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3. Estate Planning Update: Various Issues

By Jeffrey N. Pennell

- Priority Guidance Plan
- “Welfare” as an Ascertainable Standard
- Who Is a Trust Settlor?
- Taxable Albeit Nongeneral Powers of Appointment
- Failed FLP with a Side of Crummey Success
- New Circular 230 Ethics Rules
- Government’s John Doe Summons Rejected
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- Multi-Jurisdictional Practice (MJP) Ethics Concerns
- Property Settlements Incident to Divorce
You’ll learn about the most important changes in estate planning practice from a nationally renowned faculty, led by Professor Jeffrey N. Pennell.

What You Will Learn

Participate in this live video webcast to stay current on developments and trends affected by important recent legislation, regulations, rulings, and cases. These topics are likely to be addressed, among others (the panel reserves the right to alter content as it sees fit):

- **Blair Stover**: Roth IRA abuse, (8th Cir.) and **Pascall**: Excess contributions to Roth IRA
- **Chancellor**: "welfare" is an ascertainable standard
- **In re Clark**: Inherited IRA bankruptcy protection
- **Hendrix & Petter**: defined formula provisions validated
- **Turner**: Family limited partnership discounts denied; Crummey power respected
- **Notice 2011-66 + Rev Proc 2011-41**: Carryover basis
- **Proposed §67(e) Regulations**: unbundling for the 2% loss of deductions for trusts and estates

Program Schedule

*(All times eastern daylight)*

**12:00 p.m.** Advanced Estate Planning Practice Update discussion begins
-- 15 minute Intermission (mid-program)

**3:15 p.m.** Adjournment

Total 60-minute hours of instruction: **3.0**; 50-minute hours: **3.6**

Suggested Prerequisite: Significant experience in Estate Planning.

Educational Objective: Development of proficiency in performance of intricate and complex legal tasks within a narrow area, provision of information on recent legal developments; maintenance of professional competence as a practitioner.

Level of Instruction: **Advanced**
Nothing in this program, the program materials, or communications stemming from the program (including questions and answers) should be considered as the rendering of legal advice. Non-lawyers should seek the advice of a licensed attorney in all legal matters. Registrants/readers should assure themselves that these presentations/materials/communications are still current and applicable at the time they are delivered or read. Neither ALI-ABA nor the speakers/authors can warrant that these presentations/materials/communications will continue to be accurate, nor do they warrant them to be completely free of errors when delivered/published. Registrants/readers should verify statements before relying on them. These presentations/materials/communications reflect the viewpoints of their speakers/authors and do not necessarily express the opinions of ALI-ABA Continuing Professional Education or its sponsors. The members of this program's faculty are contributing their services to further the continuing legal education of their fellow members of the Bar.
ALI-ABA Topical Courses
Advanced Estate Planning Practice Update:
Fall 2011

September 22, 2011
Live Video Webcast

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Visiting Adjunct Professor, University of Miami School of Law Graduate LL.M.
Program in Estate Planning (1980-1993, since 2000)
Academic Fellow, American College of Trust and Estate Counsel (Regent, 1992-1998);
Academician, International Academy of Estate and Trust Law
Memberships: American Law Institute (Adviser, Restatement (3d) of Property (Wills and
Other Donative Transfers); Adviser, Restatement (3d) of Trusts); American Bar
Association (Chair, Probate & Trust Division Income and Transfer Tax Planning
Group 2004-2006; Member of Council, 1990-1998, Real Property, Trust and
Estate Section); Advisory Committee, Heckerling Institute on Estate Planning
Publications include: CASNER & PENNELL ON ESTATE PLANNING (6th ed.) (3 vols.
CCH); WEALTH TRANSFER PLANNING AND DRAFTING (West, 2005);
ESTATE AND TRUST PLANNING (Co-Author) (ABA, 2005); FEDERAL
WEALTH TRANSFER TAXATION (4th ed.) (West, 2003); ESTATE TAX
MARITAL DEDUCTION (BNA Tax Management Portfolio: Estates, Gifts, and
Trusts No. 843 - 2005); ESTATE TAX APPORTIONMENT (Co- Author) (BNA
Tax Management Portfolio: Estates, Gifts, and Trusts No. 834 - 2001); INCOME
TAXATION OF TRUSTS, ESTATES, GRANTORS AND BENEFICIARIES
(West, 1987)
Planning Chair, ALI-ABA Courses of Study, Estate Planning in Depth (1990-2003);
Annual Estate Planning Update; Skills Training for Estate Planners (1995-2007);
Advanced Estate Planning Techniques

FACULTY

Lawrence P. Katzenstein, St. Louis, Missouri
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A.B., Washington University; J.D., Harvard University
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Committee)
Honors: Listed in "Best Lawyers in America"
Memberships: American Bar Association (Section of Taxation: Past Chair, Charitable
Trust Subcommittee of Fiduciary Income Tax and Exempt Organizations
Committee; Past Chair, Fiduciary Income Tax Committee); Missouri Bar
Association; Bar Association of Metropolitan St. Louis; National Association of
College and University Attorneys; New York University School of Law, National
Center on Philanthropy and the Law (Board of Advisors); Saint Louis Symphony
Orchestra (Trustee and Member of Executive Committee); American Civil
Kathleen R. Sherby, St. Louis, Missouri
Bryan Cave LLP

Kathleen Sherby's practice involves representation of private individuals in all aspects of wealth transfer planning, including the implementation of sophisticated planning techniques involving grantor retained annuity trusts, family limited partnerships/limited liability companies, charitable remainder trusts, charitable lead trusts and other similar wealth transfer techniques.

Ms. Sherby has represented both trustees and beneficiaries on a wide variety of fiduciary issues and has advised trustees over the years as to their fiduciary duties in administering trusts. In addition, Ms. Sherby has represented the taxpayer in estate and gift tax audits, in U.S. District Court, the U.S. Tax Court, and in the Missouri Supreme Court.

A particular focus of her practice is estate planning for retirement benefits, integrating the planning for minimization of transfer tax and income tax with the required minimum distribution rules.

Ms. Sherby has represented many business owners in developing an effective business succession plan, which has included strategies to transition the business to the next generation as well as working through the sale of the business where appropriate. She has also advised trustees on handling and selling a business and real estate as unique trust assets.

Ms. Sherby is a well-know national lecturer on all of these topics at significant national conferences.

An active participant in the estate planning bar, Ms. Sherby is a Fellow of the American College of Trust and Estate Counsel, and is currently Secretary and a Regent of the College and chair of the Employee Benefits in Estate Planning Committee and has served as Missouri State Chair. She has also served as chair of the Probate and Trust Committee of the Missouri Bar, as chair of the Probate Section of the Bar Association of Metropolitan St. Louis and as president of the Estate Planning Council of St. Louis.

Areas of Concentration:
Estate planning for retirement benefits, planning for privately held businesses including succession planning, all phases of estate planning, fiduciary and tax litigation, post mortem planning and trust administration including fiduciary income taxation and principal and income accounting, and the negotiation and preparation of marital agreements.