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FINANCIAL INSTITUTE

Join the Monthly Estate Planning Teleconference via Zoom!

JANUARY 23, 2024, 1 PM ET

Hosted by Renowned Attorneys Clary Redd & Turney Berry

Spousal Lifetime Access Trusts – A Fleeting Opportunity

The Tax Cuts and Jobs Act brought historically high estate and gift tax exemptions. With the seemingly inevitable “sunset” of the Act looming on the horizon, spousal lifetime access trusts (“SLATS”) have been widely promoted in recent years as the best “have-your-cake-and-eat-it-too” estate planning strategy out there. In this program, we’ll explore several aspects of the design, creation and administration of a SLAT, including:

- Purposes
- How best to fund to minimize tax risk
- Current and future beneficiaries
- Initial and successor Trustees
- Pitfalls to avoid



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FEBRUARY 20, 2024, 1 PM ET

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State Income Tax Issues with Trusts

There's a wide variety of fiduciary income tax laws among the states. In fact, many states have no fiduciary income tax at all or have a fiduciary income tax regime that is easily avoided. Given these facts, and considering our mobile society, estate planning professionals need to be conversant with how to structure estate planning vehicles and transactions to minimize state income taxes. Many factors, sometimes leading to conflicting results in, or tax being imposed by, multiple states, must be taken into account. During this teleconference, we'll discuss the following:

- How a trust is or may become subject to a state's income tax
- Constitutional challenges to a state's taxation of a trust
- Changing a trust's residency to avoid state income tax
- Determining the source of income for state income tax purposes
- Trusts that are subject to state income tax in more than one state



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MARCH 19, 2024, 1 PM ET

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Deep Dive into Disclaimers

A disclaimer (otherwise known as a renunciation) is nothing more than an unqualified, irrevocable refusal to accept a transfer of property from another person. That simple definition, however, overlooks the complexities associated with the many different tax and nontax contexts in which the making of a disclaimer might be considered and what its results may be. In this session, we'll closely examine many aspects of disclaimers, including:

- Differences in handling under state laws and federal tax law**
- Estate planning uses – including formula disclaimers**
- Special federal tax rules applicable to disclaimers by spouses**
- Disclaimers of transfers at death versus disclaimers of lifetime gifts**
- Effects of disclaimers on disclaimant's creditors**



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APRIL 23, 2024, 1 PM ET

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Shelter from the Storm – Anticipating and Avoiding Breach of Fiduciary Duty Claims

The roles of beneficiary and fiduciary by their inherent nature have the potential to engender conflict. Over recent decades, this conflict has been exacerbated by increasing demands of beneficiaries and expanded theories of fiduciary liability – flowing in part simply from the more litigious nature of society and in part from changes in trust law generally tilting toward enhancing the rights of beneficiaries. This teleconference will address the following themes:

- Always the most common sources of friction: distributions and investments
- Design and use of governing instrument provisions to insulate the fiduciary
- Effect of reliance on counsel by fiduciary
- Effect of waiver and/or consent and/or receipt of accountings by beneficiaries



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MAY 21, 2024, 1 PM ET

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Marital Agreements from A to Z

Marriage dissolution, and the financial obligations that often flow from it, has become so prevalent that a client's planning for this possibility is sometimes nearly as important as his or her core estate planning instruments. Thus, marital agreements, especially among those who have been through divorce, are becoming a foundational component of some clients' financial security. These agreements must be closely coordinated with the client's estate plan. Of frequent concern in this area are:

- What are essential requirements for all marital agreements**
- Tax issues to address in marital agreements**
- Spousal rights in retirement assets**
- Anticipating and handling marital issues with closely-held business interests**



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JUNE 18, 2024, 1 PM ET

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Ethics Issues in a Contemporary Estate Planning Practice

Estate planners and those who administer estates and trusts must frequently adapt to changes in our profession, including evolving ethics-based concerns. We cannot be focused only on our traditional ethics obligations owed to clients and former clients. Many other ethics issues, some of which were never or seldom thought about by estate planning and estate and trust administration practitioners in earlier generations, now arise with increasing frequency. These include:

- Ethics issues relating to managing office technology
- Maintaining confidentiality and the attorney-client privilege when working with a client's other advisors
- Multijurisdictional practice hazards
- Maintaining competence and diligence in an ever-changing and expanding field



