

55th Annual Heckerling Institute on Estate Planning

May 3 – 6, 2021

Virtual Institute Schedule

Monday, May 3, 2021

All times listed are in Eastern Standard Time (EST)

8:00 – 10:00 **Networking in the Virtual Exhibit Hall**

10:00 – 12:00 **FUNDAMENTALS PROGRAM**



Fundamentally Fun Solutions to Perilous Income Tax Pitfalls in Estate Planning

Paul S. Lee ♦ Turney P. Berry ♦ Melissa J. Willms

The panel will discuss income tax concepts and techniques that are fundamental to the estate planning we commonly undertake for our clients. The program will be fundamental — and fun — but not basic, as we look at the income tax elements of everyday planning like modifying or terminating trusts, creating private annuities, and changing trust ownership for income tax purposes. The panel will also discuss persistent issues surrounding charitable trusts, promissory notes, installment sales, upstream planning, transactions between spouses, and basis shifting. All of this and much more, as we kick off the Heckerling Institute — May edition.

12:00 – 1:30 **Lunch Break / Networking in the Virtual Exhibit Hall**

1:30 – 3:00 **Recent Developments 2020/2021**

Steve R. Akers ♦ Samuel A. Donaldson ♦ Sarah Moore Johnson

Materials by: Steve R. Akers, Turney P. Berry, Samuel A. Donaldson, Charles D. "Skip" Fox, IV, Jeffrey N. Pennell, Charles A. "Clary" Redd, and Howard M. Zaritsky

Edited by: Ronald D. Aucutt

The Recent Developments panel featuring three of the nation's leading estate planning experts will analyze the most significant developments from 2020 and early 2021, including the potential impact of the recent elections. The panel will provide both practical planning tips and valuable insights on what might lie ahead.

3:00 – 3:20 **Networking Break**

3:20 – 5:00 **Recent Developments 2020/2021 (continued)**

Networking in the Virtual Exhibit Hall



8:00 – 10:00 **Networking in the Virtual Exhibit Hall**

10:00 – 11:00 **Can a CRT Stretch an Inherited IRA?**



Christopher R. Hoyt

The SECURE Act generally eliminated the “stretch IRA,” whereby a beneficiary of an inherited IRA could stretch distributions over that beneficiary’s remaining life expectancy. Can naming a tax-exempt charitable remainder unitrust as the beneficiary of a retirement account provide comparable tax benefits? What are the rules, the traps, and the solutions?

11:00 – 12:00 **Retroactive Revisions and Reversals: Risks and Rewards**



Carol A. Harrington

This session will discuss opportunities and methods of reversing or revising actions or transactions that arise in both estate planning and trust administration so that the change has retroactive effect. The presentation will address property law and potential tax effects, as well as mistakes by donors and advisers and improper actions by trustees.

12:00 – 1:00 **Lunch Break / Networking in the Virtual Exhibit Hall**

1:00 – 2:30 **Concurrent Sessions**



Fundamentals Program



The Three Faces of Asset Protection

Gideon Rothschild ♦ Melissa Langa ♦ Daniel S. Rubin

Practitioners in the area of asset protection planning recognize that it has something of a split personality – on the one hand, there are techniques like the domestic and foreign asset protection trust that are designed purely for asset protection, while on the other hand, there are numerous other techniques, including for example, the SLAT, the SPAT, inter-vivos QTIPs and the self-settled remaindered GRAT, that are structured for estate tax planning benefits, with a perhaps “incidental” asset protection benefit. This presentation will examine those structures, amongst others, as well as the third face of such planning, which is how such structures may fare when challenged in court.

OR

1:00 – 2:30 Strategic Estate Planning for Another Year of Change

BFA
FS

Diana S.C. Zeydel ♦ N. Todd Angkatavanich

Planning for change is never easy. The new administration may substantially curtail the estate planning techniques available under current law. Topics include: Planning to take advantage of the “bonus” transfer tax exemptions and overcoming planning inertia. Evaluating, fortifying and super-charging existing planning structures, including up-generation and down-generation planning. How to use preferred partnerships to shift growth between family members and trust structures, including carried interest planning and the potential benefits of qualified opportunity zones. Which techniques create the greatest flexibility? Which ones are likely to expire? Is doing nothing still the worst estate plan? Learn what you can do today to help your clients plan for another year of change.

2:30 – 2:50 Networking Break

2:50 – 4:20 CONCURRENT SESSIONS

TRU

Review of the Past Year’s Significant, Curious, or Downright Fascinating Fiduciary Cases (at least it seems to me)

Dana G. Fitzsimons, Jr.

This session will review recent cases from across the country to assist fiduciaries and their advisors in identifying and managing contemporary challenges.

OR

2:50 – 4:20 Touching the Third Rail: Diversity, Culture and Ethics in Estate Planning

ETH

Stacy E. Singer ♦ Margaret G. Lodise ♦ Akane R. Suzuki

The best estate planners seek to understand all aspects of their clients’ lives, including the information clients are reluctant to share. But one area that clients are often eager to share, but planners are reluctant to discuss, is the impact of culture, religion and faith on estate planning. Learn about how various faiths think about estate planning, how those beliefs may impact planning and the ethical implications of considering faith, culture and diversity when working with clients.

Diversity credit applied for.

