

newsletter

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Section Newsletter

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NEW FACES

At the Annual Meeting of the Estate Planning and Administration Section on September 11, 1986, new members of the Executive Committee were named. The following are the current members:

<i>Chairperson</i> –	Laurie N. Caldwell
<i>Chair Elect</i> –	Stanley R. Loeb
<i>Past Chair</i> –	Jeffrey E. Boly
<i>Secretary</i> –	Rees C. Johnson
<i>Treasurer</i> –	Valerie J. Vollmar
<i>Members-At-Large</i> –	Carol J. Kyle
<i>(One-Year-Term)</i>	Barry Rubenstein
	John R. Hassen
	Carolyn E. Wilson
<i>Members-At-Large</i> –	Walter L. Crow, Jr.
<i>(Two-Year-Term)</i>	James C. Lynch
	Lawrence B. Rew
	Daniel C. Re

These members will serve until the next annual meeting of the Section.

The Executive Committee has appointed chairs for four Section Committees. Stanley R. Loeb will chair the Legislative Committee; Laurie N. Caldwell will chair the CLE Committee; John Hassen will chair the committee on subcommittees; and Helen Rives-Hendricks will be editor-in-chief of the Newsletter. If you would like to serve on any of the committees please contact the chair. If you would like to work for the section but are unsure on which committee you would like to serve, please contact John Hassen. His committee will serve as a clearinghouse for committee assignments.

Helen Rives-Hendricks

DON'T KISS YOUR ASSETS GOODBYE:

Medicaid Benefits and Nursing Home Costs

The graying of America has been in the news recently, with good cause. The fastest growing population group in the U.S. consists of people over 65. About 5% of these people live in nursing homes. Changes in longevity and other demographic trends have made long term care the hottest growth sector of the health care industry.

Nursing home care is expensive. Oregon nursing homes' charges currently range from \$1,100 to \$3,800 per month. It should come as no surprise that the average nursing home resident runs through his or her savings in less than two years. Once private resources have been exhausted, most nursing home residents apply for Medicaid benefits to help pay the cost of care.

Medicaid is a joint federal-state program designed to provide medical assistance to low income individuals and families, pursuant to Title XIX of the Social Security Act, 42 USC §§1396 *et seq.* In Oregon, the long term care component of Medicaid is administered by the state Senior Services Division and local Area Agencies on Aging. Oregon's Medicaid program paid over \$78,000,000 for nursing home care in 1986. That figure represents roughly 60% of annual nursing home revenues. Medicaid also pays for other forms of long term care, such as in-home services and adult foster care, as well as for physicians' services, prescription drugs, inpatient and outpatient hospital care and additional medical services.

An individual who needs nursing home care (or other long term care) may have income up to 300% of the Supplemental Security Income (SSI) standard and still qualify for Medicaid. OAR 461-04-635. For 1986, the SSI standard was \$336 and the Medicaid limit was \$1,008 per month. The individual may also have a small amount of savings (\$1,700 in 1986), a burial or funeral fund of up to \$1,500, and certain other resources listed in OAR 461-04-076. A nursing home resident's home is not counted as a resource if the resident plans to return to it or if the home is occupied by the resident's spouse or disabled child. OAR 461-05-908.

Transfers of assets, a major estate planning technique, can delay or destroy Medicaid eligibility. The state treats any resource which was disposed of for less than fair market value during the 24 months preceding a Medicaid application as still being available to the applicant. The resulting period of ineligibility will vary according to the uncompensated value of the gift. The major exception to the general prohibition against transfers appears in OAR 461-04-070, which permits the applicant to transfer his or her interest in the family home to a spouse or a minor or totally disabled child.

Practitioners have developed a number of planning strategies to meet the needs of individuals and couples who anticipate applying for Medicaid. These strategies have proved useful in maximizing the resources available to the nursing home resident to cover those expenses not paid by Medicaid (e.g., clothing, dentures, cigarettes, telephone service, books and magazines) and preventing the impoverishment of the unimpaired spouse. As the population ages, it is crucial that attorneys explore these options with their estate planning clients.

