



**44TH ANNUAL
HECKERLING INSTITUTE
ON ESTATE PLANNING**

JANUARY 25 - 29, 2010

**ORLANDO WORLD CENTER MARRIOTT
RESORT AND CONVENTION CENTER**

ORLANDO, FLORIDA

**The Best Return on Your
Continuing Education
Investment**

Scope

The Heckerling Institute on Estate Planning is the nation's leading conference for estate planning professionals. The Institute covers topics of timely interest to every member of the estate planning team including attorneys, trust officers, accountants, insurance advisors, and wealth management professionals. Our comprehensive educational programming, combined with unparalleled networking and professional development opportunities, make attending the Heckerling Institute an essential component of your plan for professional education and advancement.

Recent Developments: A panel on Monday afternoon, featuring three of the nation's foremost estate planning experts, will guide you through the year's most significant legislative, regulatory and case law developments. On Tuesday, a second panel of experts will focus on the practical planning implications of both recent and expected developments as well as on planning strategies for the future.

Cutting-Edge Planning Techniques: Our general session lectures and special session presentations, will provide in-depth analysis and practical guidance on a wide variety of the latest planning techniques and strategies of interest to experienced estate planners.

Closely-Held Business Planning: A special focus series offers a comprehensive look at the wide range of tax and non-tax issues associated with planning for the closely-held business, from the formation of the entity to disposition of the business interest. Sessions in the focus series are designated: **FS**

Planning with Financial Assets: Our series begins with a look at the economic forecast and its potential impact on estate planning. The series also includes an in-depth look at planning with GRATs and with life insurance. Sessions in the financial assets series are designated: **FIN**

Fundamentals: This series is of interest to both new and experienced practitioners seeking a thorough review of three important planning areas. The programs cover choice of entity and buy-sell agreements, asset protection planning, and practical issues in drafting retirement beneficiary designations.

Networking and Practice Development: As the nation's largest gathering of estate planning professionals, the Institute offers a unique opportunity to exchange ideas, network, and review the latest in technology, products and services displayed in an exhibit hall dedicated entirely to estate planning.

Please join us in Orlando, January 25 - 29, 2010, to take advantage of this unparalleled event!

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Institute Schedule

Sunday, January 24

2:00 – 6:00 **Registration**

Monday, January 25

7:00 – 9:00 **Registration**

9:00 – 10:30 **PRE-CONFERENCE FUNDAMENTALS PROGRAM**
10:45 – 12:15 **Getting Off to the Right Start: Choosing the Right Entity and the Right Agreements**

FS

Louis A. Mezzullo

This presentation will cover choosing the right entity and buy-sell agreements for the closely-held business and will include a discussion of both tax and non-tax issues. Sample forms will be provided and discussed.

Lunch

2:00 – 2:10 **Introductory Remarks – Tina Portuondo, Institute Director**

2:10 – 3:30 **Recent Developments 2009**
3:45 – 5:15

Dennis I. Belcher ♦ Carol A. Harrington ♦ Jeffrey N. Pennell

6:00 – 7:00 **Complimentary Reception for Registrants**

Tuesday, January 26

9:00 – 9:50 **Thanks, But No Thanks – Disclaiming Assets, Interests, and Powers**

Ann B. Burns

Disclaimers are used today more than ever because they can provide flexibility for planning in uncertain times. However, using disclaimers can be complicated. This session will focus on the use of qualified disclaimers of assets, interests in trusts, and powers held as trustee and beneficiary, including the use of formula disclaimers.

9:50 – 10:40 **How to Do Your Roth IRA Conversion in 2010**

Christopher R. Hoyt

The year 2010 marks the first year that wealthy individuals can convert a conventional retirement account into a Roth IRA and can even defer the tax liability into 2011 and 2012. When does it make sense to do a conversion? When not? What are the mechanics? How are mistakes corrected?

