SKILLS TRAINING FOR ESTATE PLANNERS FUNDAMENTALS
July 8 – 13, 2018

This CLE program, sponsored by the American Bar Association Section of Real Property, Trust and Estate Law and New York Law School, covers the fundamentals of estate planning. It will be held at New York Law School in the Tribeca neighborhood of downtown Manhattan. This popular annual program fills up quickly—early registration is advised!

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

TOPICS INCLUDE
• Transfer Tax Basics for Estate Planners
• His, Hers and Theirs: Community Property
• Transfer Basics - Gifts, Gifts in Trust, Sales and Loans
• Income Tax Basics for Estate Planners
• Fiduciary Income Taxation and Subchapter J
• Postmortem Planning
• Drafting Basic Trusts for Annual Exclusion Gifts
• Asset Protection Fundamentals
• Drafting Marital Formulas/Trusts
• Marital Agreements for Estate Planners
• Benefit Planning and Drafting
• Planning with Business Entities
• Drafting and Use of Joint Revocable Trusts
• Decanting, Reformations, and Non-Judicial Settlement Agreements

WHO SHOULD ATTEND
New estate planners—both young attorneys new in the profession, and attorneys seeking to make a transition from another area of law.

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

If you're looking for more advanced training, visit www.ambar.org/skillstraining for information on the Skills Training for Estate Planners – Advanced Topics program.
TRANSFER TAX BASICS FOR ESTATE PLANNERS
This session will review the fundamentals of the various transfer taxes assessed on the transfer of wealth, namely the estate tax, gift tax and generation-skipping transfer tax. Among the topics to be discussed are determining what property is subject to tax, what transfers are excludable or exempt from tax, what deductions and exemptions are available, and how the taxes are calculated. As time permits, a brief overview of the income taxation of trusts and estates may also be included.

Speakers: Thomas M. Featherston, Baylor University School of Law, Waco, TX and Marc S. Bekerman, Law Offices of Marc S. Bekerman, Woodbury, NY

HIS, HERS, AND THEIRS: COMMUNITY PROPERTY
During this session the presenter will discuss the principles of community property and its application in the estate planning, probate and tax return processes. The discussion will identify principles of community property that lawyers from common law states need to understand.

Speaker: Thomas M. Featherston, Baylor University School of Law, Waco, TX
9:15 – 10:15 AM
TRANSFER BASICS – GIFTS, GIFTS IN TRUST, SALES AND LOANS
Gift planning is an integral part of both lifetime and estate planning. This session will focus on the various types of non-charitable gifts, the mechanics of making gifts successfully and efficiently, and what assets are best used for making gifts. Included is a discussion of whether gifts should be in trust or outright, the benefits of intra-family loans, and the income, gift, and estate tax issues to consider when making gifts. The session will include a discussion of the place of gifts in an overall plan for several generations of family members and a discussion of the changes to gift tax planning to consider in light of the Tax Cuts and Jobs Act of 2017.

Speaker: Jo Ann Engelhardt, Bessemer Trust, Palm Beach, FL

10:30 AM – 12:30 PM
INCOME TAX BASICS FOR ESTATE PLANNERS
With the narrow margin between income tax rates and estate tax exemptions, the income tax rules applicable to trusts and estates have gained a new importance in planning and administration. Explore how the rules for individuals differ from the rules applicable to trusts and estates and how those rules can affect an estate plan, including various strategies to implement such as immediate pre-death income tax planning. Also learn things like the obligations of fiduciaries that arise as a result of someone’s death and how death creates unique income tax issues such as basis adjustments.