An obvious strategy is for a client to complete any contemplated gifts more than 24 months prior to applying for Medicaid. This strategy also has obvious drawbacks, including loss of control and the unpredictability of future

medical care needs and expenses. Many married couples take advantage of the provision which allows the house to be transferred to the unimpaired spouse. A word of caution: While such a transfer will not affect Medicaid eligibility, it may trigger a due on sale clause in a mortgage, terminate senior citizen property tax deferral or have other negative impacts.

The issue of ownership plays a major role in determining the utility of various strategies. The state presumes that any funds in a joint bank account are available to the Medicaid applicant. OAR 461-04-081(3). There is a strong argument that any other owner would be entitled to an equal share, if not the entire account. Normally the state will not challenge 50%-50% splits of joint accounts by married couples. Couples in the process of helping one spouse spend down to Medicaid eligibility limits while the other spouse remains at home should have no difficulty using joint funds to make repairs or reduce the mortgage on a home owned by tenancy by the entirety. It may be possible to fund such activities solely from the impaired spouse's share.

If the individual applying for Medicaid owns an undivided interest in real or personal property, and the other owners are unwilling to dispose of the property, the property is not counted against the applicant's resource limits. OAR 461-04-170(2). The applicant's interest is also treated as having no value if it is not saleable. However, if the property generates income or is sold at a later date, the state requires that the Medicaid recipient receive his or her proportionate share of the net proceeds.

Married couples may experience particular financial difficulties when one spouse enters a nursing home. Under OAR 461-04-635(2), a nursing home resident must apply virtually all of his or her income to the cost of care, except for a small monthly personal needs allowance of \$25. Consider the situation of a couple in which the husband receives \$950 in monthly Social Security and pension benefits and the wife gets Social Security benefits of \$400 per month. If the husband is in a nursing home and qualifies for Medicaid, he will have to pay \$925 per month towards his care. The wife may suffer severe hardship trying to manage the household on a greatly reduced income. The state only allows the institutionalized spouse to contribute part of his or her income if the spouse in the community has a monthly income of less than about \$350, or if a court has ordered support payments. Such support payments are often ordered by the probate court in the context of a conservatorship. However, ORS 126.217 specifically gives the court authority to enter a support order without appointing a conservator. The domestic relations court has similar independent

authority to issue a support order, which is set out in ORS 108.110. A Uniform Support Affidavit must be filed if the petition for separate maintenance is contested. UTCR 8.010(2)(b). It is unnecessary for a couple in this situation to obtain a divorce in order to split their assets and receive a support order.

Trusts, particularly special needs trusts, have been used by a number of practitioners. The viability of certain types of trusts was severely curtailed by the passage of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Tim Nay addressed this issue in his article in the September 1986 edition of the *Newsletter*.

The remaining considerations involve the effect of the death of the Medicaid recipient or the recipient's spouse. The state can recover the amount of medical assistance paid on behalf of an individual 65 or over from the recipient's estate. The state's claim is entitled to priority over general claims and bequests. ORS 414.105 and 115.125; OAR 461-10-305. This claim does not affect property which passes outside the estate. It is not a lien and does not attach to particular property. However, the statute does authorize the state to file a claim against the estate of the surviving spouse. These potential claims may have an impact on the estate plan of single individuals and married couples.

Existing estate plans may become outdated when someone enters a nursing home or becomes eligible for Medicaid. Clients should be advised to review their wills. Some may wish to provide the maximum amount possible for the care of a nursing home resident. Others may prefer to avoid making a bequest which would render a Medicaid recipient ineligible for benefits. Informed attorneys can assist the growing numbers of clients in planning for Medicaid benefits. Estate planning with a view towards Medicaid eligibility is a challenging undertaking and is critical for clients' financial well-being.