Networking in the Virtual Exhibit Hall

BFA Business and Financial Assets **CHR** Charitable Giving **ELD** Elder Law
ETH Ethics **FS** Focus Series **INT** International **TRU** Trusts

8:00 – 10:00 **Networking in the Virtual Exhibit Hall**

10:00 – 11:00 **Can a Trustee “Do Well While Doing Good”? The Law and Economics of ESG Investing**



Robert H. Sitkoff

Settlors and beneficiaries are increasingly pressing trustees to incorporate environmental, social, and governance (ESG) factors into trust investment programs. This presentation will consider how a trustee can undertake ESG investing in private trusts, charities, and pension accounts in a manner compliant with trust fiduciary law.

11:00 – 12:00 **Beyond the Basics of GST Tax: Queries + Conundrums**



Julie Miraglia Kwon

This session will explore GST tax questions beyond basic allocations that have recurred in actual trust matters. These situations include the exercises of powers of appointment and related perpetuities issues, mergers and severances of trusts, estate tax inclusion periods and related exceptions, and retroactive allocation due to unexpected deaths. We will discuss practical and legal issues, gray areas, and reporting and procedural considerations.

12:00 – 1:00 **Lunch Break / Networking in the Virtual Exhibit Hall**

1:00 – 2:30 Concurrent Sessions



Sacking the Monday Morning Quarterback

Bernard A. Krooks ♦ Robert B. Fleming ♦ Tara Anne Pleat

This session will review the concerns about diminished and diminishing capacity from the perspectives of both the testator/settlor, as well as that of a fiduciary who is managing assets for a beneficiary with diminished or diminishing capacity. The panelists will discuss drafting considerations, recommended actions to be taken to safeguard the compromised testator/settlor's wishes, and recommended actions to be taken by fiduciaries to safeguard and carry out directives of a grantor/settlor on behalf of a compromised beneficiary, particularly when traditional rules governing actions by counsel and by fiduciaries are poorly defined and inconsistently applied.

OR

1:00 – 2:30 Question and Answer Panel

Steve R. Akers ♦ Samuel A. Donaldson ♦ Sarah Moore Johnson ♦ Carlyn S. McCaffrey

2:30 – 2:50 Networking Break

2:50 – 4:20 CONCURRENT SESSIONS



Mum's the Word: Maintaining Client Confidentiality and Dealing with Ethical Challenges While Working from Anywhere and Everywhere

John F. Bergner ♦ Jeff Chadwick ♦ Lauren J. Wolven

Working remotely is here to stay. Increasing client demand for virtual meetings presents estate planning advisors with unique ethical challenges, including how to preserve client confidentiality. This panel will discuss how the traditional duty of confidentiality applies to a virtual estate planning practice, and will provide practical suggestions for structuring engagement letters, addressing conflicts of interests, and safeguarding client communications across all mediums.

Technology credit applied for.

OR

2:50 – 4:20 **I Married an Alien – Considerations for Transfers to Non-U.S. Citizen Spouses, Along with Hot Topics in International Tax and Estate Planning**

FS

INT

Michelle Graham ♦ Michael Rosen-Prinz

This presentation will focus on international matters for the estate planner. The first half of the presentation will provide a technical discussion concerning transfers to non-U.S. citizen spouses and include practical advice for the estate planning practitioner. The second half of the presentation will highlight relevant hot topics and new developments in international tax.

Networking in the Virtual Exhibit Hall

Thursday, May 6, 2021

8:00 – 10:20 **Networking in the Virtual Exhibit Hall**

10:00–12:00 **Secure About SECURE: Estate Planning for Retirement Benefits in the Post SECURE World**

BFA

ELD

Natalie B. Choate

Planning options for eligible, plain old, and "non" designated beneficiaries, trust drafting guidelines, new trust administration challenges, ways to "beat" SECURE? (or not), and the 7 key features of fiduciary income tax that you must use to your advantage... or lose your client's IRA.

12:00 – 1:00 **Lunch Break / Networking in the Virtual Exhibit Hall**

1:00 – 2:30 **Wrap-Up: We Saw. We Heard. We Read. We Learned.**

Turney P. Berry ♦ Charles A. "Clary" Redd

After a glorious week in the merry, merry month of May, what are your takeaways from Heckerling 2021? What nuggets might you have missed? Heck, what *must* you remember to prove to the boss you were paying attention? Our panelists have heard the presentations and read the materials, front to back, side to side, top to bottom: now they've got a few things to say! Come have some fun comparing your week to theirs.

2:30 – 2:50 **Networking Break**

2:50 – 4:20 Fundamentals Program

TRU Demystifying Distributable Net Income (DNI)

Jeremiah W. Doyle, IV

Distributable net income is the engine that drives the income taxation of estates and trusts. Many find the concept and operation of DNI confusing. This session will attempt to take the mystery out of DNI and will discuss the theory behind DNI, how the Internal Revenue Code defines DNI and the three reasons why DNI is important. More importantly, the discussion will include how DNI gets allocated among the beneficiaries of simple trusts and complex trusts including a discussion of the tier system, the separate share rule, the 65-day rule, specific bequests and distributions in kind. We will also review sample calculations of DNI and how DNI gets reported on a Form 1041. This program will cover drafting techniques to incorporate into estate planning documents to achieve the best income tax results, how capital gains may enter into DNI, and how the passive activity loss rules affect the calculation of DNI.

Networking in the Virtual Exhibit Hall

SAVE THE DATE!
56TH Annual Heckerling Institute on Estate Planning
January 10-14, 2022
Orlando World Center Marriott