



HECKERLING INSTITUTE
ON ESTATE PLANNING

55TH ANNUAL
HECKERLING INSTITUTE
ON ESTATE PLANNING

VIRTUAL Institute

MAY 3 - 6, 2021



SCOPE

The Heckerling Institute on Estate Planning has long been recognized as the nation's premier conference for estate planning professionals, offering unparalleled educational and professional development opportunities for all members of the estate planning team. Although the 55th Institute will be delivered virtually rather than in person, it will continue that tradition of excellence.

The 55th Institute will provide you with the information and practical guidance you need to plan effectively in the current evolving legal and economic environment, including practical planning tips, and valuable insights on what might lie ahead. The program, which will examine a wide range of today's most important tax and non-tax planning issues, will be delivered by a faculty consisting of the **nation's leading experts**. As in prior years, the Institute will also feature dedicated program tracks allowing you to customize your educational experience. For the first time, all sessions will be delivered through an **interactive virtual format** that can be enjoyed in the comfort and safety of your home or office. The 55th Institute will also feature a new **fully virtual exhibit hall**, with expanded time to network with our sponsors and other industry professionals from across the country and around the world.

We hope that this year's **reduced registration fee**, combined with the lack of travel expenses and restrictions, will allow us to reconnect with our regular attendees, and provide a unique opportunity for first-time attendees to enjoy the benefits offered by the nation's leading estate planning program.

Program Highlights

Recent Developments: Three of the nation's leading experts, will analyze the most significant developments from 2020 and early 2021, including the potential impact of the recent election results, and the planning implications of enacted or anticipated legislation. The panel will reconvene later in the week in a separate session to answer questions submitted by attendees.

Focus Series: This series of programs offers an in-depth look at the issues surrounding intra-family wealth transfers, including planning to take advantage of the higher exemptions, advanced GST tax planning, planning for transfers to non-citizen spouses, and the ethical and confidentiality issues involved in planning for families in today's virtual world. **FS**

Business and Financial Assets: Programs in this series will cover the increasingly important income tax issues in estate planning, strategies to deal with the planning uncertainties created by the new administration and planning effectively for retirement benefits after the SECURE Act. **BFA**

Planning with Trusts: This series of programs will consider how to retroactively reverse or revise actions or transactions, including mistakes by donors, advisors or trustees, the practical and legal issues involved in planning for the GST tax, and recent fiduciary cases from around the country. **TRU**

Charitable Giving: These programs will examine the fiduciary standards for ESG investing by private trusts, charities and pension accounts, and the effective use of CRTs in planning for retirement benefits. **CHR**

Elder Law: These programs examine planning for retirement benefits after the SECURE Act including drafting and administrative challenges, and key fiduciary income tax issues. The series also explores dealing with concerns about diminishing and diminished capacity including drafting considerations and recommended actions to safeguard the testator's/settlor's wishes. **ELD**

Ethics and Diversity: The programs will examine the ethical implications of considering faith, culture and diversity when working with clients, as well as maintaining confidentiality and dealing with ethical challenges in a virtual world. **ETH**

International Planning: These programs will cover planning for transfers to a non-citizen spouse, provide an update on international planning and enforcement issues and, review both international and domestic asset protection alternatives. **INT**

Fundamentals: The fundamentals programs examine the income tax elements of everyday estate planning – including the opportunities and potential pitfalls, provide an overview of the available options for asset protection, and explain the rules and planning issues surrounding DNI.

We hope that you will join us virtually May 3 – 6, 2021, to enjoy our outstanding educational programming and to exchange ideas with colleagues from across the estate planning profession.

There is no better time to attend the Heckerling Institute!

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Virtual Institute Schedule

Monday, May 3, 2021

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

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

BFA

Fundamentally Fun Solutions to Perilous Income Tax Pitfalls in Estate Planning

FS

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**



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

Wednesday, May 5, 2021

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**

BFA

CHR

TRU

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**

FS

TRU

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**

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

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

The panel will answer the registrants' previously submitted questions regarding the most relevant estate planning topics.