Penny Davis

UPDATE ON ACTIVITIES OF THE AMERICAN BAR ASSOCIATION SECTION OF REAL PROPERTY, PROBATE AND TRUST LAW

A new magazine, work on the Tax Reform Act and creation of new committees and task forces in several developing areas of the practice have stimulated considerable Section activity.

The Section is the third largest section in the American Bar Association with over 30,000

members. It is divided into the Real Property Division and the Probate and Trust Division. The governing body consists of 7 officers, 2 delegates to the ABA House of Delegates and 20 council members, 10 of whom are from the Probate and Trust Division. The council currently supervises the activities of 50 committees in the Probate and Trust Division working in such areas as current developments, tax legislation and regulations, estate planning and drafting, fiduciary administration, planning and problems of special groups, employee benefits and responsibility and economics of the profession.

The primary purposes of the Section are to communicate with its members through publications and educational programs, to promote scholarship in the probate and trust field, to collect, analyze and disseminate information as to legislation and judicial decisions, to initiate, sponsor and promote legislation on uniform laws and standards of conduct, to provide a forum with other disciplines and governmental and private bodies for the exchange of ideas and opinions and, subject to appropriate authorization, to serve as a conduit for the American Bar Association.

Much of the Section's recent work has been devoted to the new Federal tax legislation. Members have been involved with the Treasury, other groups and disciplines, and House and Senate committees from the inception of various proposals. They continue to study and comment on the new act and on additional proposals of the Treasury and others for further changes in the laws relating to the transfer of wealth. In the fall of 1986 a national institute on the 1986 Act entitled "Sophisticated Estate Planning After the Tax Reform Act of 1986" covering planning without deductions, income shifting, the use of S Corporations and personal holding companies and a comprehensive review of the new generation skipping transfer tax is being presented in several cities.

Probably the most important continuing function of the Section is to make its efforts known through its publications. The publications policy has recently been modified to encourage a greater sharing of ideas and interests and to make the work of the committees more challenging and enjoyable. The main change is the publication of a new bimonthly magazine which will be called *Probate and Property*. It will include practical how-to-do-it articles and notes of current developments, Section news, and subjects of everyday interest to the membership. The first issue of the magazine is expected in January. Bob Wilkins of South Carolina, who has published the magazine of the Section of Economics, is the editor of the new magazine.

The Section will continue to publish the *Real Property, Probate and Trust Journal* emphasizing scholarly articles of a law review

paid." 80 Or App at 553. The court discussed two exceptions to the rule of ademption. The first exception applies when the testator is incompetent and the guardian made the change in the fund. The court appeared to say that this exception applies when, as here, the transfer was an event over which the decedent had no control.

The second exception to ademption occurs when there is a mere change in the form of the fund. Here, the court reasoned that the form of the fund did not change; the fund merely changed hands. As such, the USNB stock went to the decedent's children as a specific bequest instead of to the spouse under the residuary clause.

C. Jeffrey Abbott

■ SEMINAR ■

The executive committee of the Estate Planning and Administration Section has sponsored a new publication entitled *Probate Systems Manual*. The manual will be presented at a CLE program scheduled in Portland, on April 24, 1987 and repeated in Eugene on May 9, 1987.

This system is a different approach to probate administration from *Administering Oregon Estates* in that it is a practical guide for the practitioner from the first meeting with

the client through reopening the estate for further proceedings. It is not intended to be a discussion of the law as much as a guide of when to do something, why to do it, or why not to do it. Included with each section are appropriate samples of forms.

The contributing authors are attorneys with comprehensive knowledge of probate law and practice who will participate as speakers at the CLE sessions.

Carol J. Kyle

SCHEDULE OF SEMINARS AND EVENTS

The following is a selected schedule of seminars which may be of particular interest to Section members:

JANUARY 12-15, 1987: Southern California Law Center, 39TH ANNUAL INSTITUTE ON FEDERAL TAXATION, featuring highlights of the Tax Reform Act of 1986, Los Angeles, Century Plaza Hotel.