Break

10:55 – 11:45

The Good, the Bad, and Avoiding the Ugly: Mending Wayward Wealth Transfer Strategies

John F. Bergner

GRATs and installment sales often transfer wealth in a tax-efficient manner. Sometimes, they may not yield the expected results. Unsuccessful economic performance, changes in circumstances, or drafting errors – these events may require an “exit” strategy. This session discusses various exit strategies and planning for an exit strategy before problems arise.

11:45 – 12:35

Escaping from the World of FLPs: Can You Get Out Without Paying a Boatload of Taxes?

Richard B. Robinson

Whether the result of family dynamics, bad economics or changing tax laws, partners need to exit from and/or unwind family limited partnerships. Hidden problems are always lurking and the tax consequences are often surprising.

Lunch

2:00 – 3:40

Charting New Paths for Estate Planners Through the Changing Landscape of Tax Laws and Regulations

Steve R. Akers ♦ Ronald D. Aucutt ♦ Carlyn S. McCaffrey

2009 was a very active year for legislative and regulatory developments. The panel will focus on practical planning strategies in light of the changes, and will address changes on the horizon. These developments may impact the overall approach to estate planning for many clients, and may impact a wide variety of strategies including GRATs, FLPs, and *Graegin* notes, among others.

Break

3:55 – 4:45

Planning for Life After Death: Laws of Succession vs. the New Biology

Joshua S. Rubenstein

Most of us are accustomed to having relatively broad ability to control the disposition of our property following our deaths. It comes as a surprise how little ability we have to control the disposition of ourselves, and the uses to which we can be put, following our deaths. This session will examine the ability to control burial and the disposition of body parts, the posthumous use of our genetic material, inheritance by posthumously procreated individuals, and exhumation for the purpose of genetic testing.

4:45 – 5:35

FS

How to Succeed (Ethically) in Business Succession Planning

Cynda C. Ottaway

Wind your way through the maze of ethical rules to determine what you should and should not be doing to help your clients develop an appropriate succession plan for their family business. Consider the multiple possibilities of “who is the client” and ways to structure the relationship. Review samples of engagement letters which can provide helpful protection for you and the client.

Wednesday, January 27

9:00 – 9:50

FS

Putting the Horse Before the Cart: Non-Tax Issues in Business Succession Planning

Charles D. “Skip” Fox IV

Most closely-held businesses fail to survive even one generation because of a failure to consider the non-tax aspects of succession. This session will examine the non-tax issues that the owners of a closely-held business must consider to ensure a successful transition in ownership.

9:50 – 10:40

FS

ESOPs – The Most Tax Efficient Ownership Transition Strategy

Laurence A. Goldberg

For a business owner, estate planning begins with a strategy for monetizing the value of the business in a tax efficient manner. An ESOP can provide tax free liquidity for the owner, enhanced financing capability for the company and tax deferred growth to the employees. Non-tax benefits include rewarding loyal employees and preserving the legacy of the business. This session will include ESOP basics, as well as advanced concepts.

Break

10:55 – 12:35

Question and Answer Panel

Dennis I. Belcher ♦ Carol A. Harrington ♦ Jeffrey N. Pennell

Lunch

2:00 – 3:30

3:50 – 5:20

FUNDAMENTALS PROGRAM (Runs concurrently with the Special Sessions)

Keeping it all in the Family: Asset Protection Planning

Gideon Rothschild

No longer is asset protection limited to offshore strategies. This presentation will examine the techniques and legal strategies utilized to obtain maximum wealth protection, including exemption planning, limited liability entities, third party trusts and self-settled trusts (domestic and offshore). The discussion will include the income, estate and gift tax consequences of utilizing such strategies and an analysis of fraudulent transfer principles, ethical considerations, and case law developments.

Special Sessions I

2:00 – 3:30

FS

I-A – Integrating the Estate Plan with Business Succession Planning

Louis A. Mezzullo ♦ Ann B. Burns

This session will use several fact patterns to illustrate how the business owner's estate plan should be coordinated with the succession plan for the business, highlighting both tax and non-tax issues.

I-B – Family Limited Partnership Valuation and Audit Issues: Where are We Now and What Do We Do?