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.

OR

Technology credit applied for.

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**



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

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

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



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**



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

GENERAL INFORMATION

ACCREDITATION

Continuing legal education credit will be applied to for every state that has mandatory continuing legal education requirements and has been routinely granted for past Institutes. In the past, continuing education credit has also been available for other estate planning professionals, including accountants, IRS enrolled agents, financial planners, banking professionals, elder law specialists and planned giving advisors. Continuing education credit will only be available for sessions attended in real-time. Attendees will be required to confirm their real-time participation in the sessions by responding to polling questions. Recordings of the sessions will be available for a limited time (up to two weeks after the Institute), however continuing education credit will only be available for sessions attended in real-time. We urge you to contact our office in advance with questions regarding the availability of credit for a specific jurisdiction or profession, as we cannot guarantee that credit will be available in all cases.

The University of Miami School of Law is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.nasbaregistry.org. Program Level: Advanced; Program Prerequisites: General familiarity with estate planning principles; Delivery Method: Group Internet Based (*applied for*); Amount of Recommended CPE credit: 24 hours (*applied for*); Recommended Field of Study: Taxes; Advance Preparation: None; Learning Objectives: Upon completion of the program, participants will be able to identify, analyze and resolve practical estate planning, administration and tax reporting issues.

REGISTRATION

New! Early Registration Fee: \$750 (Registrations received prior to March 1, 2021)

Registration Fee: \$800 (Registrations received on or after March 1, 2021)

The registration fee includes access to the Institute materials, virtual educational programming, networking events, and virtual exhibit hall. Advanced online registration is highly recommended. To register online, please visit our website www.law.miami.edu/heckerling. Register by Friday, April 16, 2021 to be included in the Institute Registration List. For additional information please email Heckerling@law.miami.edu. Sharing registrations is not permitted.

INSTITUTE ACCESS AND MATERIALS

Registrants will be sent a User ID and password via email in advance of the conference to access the virtual Institute and materials online. Conference materials are copyrighted and cannot be duplicated, reused, or shared without the written consent of the Heckerling Institute.

CANCELLATIONS, COMPLAINTS, AND REFUNDS

To cancel your registration, please send an email to Heckerling@law.miami.edu. Registration fees are refundable (less a \$50 administrative fee) if written notice is received by Friday, April 9, 2021. For more information regarding administrative policies such as complaints or refunds, please email Heckerling@law.miami.edu or call Emily Vila at 305-284-4762.

CONSENT TO USE OF IMAGE

Attendance at, or participation in, the Heckerling Institute constitutes agreement to the Institute's use

and distribution of the attendee's or participant's image in photographs, video, and electronic media for educational and promotional purposes. Recording of sessions is not permitted.

PUBLISHED PROCEEDINGS

LexisNexis will publish the proceedings of the 55th Annual Heckerling Institute on Estate Planning. Registrants may order the volume at the LexisNexis booth in the virtual exhibit hall. The proceedings of the 54th Annual Heckerling Institute (January 2020) are now available from LexisNexis. For further information, please direct your inquiries to LexisNexis at 800-533-1637 or visit www.lexisnexis.com.

HECKERLING GRADUATE PROGRAM IN ESTATE PLANNING

The University of Miami School of Law offers a unique Graduate Program in Estate Planning taught by the nation's leading experts. The program provides comprehensive coverage of the tax and non-tax issues involved in individual and estate planning, and is ideally suited for both entry-level attorneys and more experienced attorneys interested in either expanding their current practice or transitioning to an estate planning practice. The two-semester program is offered on either a full or part-time basis. Our Joint J.D./LL.M. program allows Miami Law students and visiting students from other law schools to earn both degrees over either six or seven semesters.

For additional information on our Graduate Program visit www.law.miami.edu/estateplanning.

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