JANUARY 24, 1987: Estate Planning Council and Northwestern School of Law and Lewis & Clark College, 16TH ANNUAL ESTATE PLANNING SEMINAR, including Jonathan G. Blattmachr, L. Henry Gissel, Jr. and Dan T. Hastings, speakers, Portland Red Lion Motor Inn, Jantzen Beach (contact Lauri Flynn, 244-1181).

JANUARY 24-31, 1987: National Law Foundation, EIGHTH ANNUAL ESTATE PLANNING CONFERENCE, Barbados, British West Indies, Heywood Resort (302/656-4757).

FEBRUARY 5, 1987: ALI-ABA Video Law Review, INCOME TAXATION OF MINOR CHILDREN AND ESTATES, Approximately 40 cities.

FEBRUARY 5-7, 1987: ALI-ABA, ADVANCED ESTATE PLANNING TECHNIQUES, Maui.

FEBRUARY 12-13, 1987: P.L.I., PREPARATION OF THE FIDUCIARY INCOME TAX RETURN, New York City, St. Moritz-on-the-Park.

MARCH 5-6, 1987: P.L.I., PREPARATION OF THE FIDUCIARY INCOME TAX RETURN, San Francisco, Hotel Meridien.

MARCH 7, 1987: The Southern California Tax & Estate Planning Forum, ESTATE PLANNING DOCUMENTS, Edward C. Halbach, Jr., speaker, Los Angeles (no hotel as yet).

Repeats: March 14, 1987: Las Vegas, Las Vegas Flamingo Hilton.
March 28, 1987: San Francisco, Cathedral Hill Hotel.

APRIL 24, 1987: Oregon State Bar and Estate Planning and Administration Section, NEW PROBATE MANUAL, Portland, Airport Holiday Inn.
Repeats: May 9 in Eugene.

APRIL 27-MAY 1, 1987: ALI-ABA, PLANNING TECHNIQUES FOR LARGE ESTATES, New York City.

JUNE 5, 1987: Willamette University Center for Dispute Resolution, TAX PLANNING FOR THE CLOSELY HELD BUSINESS.

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nature. A media/book products program is the focus of renewed attention. It will offer single titled books, program materials, monographs, and book/cassette offerings on all aspects of probate and trust law.

The Section is also encouraging individual committee educational programs and workshops at the annual ABA meetings. These programs are open to Section membership without charge and in many cases are sponsored jointly with other sections of the ABA.

Under the leadership of its chairman, Joe Kartiganer of New York, and its division director, Henry Gissel of Houston, the Section is pursuing interests in several developing areas. One newly appointed task force will examine the role of the lawyer in financial planning, including:

How does financial planning differ from traditional estate planning and tax planning functions?

Should lawyers do more financial planning in connection with counseling clients?

Should a lawyer acquire additional education to be able to discuss professionally and adequately financial planning issues with the client?

What are the malpractice implications of expanding a law practice to include financial planning?

What other rules and regulations will affect the attorney who does financial planning?

Other special task forces and committees have recently been formed in the areas of problems of the elderly, fiduciary litigation and handling of disputed matters, the future role of the probate lawyer in a changing environment, retroactivity in tax law changes, constitutionality of tax law changes and the role of attorneys acting as fiduciaries. There is also an increased effort to coordinate all the Section activities in the employee benefit area.

Membership in the Section is open to all members of the ABA.

Conrad L. Moore,
Member of the Council

LEGISLATIVE COMMITTEE MERGES/DIVIDES

Like a new species of amoeba, the Section Legislative Committee first expanded, then divided itself this year. During the summer the State Bar Trust Legislative Committee merged into our Section Legislative Committee, swelling its ranks to 26 members. The two committees held their first joint meeting on September 11, 1986. At that time

it was voted to divide the expanded committee into three interest areas: (1) estate planning and transfers, (2) estate administration and litigation and (3) taxation. The three subcommittee chairmen, together with Stanley R. Loeb, committee chairperson, will form the nucleus of the legislative committee.

