



HECKERLING INSTITUTE
ON ESTATE PLANNING

56TH ANNUAL
HECKERLING INSTITUTE
ON ESTATE PLANNING

VIRTUAL INSTITUTE

MARCH 28 - APRIL 1, 2022



SCOPE

The Heckerling Institute on Estate Planning is the nation's leading conference for estate planning professionals, offering unparalleled educational and professional development opportunities for all members of the estate planning team. This year's **virtual program** covers topics of timely interest to attorneys, trust officers, accountants, charitable giving professionals, elder law specialists, wealth management professionals, and nonprofit advisors.

The 56th Heckerling Institute will provide the information and practical guidance you need to plan effectively in the currently evolving and unpredictable legal and economic environment. Our faculty of leading experts will explore today's most important tax and non-tax planning issues, including the **planning implications of recent or anticipated legislation or regulations**. The **Recent Developments Panel** on Monday afternoon will analyze the most significant developments of 2021 and early 2022 to provide valuable insights on emerging trends that can affect your practice. The panel will reconvene later in the week to answer questions submitted by attendees.

During the remainder of the week attendees can benefit from programs covering a wide range of advanced planning topics, or can customize their educational experience with the following specialized program tracks:

Focus Series – Emerging Issues: This series of programs offers practical insights on many of the emerging tax and non-tax issues facing today's estate planning professionals including partnership tax planning opportunities, current issues in tax audits and litigation, planning for the elective share and community property for migrating couples, domestic private placement life insurance, planning for retirement benefits, new norms in trust law, and modern ethics, professionalism and diversity. **FS**

Planning with Trusts: This series offers a review of recent fiduciary cases, an advanced level analysis of developing norms in the law of trusts, a survey of the state income taxation of trusts, and an examination of how changes can be made to irrevocable trusts. **TRU**

Business and Financial Assets: These programs explore advanced partnership taxation planning opportunities, the tax and non-tax strategies for successful business succession planning, the pros and cons of domestic private placement life insurance, and strategies for planning with retirement benefits. **BFA**

International Planning: These programs cover options for tax-effective charitable giving and provide a practical guide to estate administration involving foreign assets and beneficiaries. **INT**

Charitable Giving and Philanthropy: This series of programs provides practical insights on how to navigate the self-dealing rules for private foundations, and reviews alternatives for tax-effective international giving. **CHR**

Ethics, Diversity, and Elimination of Bias: This track covers common planning and drafting errors and the ethical issues that can be involved in correcting them. It will also focus on ethics and professionalism in today's society, and how to address diversity, equity, inclusion and the elimination of bias in your practice. **ETH**

Fundamentals: These programs cover the fundamentals of partnership taxation for estate planners and provide an in-depth look at elder law and special needs planning.

Please join us virtually to enjoy our exceptional programming!

REGISTER TODAY!

Early Registration Fee: \$950 (Registrations received prior to February 15, 2022)

Regular Registration Fee: \$1,000 (Registrations received on or after February 15, 2022)

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Virtual Institute Schedule

Monday, March 21, 2022

Beginning the week of March 21st, registered attendees will receive their unique username and password via email to access and download the Institute materials. We highly recommend that you visit the platform prior to March 28th to build your Institute schedule, download the Institute materials, and review continuing education information.

Monday, March 28, 2022

Eastern Standard Time

- 9:45 – 9:55am** **Introductory Remarks**
Tina Portuondo, Director, Heckerling Institute
Nell Jessup Newton, Interim Dean, University of Miami School of Law
- 10:00am – 12:00pm** **FUNDAMENTALS PROGRAM**
BFA **Conquering Subchapter K(ryptonite): Fundamentals of Partnership Taxation for Estate Planners**
Paul S. Lee
The taxation of partnerships (and limited liability companies) can be downright confounding, confusing, complicated, and cryptic for estate planners. This presentation will provide the basics of partnership income taxation (from formation, in operation, and to termination) that all estate planners should know, including traps for the unwary and interesting planning opportunities.
- 12:00 – 1:30pm** **Lunch**
- 1:30 – 3:00pm** **Recent Developments 2021/2022**
3:20 – 4:40pm **Turney P. Berry ♦ Jonathan G. Blattmachr ♦ Carlyn S. McCaffrey**
Materials by: Steve R. Akers, Turney P. Berry, Samuel A. Donaldson, Charles D. "Skip" Fox, IV, Stephen W. Murphy, Jeffrey N. Pennell, Charles A. Redd, William I. Sanderson, 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 2021 and early 2022, including the planning implications of enacted or anticipated legislation. The panel will reconvene later in the week to answer questions submitted by attendees.

