SKILLS TRAINING FOR ESTATE PLANNERS
ADVANCED TOPICS
July 11 – 13, 2018

This CLE program, sponsored by the American Bar Association Section of Real Property, Trust and Estate Law and New York Law School, is an extension of the Skills Training for Estate Planners—Fundamentals program. It is a more advanced program covering topics relevant for graduates of the Fundamentals program and other experienced estate planning lawyers seeking to expand their knowledge and skills. The program will be held at New York Law School in the Tribeca neighborhood of downtown Manhattan. This program fills up quickly—early registration is advised!

TOPICS INCLUDE
• Family business planning, including Chapter 14 implications
• Valuation theory and practice
• S Corporation planning, including use of QSTTs versus ESBTs
• Use and drafting of buy-sell agreements
• Which business entity is best after tax reform?
• Advanced considerations for benefits planning and drafting
• Generation-skipping transfer tax planning
• Drafting tax payment provisions
• Charitable planning and drafting, including use of split interest trusts
• Life insurance trust planning
• Planning for the multinational client
• Selected Basis & Related Income Tax Issues in Estate Planning

WHO SHOULD ATTEND
• Lawyers with experience in estate planning seeking to increase their knowledge and skills within the area.
• Lawyers who have completed the original Skills Training for Estate Planners – Fundamentals program.

PROGRAM LOCATION
New York Law School
185 W. Broadway
New York, NY 10013

If you’re looking for more fundamental training or know a colleague who is new to the estate planning practice, visit www.ambar.org/skillstraining for information on the Skills Training for Estate Planners—Fundamentals program.

PROGRAM CO-CHAIRS
• Steve R. Akers, Bessemer Trust, Dallas, TX
• Marc S. Bekerman, Law Office of Marc S. Bekerman, Woodbury, NY
• William P. LaPiana, Rita and Joseph Solomon Professor of Wills, Trusts and Estates. Associate Dean for Academic Affairs and Director of Estate Planning Studies, Graduate Tax Program, New York Law School, New York, NY
REGISTRATION
To register, please complete the pre-enrollment survey found on our webpage www.ambar.org/skillstraining. The registration deadline is June 29, 2018. Please contact Khadijah Kellogg at 312/988-5260 or email khadijah.kellogg@americanbar.org with any questions.

TUITION
Tuition includes all instruction and both printed and electronic materials, continental breakfasts, lunches each day, and one reception.

- $1,100 RPTE Section Member Registration Rate
- $1,200 ABA Member Registration Rate
- $1,300 General Registration Rate
- $650 Government Registration Rate (Limited number of spaces for full-time government employees)

If you would like to register multiple attendees from the same firm please email khadijah.kellogg@americanbar.org. Need based financial scholarships are available, and the application is found online. Qualifying attorneys may receive at least a 50% discount in tuition. Application requests should be completed no later than May 25, 2018. This does not include any reduction in meals, lodging, or travel costs associated with the course.

PROGRAM MATERIAL
Printed materials are included in the registration fee, along with access to the mobile meeting app (available for download for both Apple and Android devices) where additional materials may be posted. Program material and complete program information will also be posted on the RPTE website for downloading. WiFi will be available at New York Law School.

CLE
The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, CT, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, ME, MN, MS, MO, MP, MT, NH, NJ, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit www.americanbar.org/mcle.

ACCOMMODATIONS
A block of sleeping rooms has been reserved at the Millennium Hilton New York hotel from Saturday, July 7, 2018, through Sunday, July 14, 2018, at a group rate of $239 per night for a single or double room (plus taxes). The group rates are guaranteed until the block is full or until 5 PM CST, Monday, June 18, 2018. Reservations received after 5 PM CST on June 18 will be based on availability.

WEDNESDAY, JULY 11, 2018

8:00 – 9:30 AM
A PRIMER ON PORTABILITY
This session will first explain how portability works, and why it should be taken into account in every estate plan for married persons. On a more advanced level, the session will focus on the use of flexibility techniques to defer the decision on whether to elect portability, and will illustrate how portability can be used most effectively in estates with potential estate tax liability. Lastly, it will examine the dangers of portability in estates where the husband and wife have or may have different beneficiaries.