The estate planning and transfers subcommittee, chaired by Rees C. Johnson, will consider legislation regarding wills, intestate succession, trusts, gifts to minors, joint title, etc. Items on its agenda include Custody and Disposition of Wills Act, amendment to intestate succession statutes, rule against perpetuities, death with dignity and durable power of attorney for health care. The estate administration and litigation subcommittee, headed by Walter C. Crow, Jr., includes within its purview guardianships and conservatorships as well as probate matters. It is currently considering revision of claims statutes, review and revision of guardianship and conservatorship statutes, elective share and inter vivos transfer, support statutes and joint bank accounts. The taxation subcommittee will consider, inter alia, termination of Oregon gift and inheritance filing requirements and review of Unproductive Property, Principal and Income Act, ORS 129.105. It is chaired by Ron Shellan.

Anyone interested in working on a subcommittee is invited to contact the appropriate chairperson.

Shirley A. Bass

WHAT'S NEW

In *Jarrett v. U.S. National Bank*, 81 Or App 242 (1986), The Oregon Court of Appeals examined a trustee's fiduciary duties of prudent management and loyalty to trust beneficiaries. The case involved a trust which was established by a father for the benefit of his wife and children. The trust was funded in part with a lease of real property to the family's closely held corporation and a demand note from that corporation. The lease contained renewal options which could be exercised upon written notice given 120 days before the end of the lease term. The demand note bore interest at the rate of seven percent per annum.

The trustee permitted the lease to be renewed without the required 120 day notice. The rent at the time of renewal was less than the existing market rental value of the property. Additionally, the trustee did not demand payment for a demand note until three years after the prime lending rate first exceeded seven percent per annum.

On appeal, the court found that the trust instrument was fully integrated and was not ambiguous on its face. Consequently, extrinsic evidence of the settlor's intent to favor the corporation was not admissible. Since the trust instrument did not provide specific directions to the contrary, the trustee was held to have breached its fiduciary duties by renewing the lease without first determining the market rental of the property and by not attempting to negotiate a more favorable rental.

The trustee was also in breach of its fiduciary duties by failing to demand payment of the note when the prime lending rate first exceeded the interest called for in the note.

Daniel Re

The Court of Appeals for the State of Oregon reversed a summary judgment motion in favor of defendants in a will drafting malpractice case. *Sizemore v Swift*, 79 Or App 352 (1986). The decedent's will provided for a spendthrift trust for Joseph. However, the trust did not provide for distribution upon Joseph's death. Joseph's son and sole heir, Craig, incurred legal expenses to have the trust distributed to himself because the trustee refused to distribute without a declaratory judgment on the issue of the proper distributee.

The defendants argued that the trust did in fact operate as the decedent intended. However, the court stated that a jury could find that legal expenses incurred by Craig might not have been necessary had the document been properly drafted. The court suggested that evidence might reveal that it is not reasonable under Oregon practice to create a trust without a term or without designating the manner of disposition of funds on the beneficiary's death.

The Oregon Court of Appeals held that a specific bequest of retirement plan funds was not adeemed to the extent of certain stock held by the decedent at death even through the retirement plan distributed the stock to the decedent prior to death. *Stenkamp v. Stenkamp*, 80 Or App 550 (1986). In his will the decedent gave his children his interest in the investment plan with United States National Bank of Oregon ("USNB"). The plan received employee contributions from the decedent in addition to employer contributions. The employer contributions were used to buy USNB stock.

The decedent retired in 1977 and received the USNB stock and cash from the retirement fund. The court stated that "[a] specific devise is subject to ademption by alienation or destruction of the fund from which it is to be

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GENERATION-SKIPPING TRANSFERS UNDER TRA 1986

A provision of the Tax Reform Act of 1986 completely repeals the generation-skipping transfer (GST) tax provisions, retroactive to the original enactment on June 11, 1976. The government's policy behind the change in the GST tax laws is to tax property at a maximum rate of 50% (55% until 1988) at each generation even if the transferor "skips" a generation in making the transfer. The prior law is replaced by new Sections 2601-2663, and the tax is effective, in general, for transfers made after September 25, 1985. That the GST laws have been completely repealed should not come as a surprise; the law had been widely criticized as being overly complex and exceedingly difficult to administer. Although the new Act makes several significant changes to prior law, the GST tax remains complex and highly technical.