John W. Porter ♦ Milford B. Hatcher, Jr. ♦ Lee C. Schwemer

This panel will take a practical approach to dealing with current issues involving the transfer of interests in family limited partnerships and other closely-held entities from the perspective of the estate planner, the litigator, and the IRS. Particular emphasis will be placed on dealing with issues involving Section 2036, Chapter 14, formula transfers, valuation, and any recently passed/proposed legislation regarding closely-held entities.

I-C – For Better or Worse: What's Right About a Pre-Nuptial Agreement?

**Max Gutierrez, Jr. ♦ Robert S. Cohen
Amy E. Heller ♦ Carlyn S. McCaffrey**

This session will explore tax and state law issues that arise in structuring and negotiating pre-nuptial and post-nuptial agreements. The panel will provide perspectives on pitfalls and opportunities from estate planning and matrimonial lawyers.

I-D – Where No Ethics Have Gone Before – Doing Right in a Changing World

John T. Rogers, Jr. ♦ Cynda C. Ottaway

We are constantly bombarded (photon torpedoed?) these days by new technologies and new legal requirements. (Do your tweets include Circular 230 disclosures?) This session will attempt to provide some guidance for navigating through the new ethical minefields created by these developments.

I-E – Using Taxes to Settle Trust and Estate Litigation

Joshua S. Rubenstein ♦ Charles Rubin

This session will examine both proceedings that can be brought for the purpose of reducing taxes, and the ability to use tax planning in contentious situations to create additional funds with which to settle substantive disputes.

FIN**I-F – Planning is No Picnic When the Forecast is Unclear****Donna G. Barwick ♦ M. Cary Leahey ♦ Daniel H. Markstein, III**

A current economic forecast by an expert economist followed by an examination of estate planning techniques, understanding that the forecast can be very right or very wrong.

Break**Special Sessions II**

3:50 – 5:20

FS**II-A – What Estate Planners Need to Know About Operating a Closely-Held Business****Richard B. Robinson ♦ Andrea C. Chomakos ♦ Steven B. Gorin**

This session will focus on common and unexpected income tax and other consequences of operating a closely-held business.

II-B – Family Limited Partnership Valuation and Audit Issues: Where are We Now and What Do We Do? (Repeat of Special Session I-B)**John W. Porter ♦ Milford B. Hatcher, Jr. ♦ Lee C. Schwemer****II-C – Current Issues in Charitable Planning****Jerry J. McCoy ♦ Christopher R. Hoyt**

An interactive session including a review of legislative, administrative and judicial developments affecting charitable gift planning, with emphasis on practical implications, including charitable uses of retirement assets, and solutions for recent IRS rulings that denied charitable income tax deductions.

II-D – Counseling King Lear and other Lessons from an Elder Law Practice**Douglas G. Chalgian**

Understand why the practice of elder law is growing, and the legal issues that commonly arise in an aging and, at times, vulnerable population.

II-E – Bomb Proofing the Estate Plan: Version 2.0**Bruce S. Ross ♦ Bruce M. Stone**

An estate planner and a trial lawyer discuss how to eliminate or minimize litigation by building the evidentiary record during the estate planning process, using forfeiture clauses, conditional gifts, arbitration, eliminating information disclosure, and other methods.

II-F – Life Insurance and the Economic Downturn – Applying Universal Truths to Variable Circumstances, the Whole (Life) Story

Lawrence Brody ♦ Mary Ann Mancini
Charles L. Ratner ♦ Randy L. Zipse

As the economy struggles clients increasingly look at insurance as a solution to their investment, business, charitable and estate and personal financial planning needs. This program will explain what types of insurance products are available, how they work, their advantages and disadvantages, and how, working with a client's insurance professional, to develop a methodology to help a client design and select an appropriate product.