Speakers: T. Randolph Harris, McLaughlin & Stern LLP, New York, NY and Barbara A. Sloan, McLaughlin & Stern LLP, New York, NY

9:45 – 11:15 AM
PLANNING FOR THE MULTINATIONAL CLIENT
As clients become more global in their business and personal affairs, estate planners need to learn the traps and opportunities when advising non-US persons who have US beneficiaries and/or US investments. Topics include residency and domicile issues, gift and estate tax considerations, planning with foreign grantor and non-grantor trusts and pre-immigration planning.

Speaker: Gideon Rothschild, Moses & Singer LLP, New York, NY
11:30 AM – 12:30 PM
DEFENSIVE ESTATE PLANNING; THE USE OF TAX PAYMENT CLAUSES AND THE FINE ART OF DISINHERITANCE
This program will cover two areas the tax-driven estate planner rarely considers: the need to plan for a probate contest, and the dangers of a tax payment provision. We will begin by discussing why careful attention must be given to the drafting of tax apportionment clauses in Wills and Trusts. It will then provide a summary of the federal and state rules that will control regarding the timing and source of payment if a specific provision is not included in the Will or Trust. Finally, this program will analyze a sample payment provision. We will then consider the techniques to be employed if the estate plan is such as to invite a contest by a disgruntled member of the family. All the tax efficiency achieved in an estate plan may be for naught if the disinherited person is litigious and spoiling for a fight with hated family members.

**Speaker:** Michael Ryan, Jaspan Schlesinger LLP, Garden City, NY

1:30 – 3:00 PM
WHICH BUSINESS ENTITY IS BEST AFTER TAX REFORM?
As you guide clients through transitioning their businesses to family members or key employees, income tax consequences can have a huge impact. We will compare and contrast corporations with partnerships (including LLCs) regarding short-term and long-term consequences of choosing an entity in light of tax reform. We will also discuss transitioning a business, securing a basis step-up for the business’ assets, and structuring a business to avoid not only the 3.8% tax on net investment income but also the self-employment tax. Add significant value to clients with estates under $11 million - and even more for larger closely-held businesses.

**Speaker:** Steven B. Gorin, Thompson Coburn LLP, St. Louis, MO

3:15 – 4:45 PM
USE AND DRAFTING OF BUY SELL AGREEMENTS
We will discuss provisions commonly found in a buy-sell agreement, using a sample “form” and technical materials. What events should trigger transfer restrictions? How do these restrictions protect an “S” election, if one is in place? What are the advantages and disadvantages of various buy-out mechanisms? What valuation mechanisms work well? Should one use a cross-purchase, redemption, or both? Life insurance funding is full of traps, potentially causing estate tax and nasty income tax surprises; learn how to centralize life insurance while avoiding the pitfalls of redemptions.

**Speaker:** Steven B. Gorin, Thompson Coburn LLP, St. Louis, MO

5:00 – 6:30 PM
PLANNING FOR THE PROBATE CONTEST
Although many estate planning arrangements are implemented without controversy, given family dynamics involved in such planning, drafting attorneys should be mindful of the possibility that family members will disagree. Those who are dissatisfied with an estate plan may resort to court proceedings. This segment of the Skills Training for Estate Planners program will introduce attendees to the essential concepts of probate litigation, including will and trust disputes, contests, and fiduciary litigation. Those engaged in the estate planning process should be aware of the manner in which probate litigation arises so that they can plan to avoid such disputes (as much as possible). After reviewing those concepts, this segment will explore some of the planning approaches that can be pursued to avoid probate litigation.

**Speakers:** Gerald G. Brew, McCarter & English LLP, Newark, NJ and Stephanie Loomis-Price, Winstead PC, Houston, TX

THURSDAY, JULY 12, 2018
8:00 – 9:30 AM
ESTATE PLANNING UNDER THE 2017 TAX ACT
The 2017 Tax Act introduced major changes to estate planning, most importantly an increased lifetime estate and gift tax exemption which will increase the importance of the income tax planning as part of an estate plan. For better or worse, many of these changes may only be temporary given the sunset provisions of the 2017 Tax Act. This program will discuss the important changes created by the new law and review what steps can be taken with respect to planning and drafting to provide flexibility in light of uncertainty.