The new GST tax presents new challenges to estate planners who must become familiar with the provisions, develop new planning strategies and carefully review and revise clauses in will and trust forms in current use. This article will present a short overview of the new GST tax, suggest some planning ideas and refer estate planners to several other resources.

How to Spot a GST

There are three types of generation-skipping transfers: taxable terminations, taxable distributions and a new type of transfer, direct skips. Each type involves a transfer from a transferor to a transferee who is at least two generations younger than the transferor. For example, a grandchild is two generations younger than a grandparent. The transferee is called a "skip person". A skip person can also be a trust, if the beneficiaries of the trust are skip persons or if no person holds an interest in the trust and no distributions will be made to a non-skip person. For example, a trust for grandchildren of the transferor is a skip person, as all beneficiaries are skip persons.

A taxable termination is the termination of the interests of any beneficiary of a trust if, after the termination, distributions of the trust will be made to skip persons. For example, in a trust providing income to the transferor's nephew for life and remainder to the nephew's children, in equal shares, the nephew's death results in a taxable termination. A taxable distribution is a distribution from a trust to a skip person. For example, a distribution from income or principal of a trust to a grandchild is a taxable distribution. A direct skip is a transfer to a skip person, which is subject to

federal estate tax or federal gift tax. For example, a taxable gift to a grandchild is a direct skip.

Under the Tax Reform Act of 1976, a direct skip of generations was not subject to the GST tax. The new Act's inclusion of direct skips as transfers subject to the GST tax is an important broadening of the law, and has the effect of taxing the transfer as though the interest had passed through the earlier generation. The inclusion of direct skips is consistent with the House Ways and Means Committee's belief that transfer tax consequences should not "vary widely depending on whether property is transferred outright to immediately succeeding generations or is transferred in ways that skip generations".

Tax, Exemptions and Exclusions

A GST is taxed at the highest federal estate tax rate in effect (55% in 1987 and 50% thereafter). Under prior law, the rate was the highest marginal rate of the "deemed transferor," a confusing concept which thankfully has been eliminated. This high rate of tax is a significant change in the law and makes it important for the planner to effectively use the exemptions and exclusions described below.

\$1,000,000 exemption. Every transferor has a \$1,000,000 exemption, which can be used for transfers during life or at death. The transferor (or his personal representative) makes an allocation of the exemption at any time on or before the date the transferor's death tax return is due. The allocation, once made, is irrevocable. Unless the transferor elects not to allocate a portion of his exemption to lifetime direct skips, the exemption will be allocated to such transfers. The value of the property at the time of the allocation will determine the amount of the exemption used, regardless of its value at the time of the distribution. Once a transfer, or a portion of a transfer, is designated as exempt, all subsequent appreciation in value of the exempt property is exempt from the GST tax.

Practice Tip: Allocate any exemption used during the transferor's life as soon as possible, before assets appreciate. Report the allocation of inter vivos transfers on the revised Form 709, titled "United States Gift (and Generation-Skipping Transfer) Tax Return". Plan to use the exemption of both spouses. If necessary, transfer assets by interspousal gift so that each spouse has sufficient assets to fully use the exemption. Gifts split between spouses under §2513 will also be treated as made one-half by each spouse for purposes of using their \$1,000,000 exemption.

\$2,000,000 grandchild exemption. Direct skips of up to \$2,000,000 per grandchild of a transferor are exempt from the GST tax if

made prior to January 1, 1990. This is the so-called "Gallo Amendment". Transfers made outright to grandchildren qualify for the exemption. The \$250,000 per grandchild exemption from prior law is repealed.