Thursday, January 28

7:45 – 8:45

Florida Insurance: Issues Relating to Unauthorized Entities

(Attendance is required for insurance professionals seeking CE credits in Florida)

9:00 – 9:50

Frozen Brain: Estate Planning Strategies for QTIP Trust Assets

M. Read Moore

The assets of a QTIP trust may be a substantial part of a client's taxable estate on his or her death. The provisions of the trust instrument and tax law, however, will often give you a headache when you try to apply typical estate planning strategies for individually owned assets to QTIP trust assets. This presentation will address the special gift tax and estate tax rules that apply to QTIP trusts and discuss strategies to minimize wealth transfer taxes for QTIP trust assets.

9:50 – 10:40

Still *Crummey* After all these Years

Donald O. Jansen

Although judicially blessed since 1968, the IRS doesn't like *Crummey* powers. Designed for gift tax purposes, they may have adverse income, estate or GST tax consequences. Learn about their relationship with grantor trusts, the 5 and 5 exception, the GST transferor rules and the latest IRS obstacles and attacks.

Break

10:55 – 11:45

Looking for Law in all the Right (and Wrong) Places: Forum Shopping Opportunities, Unintended Consequences, and the Duties of the Estate Planner

Jeffrey A. Schoenblum

Can the estate planner continue to resort solely to home state law for local clients or is there actually a duty to incorporate into the estate plan potentially more favorable laws from other jurisdictions? If the latter, how exactly do you accomplish this incorporation of other laws? What are some examples of specific benefits? Are there real risks? This session will address these questions and related ones.

11:45 – 12:35

FATF & the Lawyer Guidance

Duncan E. Osborne

The Financial Action Task Force is seeking to impose its will on the practice of law. This presentation will examine the practical impact of the FATF's efforts.

Lunch

2:00 – 3:30

3:50 – 5:20

FUNDAMENTALS PROGRAM (Runs concurrently with the Special Sessions)

Your Life Preserver! The Retirement Benefits Drafting Immersion Workshop

Natalie B. Choate

Stay afloat and learn: How to draft beneficiary designations and trusts-to-be-named as beneficiary, including pecuniary, fractional, and formula clauses, marital deduction, trust accounting, charitable bequests, disclaimers, conduit and other “see-through” trusts. When to use a separate trust for benefits. Includes forms, checklists, trust-testing questionnaire, and how to communicate with plan administrators.

Special Sessions III

2:00 – 3:30

FS

III-A – Planning for the Closely-Held Business – Exit Strategies During Life

**Charles D. “Skip” Fox IV ♦ Thomas W. Abendroth
Laurence A. Goldberg**

This session will focus on different tax techniques that can be used during life to implement a successful ownership transition plan for a closely-held business. Techniques to be discussed include gifts, freezes, buy-sell agreements, discounts, GRATs, sales to irrevocable trusts, redemptions, and ESOPs.

III-B – Qualified Disclaimers – What Part of “No” Don’t you Understand?

Ann B. Burns ♦ David A. Handler ♦ Douglas L. Siegler

This panel will provide a deeper understanding of the issues surrounding the use of qualified disclaimers, including sample drafting language.

III-C – Current International Developments

Duncan E. Osborne ♦ David Brownbill ♦ Ellen K. Harrison

The panelists will discuss current international developments in estate and trust law. The focus will be primarily on tax issues and important case law developments in the United States and abroad.

III-D – Estate Planning for QTIP Trust Assets

M. Read Moore ♦ Joy M. Miyasaki

This session will explore ways a client who has substantial assets in a QTIP trust can engage in effective estate planning for those assets without tripping over the complicated tax rules and trust-related restrictions that apply.

FIN

III-E – Enhance GRATs, Grantor Trust Sales, and Family Loans with Financial Engineering

Mark R. Parthemer

Upgrade wealth transfer techniques by integrating investment planning, and understand (1) why GRAT investments dictate the optimal number and term, (2) why it isn't about growth in GRATs, but capturing volatility, (3) when 9-year notes undermine a grantor trust sale, and (4) how to structure a bond portfolio family loan.

