insurance professionals, and others, as well as lawyers. The reader is advised to check the current status of the law before advising a client, since the rate of change in this area is rapid. For example, legislation has been proposed to eliminate special averaging and to liberalize the rollover rules.

The origin of this monograph is an outline I prepared for a presentation at the University of Richmond Annual Estate Planning Seminar for Professionals in 1987. Since that time, the outline has been considerably expanded and continually updated. The outline has served as the basis for a chapter in a book I am writing on Planning for the Elderly, to be published in the near future by Callaghan & Company. A draft of this chapter served as a starting point for a study published by the American College of Trust and Estate Counsel entitled “Handbook on Planning for Distributions from Qualified Retirement Plans and Individual Retirement Accounts.” The study was the work of the Committee on Employee Benefits in Estate Planning, of which I was and am currently the Chair. The other members of the Committee at the time the original study was prepared were: Richard R. Burns, Allen D. Evans, Thomas H. Foye, E. James Gamble, Mervyn Gerson, C. Wells Hall, III, Morton A. Harris,
Paul Gordon Hoffman, Robert H. Holmes, Marcia Chadwick Holt, John L. Hopwood, Loren C. Ipsen, Edward F. Martin, Raymond W. Rawlings, Cecil A. Ray, Jr., Michael L. Stark, and Charles C. Webb. I gratefully acknowledge the valuable contribution that they made to my knowledge of the area. In particular, the section on community property law considerations is based on a draft of a new section to be added to the study prepared by Edward F. Martin, with the assistance of Edward V. Brennan.

In addition, Robert E. Lee and Jerome L. Lonnes, two members of my firm, made many valuable suggestions to improve the readability of the work. Michael C. Roach, also an attorney with my firm, assisted in research and in locating hard-to-find references. Mary M. Thrower, a summer associate with my firm, checked the references and made valuable suggestions to improve readability. Julie M. Schucht, a legal assistant with my firm, read the final draft and made a number of valuable suggestions. My firm also assisted the monograph by its understanding of my recent deficiency in billable hours. Finally, my secretary, Andrea D. Tyree, suffered through innumerable drafts in bringing this work to its completion. Despite all this assistance, I remain the only guilty party for any errors or omissions (and would appreciate hearing about them from the reader).

Louis A. Mezzullo
June 1991