**Speakers:** William P. LaPiana, New York Law School, New York, NY and Marc S. Bekerman, Law Offices of Marc S. Bekerman, Woodbury, NY
9:45 – 11:15 AM
BUT WAIT! WE'RE STILL NOT FINISHED! SLICING AND DICING WITH GENERATION-SKIPPING TRUSTS AFTER THE TAX CUTS AND JOBS ACT
The 2017 Tax Act seems to settle – for now – the permanency of the Generation-Skipping Transfer Tax in estate planning. However, not every trust deserves (or needs) to be a classic generation-skipper as originally designed. This program reviews the operations of the GST tax in wealth planning trusts and then explores the many tools available to practitioners to serve up a unique menu in response to a special request. Be it slicing a single trust into separate shares for the family’s needs, decanting a selection of trust assets to take advantage of more palatable trust terms, or whipping up the basis in trust assets, an assortment of issues confront families, and they look to creative practitioners to provide workable solutions that suit their taste and appetite for risk. Knowledge of the GST rules in this context is a necessity.

**Speaker:** Joseph P. Scorese, Harwood Lloyd LLC, Hackensack, NJ

11:30 AM – 12:30 PM
SELECTED BASIS & RELATED INCOME TAX ISSUES IN ESTATE PLANNING
Discussion of the essential post-mortem income tax planning considerations, including the new cost basis reporting rules.

**Speaker:** Marc S. Bekerman, Law Offices of Marc S. Bekerman, Woodbury, NY

1:30 – 3:00 PM
IRREVOCABLE DOES NOT MEAN IT CAN’T BE CHANGED – DECANTING, REFORMATIONS, AND NON-JUDICIAL SETTLEMENT AGREEMENTS
This presentation will discuss methods of modifying irrevocable trusts including a discussion of traditional methods, such as judicial modification or reformations proceedings and trust mergers, along with more modern methods, such as “decanting” and non-judicial settlement agreements. The program will review applicable state law and will include a discussion of the tax consequences of such modifications.

**Speaker:** Farhad Aghdami, Williams Mullen, Richmond, VA

3:15 – 4:45 PM
LIFE INSURANCE TRUST PLANNING
This program will address the issues involved in utilizing and funding insurance trusts, including the tax implications that arise when insurance trusts are a part of a client’s estate plan.

**Speaker:** Joshua Husbands, Holland & Knight LLP, Portland, OR

5:00 – 6:30 PM
VALUATION THEORY AND PRACTICE INCLUDING SELECTING AND WORKING WITH APPRAISERS
The appraiser/valuation analyst plays a critical role in estate planning. Valuations from an independent, professional appraiser should be obtained early in the estate planning process. Doing so increases the taxpayer’s chances that the Internal Revenue Service will not challenge the valuation and if challenged, it increases the taxpayer’s chance of resolving the challenge quickly. The estate planning attorney has to assist with the process by identifying valuation issues within the context of the whole estate plan and advising the client about the potential impacts of valuation issues. The working relationship of the estate planner and appraiser is crucial to the success of the process.

**Speakers:** Stephanie Loomis-Price, Winstead PC, Houston, TX, Curtis R. Kimball, Willamette Management Associates, Atlanta, GA and Hugh F. Drake, Brown Hay & Stephens LLP, Springfield, IL

FRIDAY, JULY 13, 2018
8:00 – 9:30 AM
CHARITABLE PLANNING FOR INDIVIDUALS, ESTATES AND TRUSTS, AND USE OF SPLIT INTEREST TRUSTS
This session will explore the income tax and estate and gift tax charitable deductions, the use of such deductions by individuals, trusts and estates, and the requirements for charitable remainder unitrusts and charitable remainder annuity trusts, and charitable lead trusts.