Speaker: Melissa Willms, Davis & Willms, PLLC, Houston, TX

1:30 – 3:00 PM
DRAFTING BASIC TRUSTS FOR ANNUAL EXCLUSION GIFTS
Even with increased estate and gift tax exemptions, the annual exclusion from gift tax remains an important estate planning tool, for non-tax as well as tax-related reasons. Rather than make cash gifts directly or fund education savings accounts, many clients like the flexibility and control they can achieve by making gifts in trust for their children, grandchildren and others. This program will focus on drafting irrevocable gift trusts with emphasis on trusts to which donors may make gifts that qualify for the gift tax annual exclusion and, if desired, annual exclusion from the generation-skipping transfer tax; the program will address issues affecting choice of trustee and the standard for distributions of income and principal; duration of the trust; grantor trust status; and further planning options involving gift trusts.

Speaker: Aen Webster, Cochran Allan, Tysons Corner, VA

3:15 – 5:15 PM
FIDUCIARY INCOME TAXATION AND SUBCHAPTER J
Ramping up the discussion about the income tax rules applicable to trusts and estates, we’ll explore the complex issues that estate planners need to know to help fiduciaries avoid income tax traps they may encounter when administering trusts and estates. Discover how language in governing documents and steps taken during administration can minimize unexpected income tax liabilities and secure special income tax planning benefits for decedents, trusts, and estates.

Speaker: Mickey Davis, Davis & Willms, PLLC, Houston, TX

5:30 – 6:30 PM
POSTMORTEM PLANNING
Skilled trusts and estates professionals can often lend value after the death of a decedent through an effective post-mortem tax plan. This session will analyze factors to consider and techniques to employ in formulating an appropriate post-mortem tax and distribution plan, with a focus on income and estate tax issues.

Speaker: Steve R. Akers, Bessemer Trust, Dallas, TX

TUESDAY, JULY 10, 2018
8:00 – 9:30 AM
BENEFITS PLANNING AND DRAFTING – FUNDAMENTAL CONCEPTS AND ISSUES
An overview of financing retirement income needs; the different types of qualified plans (IRA, 401(k), etc) and their different rules; required lifetime distributions and how they are taxed; and when “charitable IRA rollover” makes sense and when it doesn’t.

Speakers: Robert Kirkland, Kirkland Woods & Martinsen PC, Liberty, MO and Christopher R. Hoyt, University of Missouri (Kansas City) School of Law, Kansas City, KS

Register at www.ambar.org/skillstraining
9:45 – 11:15 AM
BENEFITS PLANNING AND DRAFTING – ADVANCED CONSIDERATIONS
Planning for the income and estate tax consequences of retirement assets in decedents’ estates. What are the planning objectives? What do the tax laws require, and how can they interfere with estate planning objectives? What are the traps and solutions for retirement assets payable to a trust, and how can people in second marriages best use retirement assets to benefit a second spouse and children from a first marriage?
Speakers: Robert Kirkland, Kirkland Woods & Martinesen PC, Liberty, MO and Christopher R. Hoyt, University of Missouri (Kansas City) School of Law, Kansas City, MO

11:30 AM – 12:30 PM
WHAT ESTATE PLANNERS NEED TO KNOW ABOUT PREMARITAL AND POSTMARITAL AGREEMENTS AT DIVORCE
Premarital and postmarital agreements determine economic rights and obligations of spouses when the marriage ends – whether at death or divorce. The lawyer who negotiates and drafts these agreements must therefore be versed in both estates and trusts and divorce law in order to provide competent representation. This program will focus on issues that arise when a marriage ends in divorce, including: spousal property and support rights in the absence of agreement; options for determining property rights at divorce; enforceability of provisions fixing or waiving alimony; legal fees at divorce; negotiating the terms from the perspective of the economically disadvantaged party; provisions regarding minor children that are permissible, and those that are not; and choice of law issues.
Speaker: Linda J. Ravdin, Pasternak & Fidis, P.C., Bethesda, MD

1:30 – 3:00 PM
PLANNING FOR PUBLIC BENEFITS INCLUDING SPECIAL NEEDS TRUSTS
Planning Options for financing Long Term Care, including the use of governmental benefits such as Medicare, Medicaid and Veterans Benefits. Discussion of trust options for the preservation of assets.
Speaker: Molly D. Abshire, Wright Abshire Attorneys, Bellaire, TX