9:30 – 10:20am

BFA

Perplexing and Prescient Partnership Tax Planning Possibilities

FS

Paul S. Lee

Tax basis and realization are fluid concepts in the world of partnership taxation, especially when one considers the “unitary basis” rule and how grantors, grantor trusts, and disregarded entities are treated as the same taxpayer. In such a world, entities taxed as partnerships provide the most sophisticated platform to exchange assets and strip, shift, create, combine, and concentrate basis. This presentation explores these concepts through the lens of common estate planning situations.

10:30 – 11:20am

ETH

Sincerity in Error – Common Errors and the Ethics of Correction

Lauren J. Wolven ♦ Stephanie Loomis-Price

Philosopher George Henry Lewes said “Insincerity is always weakness; sincerity even in error is strength.” This session will explore common errors drafters don’t realize they are making and the ethics of correcting errors when they occur.

11:30am – 12:20pm

FS

A View from the Trenches – Current Issues in Estate and Gift Tax Audits and Litigation

John W. Porter

This presentation will address current issues and trends in the transfer tax controversy arena at the audit level, appeals and in litigation. It will include issues related to the valuation and transfer of interests in closely held entities, including the use of formula clauses, section 2036, split-dollar life insurance, promissory notes at the AFR, GRAT audits, recent caselaw, positions taken by the IRS and practical ways to address them at the planning level.

Lunch

12:20 – 1:30pm

1:30 – 2:20pm

CHR

“Deserve’s Got Nothing to Do with It” - Deconstructing the Self-Dealing Rules for Private Foundations

Brad Bedingfield

The self-dealing rules for private foundations impose a dangerous set of unanticipated and counter-intuitive traps for even well-intentioned family members and fiduciaries of private foundations. This session will provide an overview of these rules, including a discussion of their history and intent, and ways to help clients and fiduciaries identify and avoid the pitfalls.

2:30 – 3:20pm

INT

Don’t Be “Lost in Translation” – A Practical Guide to Estate Administration Involving Foreign Assets and Beneficiaries

Akane R. Suzuki

What do you do when your client dies with assets or beneficiaries in another country? This session will discuss common issues and provide a practical road map for dealing with the decedent’s foreign assets and beneficiaries.

3:30 – 5:00pm

ETH

Ethics and Professionalism in Today's Society: How to Discuss, Address and Promote Diversity, Equity and Inclusion in Your Trusts and Estates Practice and with Your Clients

FS

**Steven K. Mignogna ♦ Gerard G. Brew ♦ Crystal West Edwards
Terrence M. Franklin ♦ Richard W. Nenzo**

The panelists will address ethics and professionalism, with a focus on how to discuss, address and promote diversity, equity and inclusion in the trusts and estates practice and with clients. Each panelist has personal experience in dealing with diversity, inclusion and elimination of bias - e.g., ethnic and racial diversity, challenges to those with disabilities - and as such each panelist will bring a unique perspective on the topic.

Professionalism, Diversity, Elimination of Bias credit will be applied for.

Wednesday, March 30, 2022

9:30 – 10:20am

FS

One Hundred Percent of Marriages End: Elective Share (And Community Property) Planning for Modern Love and Migrating Couples

Terry L. Turnipseed

Modern love means planning for this inevitability and for domicile changes (1) between elective share jurisdictions, and (2) between separate and community property jurisdictions. Failure to plan can have grave consequences for clients. This presentation will not only discuss migrating couples but also planning for and around the elective share.

10:30 – 11:20am

FS

Everything's Up to Date in Rapid City: New Norms in Trust Law

M. Read Moore

TRU

In the last two decades many states have significantly changed their law of trusts, including such things as decanting, directed trusts, nonjudicial agreements, purpose trusts, and disclosure requirements. As a result, trust law now varies quite a bit from state to state. This presentation will highlight some of the most significant recent changes in trust law and how courts are interpreting the new laws.

11:30am – 12:30pm

Question and Answer Panel

Turney P. Berry ♦ Jonathan G. Blattmachr ♦ Carlyn S. McCaffrey

The panel will answer questions from attendees regarding timely estate planning topics.

Questions for this panel may be submitted ahead of time via email to Heckerling@law.miami.edu.