**Speaker:** Lawrence Katzenstein, Thompson Coburn, St. Louis, MO
9:45 – 10:45 AM
LIMITED PARTNERSHIPS WITH SECTION 2036 IMPLICATIONS
Limited partnerships have been popular estate planning vehicles for decades due to both the tax and non-tax advantages that these vehicles can offer. As estate planning professionals are well aware, these vehicles can be subject to scrutiny by the IRS and have been challenged under a number of different theories over the past two decades. Case law has demonstrated that, if properly structured, these can be very useful vehicles; however, case law has also made abundantly clear that, if not properly structured and administered, negative tax consequences can result. The landscape in the entity planning area is continuously evolving, and it is critical for any practitioner who plans with these vehicles to be well aware of developments in this area. This presentation will discuss the history of partnership planning, which will include a discussion of the various arguments that have been raised, both successfully and unsuccessfully, by the IRS over the years in its ongoing challenge of closely held entities, including practical tips for properly administering family entities. Topics to be covered in include: Indirect gifts, Step transactions, Challenges under IRC Section 2036(a)(1) and (a)(2), Challenges under IRC Section 2703, Marital deduction mis-match issues, Annual Exclusion Planning, and Partnership Dos and Don’ts.

Speakers: N. Todd Angkatavanich, Ernst & Young, New Haven, CT and Stephanie Loomis-Price, Winstead PC, Houston, TX

11:00 AM – 12:30 PM
FAMILY BUSINESS PLANNING INCLUDING CHAPTER 14 IMPLICATIONS
The provisions under Chapter 14 of the Internal Revenue Code have existed for over twenty years yet many of the draconian gift and estate tax provisions thereunder remain relatively unknown to Trusts and Estates professionals. This presentation will provide a discussion of the many estate and gift tax pitfalls that practitioners need to keep in mind under these provisions whenever structuring transactions between family members. This presentation will include a broad overview of the statutory provisions of 2701 through 2704 and will also include discussions of the policy reasons behind the sometimes confounding rules included in Chapter 14. In addition, pro-active planning opportunities with Chapter 14 compliant structures will also be discussed, including: Section 2701 deemed gift pitfalls, planning with Section 2701 compliant Preferred Partnerships, “Vertical Slice” fund carried interest transfer planning and “Non-Vertical” alternatives, Section 2702 deemed gift pitfalls, GRATs, QPRTs and Sales of Remainder Interests, Sales to Intentionally Defective Grantor Trusts, Buy-Sell Agreements and Section 2703 challenges, FLP challenges under 2703 and other sections, and valuation provisions under Section 2704. The session will also address developments with respect to Section 2704 as well as proposed changes to the transfer tax laws.

Speakers: N. Todd Angkatavanich, Ernst & Young, New Haven, CT and Marissa Dungey, Withers Bergman LLP, New Haven, CT

1:30 – 3:00 PM
S CORPORATION PLANNING INCLUDING USE OF QSSTS VERSUS ESBTS
S corporations are common business organizations but present complex challenges for estate planners. Many challenges stem from their hybrid tax character with both partnership and C corporation elements. The tax code puts restrictions on the number and types of shareholders an S corporation may have. Only three types of trusts may hold S stock in life and upon death. This program covers the critical issues faced by the estate planner in dealing with S corporation stock.

Speaker: Hugh F. Drake, Brown Hay & Stephens LLP, Springfield, IL

3:15 – 4:15 PM
ETHICS FOR ESTATE PLANNERS
This presentation deals with two important aspects of representing clients in the course of estate planning: problems of confidentiality and loyalty which are particularly acute when representing couples, and problems of possible undue influence exercised by a lawyer, not related to the testator, who drafts a will which makes a gift to the lawyer or to a member of the lawyer’s family. The Model Rules of Professional Conduct will cover: 1.5 Fees; 1.6 Confidentiality of Information; 1.7 Conflict of interest: Current Clients; and 1.8 Conflict of interest: Current Conflicts Specific Rules.

Speaker: William P. LaPiana, New York Law School, New York, NY