3:15 – 4:45 PM
DURABLE POWERS, PROTECTIVE PROCEEDINGS AND REPRESENTING CLIENTS WITH DIMINISHED CAPACITY
This presentation will cover powers of attorney and the representation of clients with diminished capacity. It will use the Uniform Power of Attorney Act to discuss the legal issues relevant to the creation of the relationship, the duties owed by the agent, the agent’s scope of authority and related issues concerning powers of attorney. It will also offer practice pointers to help safeguard the interests of clients who create POAs. The presentation will also cover the ethical concerns of representing clients with diminished capacity, as such issues relate to Rule 1.14 of the Model Rules of Professional Conduct, the practical considerations of this Rule and relates rules under the MRPC.
Speaker: Michael A. Kirtland, Kirtland & Seal LLC, Colorado Springs, CO

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
INSURANCE PLANNING
This program will address basic life insurance concepts, as well as a description of and a comparison among the various types of life insurance products used in financial and estate planning, including their investment risk profiles and management requirements.

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

11:30 AM – 12:30 PM
1:30 – 3:00 PM
ASSET PROTECTION FUNDAMENTALS
Asset protection planning has become recognized as an important and integral aspect of the estate planning process. No longer is asset protection limited to offshore strategies. Fifteen states have now enacted legislation providing creditor protection for self-settled trusts. We will discuss state exemption, planning with spendthrift and self-settled trusts (domestic and foreign); challenges against foreign trusts, in the U.S. and offshore; when to use domestic vs. foreign trusts; how to promote the use of discretionary trusts by learning the tools of flexible drafting; and estate planning with self-settled trusts.

Speaker: Gideon Rothschild, Moses & Singer LLP, New York, NY

3:15 – 4:45 PM
INTENTIONALLY DEFECTIVE GRANTOR TRUSTS: WHEN A TRUST IS NOT A TRUST
Sometimes a trust is ignored for income tax purposes, with its income, deductions and credits being those of the grantor or another person. This program will discuss the grantor trust rules of Subchapter J of the Internal Revenue Code, including how the rules are commonly encountered in estate planning, for better or worse.

Speaker: Philip M. Lindquist, Lindquist Eisenberg LLP, Plano, TX

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 STEP 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
11:30 AM – 12:30 PM
**DRAFTING AND USE OF JOINT REVOCABLE TRUSTS**
This session will discuss the advantages and disadvantages of joint revocable trusts for married couples in both separate property and community property states, including ease of administration and maintaining creditor protection of tenancy by the entireties property; and drafting and administration considerations for joint spousal trusts.

**Speaker:** Karen Boxx, Keller Rohrback, Seattle, WA

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 reformation 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
5:00 – 6:30 PM
**DRAFTING CONSIDERATIONS (INCLUDING DIGITAL ASSETS)**
These sessions will discuss basic drafting considerations including the process of drafting documents, issues to address in drafting and common pitfalls in drafting.

**Speakers:** William P. LaPiana, New York Law School, New York, NY and Marc S. Bekerman, Law Offices of Marc S. Beckerman, Woodbury, NY

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
11:00 AM – 12:30 PM
**PLANNING WITH BUSINESS ENTITIES: CONSIDERATIONS AND STRATEGIES**
These programs will address the important estate and business planning issues involved in using a business entity such as a corporation (C Corp or S Corp), limited liability company, limited partnership, limited liability limited partnership, or tenancy in common agreement in transferring wealth to family and non-family members; it will address estate, gift and income tax issues in summary fashion.

**Speaker:** David J. Dietrich, Dietrich & Associates, Billings, MT

1:30 – 3:00 PM
**REVIEW**
This session will allow students to pair the knowledge that they have learned throughout the week with fact patterns prepared by the faculty so that theoretical learning can be actualized into application.

**Speakers:** William P. LaPiana, New York Law School, New York, NY and Michael P. Ryan, Jaspan Schlesinger LLP, Garden City, NY

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