12:30 – 2:00pm

Lunch

2:00 – 5:15pm

CONCURRENT SESSIONS

2:00 – 5:15pm

FUNDAMENTALS PROGRAM

TRU

Elder Law and Special Needs Planning

Bernard A. Krooks ♦ Robert B. Fleming

News flash: America is aging! You already knew that – but are you ready to deal with your clients', your family's and your own aging? From two years of pandemic insecurity we have learned that infirmity and disability can strike any of us, at any age. Elder law (including planning for special needs) is a growing area of practice – and it's more than just Medicaid planning.

BFA

Business and Financial Assets

CHR

Charitable Giving

ETH

Ethics

FS

Focus Series

INT

International

TRU

Trusts

2:00 – 3:30pm

CONCURRENT SESSIONS

TRU

Review of the Past Year's Significant, Curious, or Downright Fascinating Fiduciary Cases

Dana G. Fitzsimons Jr.

This session will review selected reported fiduciary litigation decisions from 2021 that relate to multiple areas of estate planning, estate and trust administration, the fiduciary duties of agents, administrators, trustees, and other fiduciaries, and related trial practice, and identify and discuss navigating contemporary fiduciary challenges.

OR

ETH

So You Think You Can Dance? The Ethics of Fixing Bad Moves

Lauren J. Wolven ♦ Stephanie Loomis-Price ♦ Stephanie Perry

Practicing law, particularly tax law, can feel like dancing on the head of a pin at times. We are all human, and errors will occur. The panel will explore ethics considerations in managing mistakes and will present practical solutions for dancing your way out of danger.

3:30 – 3:45pm

Break

3:45 – 5:15pm

CONCURRENT SESSIONS

INT

Around the World in 90 Minutes - Selected Issues in Cross-Border Estate Administration

Akane R. Suzuki ♦ Leigh-Alexandra Basha ♦ Michelle Graham ♦ R. Ray Rubin

The panel will feature lawyers sharing their practical experience as U.S. practitioners dealing with inheritance and estate administration issues in France, Mexico, Canada, and Japan.

OR

BFA

Domestic Private Placement Life Insurance – It Ain't So Private Any More

Mary Ann Mancini ♦ Lawrence Brody ♦ Mike Cohn

FS

Private Placement Life Insurance in the United States is becoming much more popular than in the past. We used to dismiss it as an insurance product that was only utilized by the super-rich, but your normal average multi-millionaire client is now interested in the product for multiple purposes, including its use in non-qualified plans. This panel consists of professionals who deal with this product regularly and will discuss the pros and cons, consequences and planning necessary to advise clients who are considering domestic private placement insurance.

- 9:30 – 10:20am** **CHR** **When Charity Does Not End at Home – Options for Tax-Effective International Giving**
INT **Martin Hall**
The Internal Revenue Code permits only U.S. charities to receive income tax deductible charitable contributions from U.S. taxpayers. Nonetheless, options exist for tax-effective international philanthropy. This presentation will explore those options, including gifts to “Friends of” and dual-qualified organizations, and grants made through private foundations and donor advised funds.
- 10:30 – 11:20am** **BFA** **Succession Planning for the Closely Held Business: Universally Unique**
Joshua E. Husbands
The regulatory environment and taxation of private companies is an ever-changing landscape, but the humans who own them are driven by the same desires. This presentation will discuss the human elements behind succession of a business and current strategies for legally and tax efficient options to achieve the client’s goals.
- 11:30am – 12:20pm** **TRU** **It Seemed Like a Good Idea at the Time: Making Changes to an Irrevocable Trust**
Charles A. Redd
The term “irrevocable” has taken on a new, counter-intuitive meaning. Numerous legal mechanisms have evolved to facilitate trust modification, premature termination and decanting. Changing an irrevocable trust is often appropriate, but in some circumstances, there is a dark side. This session will examine both the constructive as well as the undesirable results of trust reengineering.
- 12:20 – 1:30pm** **Lunch**
- 1:30 – 3:00pm** **CONCURRENT SESSIONS**
- CHR** **“Mountains Are Not Fair or Unfair - They Are Just Dangerous” - Practical Tips for Scaling the Self-Dealing Rules for Private Foundations**
Brad Bedingfield ♦ Neil T. Kawashima ♦ Elinor Ramey
This panel will explore how to navigate the private foundation self-dealing rules, including available exceptions and workarounds. It will focus on practical situations involving employment of family members, family offices and provision of coordinated services among family entities, and co-investments.
- OR**
- BFA** **Finding the Success in Succession**
FS **Joshua E. Husbands ♦ Steven B. Gorin ♦ Cristin Conley Keane ♦ Melissa J. Willms**
This panel will discuss techniques for business succession planning both from a technical and legal standpoint, and will provide insights on structures that have worked well in the panelists’ real-world experience.