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JULY 23, 2024, 1 PM ET

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Nuts and Bolts of Trust Terminations

The idea of bringing trust administration to a conclusion may seem to the Trustee like a relief – and, in many respects, it is. However, terminating a trust isn't nearly as simple as merely distributing its assets (and even that may not be so simple) and walking away. Numerous details must be successfully navigated along the way, and, if they aren't, unhappy beneficiaries will ensure sleepless nights for the Trustee. In this presentation, we'll delve into the following:

- Identifying and locating named or designated remainder beneficiaries
- Properly allocating assets among and distributing them to the remainder beneficiaries
- Income tax and generation-skipping transfer tax returns
- Statutes of limitation on actions by beneficiaries and IRS against Trustee
- Propriety of seeking releases from beneficiaries



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AUGUST 20, 2024, 1 PM ET

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Addressing the Estate Planning Needs of Modern-Day Clients

We must be able to handle the estate planning needs of twenty-first century clients, whether they are children or grandchildren of our established clients or new clients who have already accumulated wealth or are on a trajectory to do so. Some of today's clients adhere to values and live in ways not commonly recognized or understood in society just a few decades ago. Estate planning for these clients may involve considerations and require approaches that are unique relative to our experience with "traditional" or older clients. We'll explore the following:

- Same-sex marriages, civil unions and cohabiting unmarried individuals
- Assisted conception children and children from other relationships
- Dealing with ancestors' trusts whose terms restrict who may be a beneficiary
- ESG investing in a trust



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SEPTEMBER 17, 2024, 1 PM ET

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Multi-Faceted Conflicts Among Trust Beneficiaries, Trustees, the IRS, and the Courts

After the dust has settled, trust beneficiaries who may think they just won the lottery are sometimes surprised to discover that their position in the trust relationship may be less advantageous than they envisioned.

Beneficiaries sometimes must take affirmative steps to enforce their rights and may find that their complaints regarding trust administration are determined not to be justified. Further, in some instances, a beneficiary may be required to account for and return distributions that should not have been made. We'll address the following themes during this teleconference:

- The nature and timing of a beneficiary's claims against a Trustee
- A beneficiary's potential liability to the trust
- The IRS' pursuit of a trust beneficiary for a tax liability
- A beneficiary's standing to sue a third party who transacts business with the trust



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OCTOBER 22, 2024, 1 PM ET

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Durable Powers of Attorney – An Essential Estate Planning Component

Powers of attorney are among the most important estate planning documents for many of our clients. With more people today anticipating or actually grappling with diminished capacity, the assets comprising our clients' wealth may be under the control of an agent for an extended period of time. It is important, therefore, that estate planning professionals ensure that each power of attorney is carefully designed to meet the client's individual purposes and that its acceptance by third parties is optimized. The following critical issues will be discussed during this teleconference:

- Determining appropriate powers to grant to an agent
- Designing powers of attorney to help prevent financial elder abuse
- Liability risks for the agent
- Third parties dealing with the agent



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NOVEMBER 12, 2024, 1 PM ET

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Repair or Replace? The Deficient Trustee

Unfortunately, some trusts, even where the administrative and dispositive provisions are well-designed, fail to operate as intended because the Trustee lacks the ability to be an effective fiduciary. The Trustee's problems may result from his or her having insufficient trust administration expertise and/or a confrontational attitude towards one or more of the beneficiaries. Depending on the nature and extent of the Trustee's shortcomings, resolving the situation may prove difficult. Considerations to be discussed in this teleconference include:

- **Determining whether one or more breaches of fiduciary duty have been committed**
- **How to proceed if no actionable breach of duty has occurred**
- **Possible options for improving quality of administration or relationship with beneficiaries**
- **Removal and replacement of Trustee**



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DECEMBER 10, 2024, 1 PM ET

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Application of Legal Ethics Rules When There's No Attorney-Client Relationship

Our ethical obligations can differ drastically based on the categories of persons with whom we may interact. In estate planning, as well as estate and trust administration, we may be presented from time to time with situations in which the lines between client and non-client are sometimes blurred. We can find ourselves in difficult positions involving:

- **Prospective clients**
- **Unrepresented parties (including beneficiaries and Trustees)**
- **Parties represented by other lawyers**
- **Lawyers serving as Personal Representatives and Trustees**