Break

Special Sessions IV

3:50 – 5:20

FS

IV-A – Exit Strategies at Death for the Private Business Owner and How to Avoid the Forced Sale of a Private Business

Dennis I. Belcher ♦ Turney P. Berry ♦ Mary Ann Mancini

The family of a private business owner often faces significant liquidity needs at the business owner's death. One alternative to meet these needs is a sale of the business but the owner's death can be the worst possible time for a sale. The panelists will use the case method to illustrate how to avoid a forced sale of a private business using effective financing of life insurance to meet cash needs, creative charitable planning techniques to reduce cash needs, and estate tax deferral techniques.

IV-B – Unwinding Bad Transactions

John F. Bergner ♦ Milford B. Hatcher, Jr. ♦ Richard B. Robinson

The panel will explore in further detail the issues identified in the Tuesday presentation on exit strategies for GRATS and installment sales.

IV-C – Forum Shopping in Depth

Jeffrey A. Schoenblum

A more detailed examination of the drafting opportunities and pitfalls associated with forum shopping so as to deliver the most to your client while satisfying your own professional responsibility.

IV-D – Anatomy of a *Crummey* Power

Donald O. Jansen

A sample *Crummey* hanging power will be dissected to determine the purpose of the various provisions – creation of the power, notification provisions, exercise rights, lapse of the power, hanging power, incapacitated power holder, power to change withdrawal rights, etc.

IV-E – What’s a Planner to Do When Clients Bring Dysfunctional Families?

Glen A. Yale ♦ Michael D. Simon

Difficult client situations are this panel’s focus. Planning and drafting for dealing with children on substances, in prison, or in toxic marriages; when parents do not like children or grandchildren for good reasons or bad.

Friday, January 29

9:00 – 9:50

Fiduciaries and Their Lawyers: Tempting Targets in Troubled Times

Randall W. Roth

Inadequate documentation coupled with hindsight bias can make competent fiduciaries, and maybe their lawyers, look like sitting ducks. This presentation will focus on the areas of fiduciary responsibility in which most claims are made, and on effective ways to establish that fiduciaries and their lawyers met their respective standards of care.

9:50 – 10:40

Financed Net Gifts: No-Hassle Asset Transfers

David A. Handler

Our clients often say, “Can’t I just give them the money?” and “When I’m gone, the estate taxes are the kids’ problem.” This session will demonstrate how applying that line of thinking for lifetime transfers can transfer more wealth, at a faster pace, and with less risk and complication.

Break

10:50 – 12:00

Applying What We’ve Learned: From A(bendroth) to Z(ipse) in 70 Minutes or Less

Alan F. Rothschild, Jr.

The last few years have brought unprecedented volatility and uncertainty to our clients, the federal transfer tax system and our estate planning practices. This wrap-up session will take a quick tour through the week’s best ideas for repairing broken plans, shepherding family businesses, counseling aging clients, planning post-mortem, and maintaining a professionally rewarding estate planning practice.

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Guest Programs

The Heckerling Institute offers the following programs for our registrants' guests. To register, please complete the appropriate section on the Institute registration form.

Tuesday, January 26th - Appetizer Makeover (\$65) Give your cocktail hour a makeover and meet some new friends! Learn from classically trained chefs how to prepare mouth watering appetizers while working together in a state-of-the-art kitchen. The morning will conclude with a gourmet celebration where you enjoy the fruits of your labor. Board the bus at 10:00 a.m. at the Marriott World Center, convention center entrance. The bus will return to the hotel at approximately 3:00 p.m.

Wednesday, January 27th - Florida Wildlife & Eco Tour (\$65) Cruise the shallow backwaters of the historic St. Johns River with a naturalist. This quiet and smooth two hour cruise allows you to view local wildlife such as eagles, osprey, manatees, egrets, blue herons or even alligators – sightings on each tour will vary. After your cruise, stretch your legs and grab a bite to eat in historic Sanford. Board the bus at 9:00 a.m. at the Marriott World Center, convention center entrance. The bus will return to the hotel at approximately 5:00 p.m.