3:15 – 4:45pm

TRU

State Income Taxation of Trusts: Even Florida Practitioners Should Know This Stuff!

Richard W. Nenno ♦ Matt Brown ♦ Toni Ann Kruse ♦ Karin Prangley ♦ Vincent C. Thomas

Clients and their advisers must take account of state income taxes when establishing new trusts; trustees everywhere have a continuing duty to minimize these taxes. With personal income tax increases causing more and more residents of high tax locales to flee to sunnier climes, practitioners even in Florida and other no-tax states must be conversant with this subject in order to advise new clients who come bearing trusts that have been paying state taxes. The knowledgeable panelists will explain the rules in California, Illinois, New Jersey, New York, Pennsylvania, and other taxing states of interest to Institute attendees.

OR

FS

How to Marry a Millionaire (And Where to Live While You're Married)—A Practical Discussion of How Elective Share and Other Testamentary Restrictions Can Impact Estate Planning

Jonathan Lasley ♦ Suzanne Tucker Plybon ♦ Alex S. Tanouye

Elective share laws and other testamentary restrictions pose significant challenges – especially when multiple jurisdictions are involved. Understanding spousal inheritance protections and proper planning can lessen the impact of these restrictions, help avoid ethical potholes, improve tax and non-tax outcomes, and maximize clients' freedom to dispose of assets.

Friday, April 1, 2022

9:30 – 11:00am

BFA

Estate Planning for Retirement Benefits

Natalie B. Choate

What clients can, should, must, or may no longer do with their retirement accounts, now that we have (hopefully by then!) SECURE regulations and 9 count them 9 more changes in the IRA rules (thanks to Building Back Better) (if enacted...)

11:00 – 11:15am

Break

11:15am–12:15pm

FS

Wrap-Up: Some of the Best Ideas of the Institute

S. Stacy Eastland ♦ Austin Bramwell ♦ Ellen K. Harrison

Culminating the week's excellent programs, the panelists will summarize and synthesize the valuable information and ideas presented for your practice.

ACCREDITATION

Continuing legal education credit has been applied for in 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 through May 1, 2022. Continuing education credit will only be granted 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; **Amount of Recommended CPE credit:** 29 hours; **Recommended Field of Study:** Behavioral Ethics – 1.5; Regulatory Ethics – 2.5; Specialized Knowledge – 5.5; Taxes – 20.5; **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.

GENERAL INFORMATION

REGISTRATION

Early Registration Fee: \$950 (Registrations received prior to February 15, 2022)

Regular Registration Fee: \$1000 (Registrations received on or after February 15, 2022)

Discounted Registration Fee for Full-Time Law School Faculty: \$700 (Please email your request to Heckerling@law.miami.edu and provide the name of the law school where the attendee is a full-time faculty member.)

The registration fee includes access to the virtual educational programming and online Institute materials. In addition, recordings of all sessions will be available through May 1, 2022. Advance online registration is required. To register online, please visit our website www.law.miami.edu/heckerling. Register by Friday, March 11, 2022 to be included on the Institute Registration List. For additional information please email Heckerling@law.miami.edu. Sharing registrations is not permitted.

INSTITUTE ACCESS AND MATERIALS

One week prior to the conference, registered attendees will receive their unique username and password via email to download the Institute materials. The same unique username and password will be used to access the live virtual presentations during Institute week. Attendees will also be able to view online recorded videos of all the sessions. The recordings will be available online through May 1, 2022. Continuing education credit will only be granted for sessions attended in real-time. The conference materials are copyrighted and cannot be duplicated, reused, or shared without the written consent of the Heckerling Institute.

CANCELLATIONS, COMPLAINTS, AND REFUNDS

Registration fees are non-refundable. For information regarding administrative policies, please email Heckerling@law.miami.edu or call 305-284-4762.

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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

The proceedings of the 55th Annual Heckerling Institute (May 2021) are currently available from LexisNexis. For information on orders for the 56th Annual Heckerling Institute contact Tracy Nash at Tracy.M.Nash@LexisNexis.com. 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.

SAVE THE DATE

57th Annual Heckerling Institute on Estate Planning
January 9 – 13, 2023
Orlando World Center Marriott Resort
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