Thursday, January 28th - The World of Fine Art (\$25) Learn to buy the right furniture, jewelry, art and build your estate. This presentation, by Vivian Pfeifeer of Christie's, will show you how the experts value property, where you can find great buys, what to look for and how to focus on enduring value. You will also get an update on what's hot in the art market and where you may find opportunities. This guest program will be held from 9:00 a.m. – 11:00 a.m. at the Marriott World Center. Please check with the Institute registration desk for location.

General Information

Registration

Advance registration is highly recommended. The \$930 registration fee includes admission to educational sessions, continental breakfasts, the Monday evening Institute reception, and all reference materials available in either print, on CD-ROM or on USB flash drive. To register online please visit our website. You may also mail your completed registration form, and payment by check (payable to the University of Miami School of Law), or VISA, MasterCard, Discover or American Express. Faxed registrations will be accepted only for those paying by credit card. Register by November 13, 2009, to be included in the Conference Guide & Registration List. For additional information please call 305-284-4762.

Cancellations, Complaints, and Refunds

Registration fees are refundable (less a \$75 administrative fee) if written notice is received no later than 12 Noon EST, Friday, January 8, 2010. For more information regarding administrative policies such as complaints or refunds, please call 305-284-4762. **Refunds are not available for guest programs.**

Proceedings

LexisNexis Matthew Bender, will publish the proceedings of the Institute. Registrants may purchase the volume at the LexisNexis exhibit booth. The proceedings of the 43rd Annual Heckerling Institute (January 2009) are now available from LexisNexis. For further information, please direct your inquiries to LexisNexis Matthew Bender at 800-833-9844 or visit www.lexisnexis.com.

Graduate Program in Estate Planning

In addition to hosting the Heckerling Institute, the University of Miami School of Law is the home of a unique law school-based Graduate Program in Estate Planning. For more information on our graduate program visit www.law.miami.edu/estateplanning. To schedule an interview with one of our current students during the Institute please contact us at 305-284-4918.

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 financial planning, banking and insurance professionals. 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. 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 addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: www.nasba.org Program Level: Advanced; Program Prerequisites: General familiarity with estate planning principles; Delivery Method: Group-Live; Recommended CPE credit: 33.5 hours. No advance preparation required. Learning Objectives: Upon completion of the program, participants will be able to identify, analyze and resolve practical estate planning, administration and tax reporting issues.

Travel Arrangements

Headquarters Hotel

Orlando World Center Marriott Resort & Convention Center

Conference Rate: \$236 (single/double) Cut-Off Date: January 1, 2010
Reservations: 800-564-3181 or visit www.law.miami.edu/heckerling

Alternate Hotel Accommodations

Marriott Village at Lake Buena Vista (complimentary shuttle service to/from conference site)

Conference Rate: \$182 (single/double) Cut Off Date: January 1, 2010
Reservations: 877-682-8552 or visit www.law.miami.edu/heckerling

Marriott's Sabal Palms / Marriott's Royal Palms (located on the World Center Golf Course)

Conference Rate: \$239 (two bedroom villa) Cut Off Date: December 13, 2009
Reservations: 888-800-4352 ext. 6344 or visit www.law.miami.edu/heckerling

All hotel rates are subject to availability

Discounted Airfare and Rental Cars

American Airlines is the official carrier for the Institute.
800-433-1790 or visit www.aa.com (Discount Code: 4610AB)

Avis is the official car rental company for the Institute.
800-331-1600 or visit www.avis.com (Discount Code: J787579)

Mears Transportation provides airport shuttle service for the Institute.
800-759-5219 or visit www.law.miami.edu/heckerling for a printable discount voucher

Evening Transportation

Complimentary shuttle to selected dining and entertainment areas will be provided nightly.

Downtown Disney: Monday 7:00 p.m. - Midnight & Wednesday 6:00 p.m. - Midnight

Universal City Walk: Tuesday 6:00 p.m. - Midnight & Thursday 6:00 p.m. - Midnight

SAVE THE DATE!
45th Annual Heckerling Institute on Estate Planning
January 10-14, 2011 at the Orlando World Center Marriott

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