Practice Tip: Make direct skip transfers to grandchildren prior to January 1, 1990. Split gifts between spouses to increase exempt transfers to a grandchild to \$4,000,000. Transfers in trust might qualify, but it is not clear what trust provisions would be required. Until this issue is resolved, caution would suggest not using a trust to qualify for this exemption.

Gift tax exclusion. The GST tax does not apply to inter vivos gifts which are excluded from federal gift tax due to annual exclusions, or exclusions for certain medical or tuition expenses. The GST tax does apply to any portion of a gift in excess of the annual exclusion if no exemption is allocated to the transfer.

Practice Tip: To avoid complex calculations for allocating the exemption, plan gifts to fit within the annual exclusions. Isolate transfers which are exempt from transfers which are not exempt by placing them in separate trusts.

Predeceased child exclusion. Excluded from the definition of a direct skip is a transfer to a grandchild, if at the time of the transfer, the parent of a grandchild who is a lineal descendant of the transferor (or his spouse or former spouse) is deceased. The grandchild, in effect, is moved up a generation and is treated for purposes of generation assignments as if he were a child of the transferor.

Practice Tip: This exclusion applies only to direct skips. It does not apply to transfers to a trust for a grandchild. When trust distributions are subsequently made to a grandchild, the GST tax will apply to the taxable distributions.

Review Existing Estate Plans

In light of the new GST provisions, existing wills and trusts should be reviewed to see if revisions are necessary. Consider the following when examining disclaimer provisions, tax clauses and clauses stating the authority of the executor:

Disclaimer provisions. Determine whether a disclaimer of a bequest will result in a GST, which will be the case if property passes to a person at least two generations below the original transferor. The resulting tax may be greater than if the property is subject to estate or gift tax in the intervening generation. Recognize that a partial disclaimer may be advantageous, allowing a portion of the bequest to offset the disclaimant's available unified credit. Note that unless otherwise provided, the disclaimed property, not the transferor's estate, will be primarily liable for the GST tax.

Tax clauses. Review tax clauses and redraft if needed to ensure that any GST tax will be allocated appropriately. The Code provides

that unless otherwise specifically directed, the GST tax "shall be charged to the property constituting such transfer." Note that the person liable for the GST tax depends on whether the transfer is a taxable termination, taxable distribution or direct skip.

Authority of executor. Include language specifically authorizing the executor to allocate any unused \$1,000,000 exemption among inter vivos transfers. Also authorize an election to allocate a portion of the exemption to property with respect to which a GST will occur upon its disposition by (or on the death of) the transferor's spouse as a result of a QTIP election. This election will have the effect of treating the decedent as the transferor of the QTIP property and will use his exemptions that might otherwise be wasted. If the election is not made, the surviving spouse will be treated as the transferor and although she would be able to use her exemption, her spouse's exemption might not be fully used. Relieve the executor from all liability in making allocations.

Additional Resources

This article has addressed the new GST tax in a limited way. Estate planners may also wish to review the following resources which further explain the GST provisions of the new Act. *e.g.*, Katzenstein, "The New Generation-Skipping Tax: A Road Map" *TAXES - The Tax Magazine*, April 1987, at 259; Plaine, "The New Generation-Skipping Transfer Tax contained in The Tax Reform Act of 1986, H.R. 3838", in *Tax Management Portfolios: The Tax Reform Act of 1986*, Volume II, (Bureau of National Affairs) at 48:1; Mulligan and Boulton, "Planning Opportunities That Take Advantage of the New Generation-Skipping Tax Provisions - Part I" *Estate Planning*, January/February 1987, at 66 and "New generation-skipping tax: higher rates, broadened scope, new exemptions - Part II," *March/April 1987*, at 10.

Conclusion

In planning inter vivos and testamentary transfers that skip generations, estate planners must take into account the new GST provisions. Although the new GST tax law is no less complex, new planning opportunities are available to minimize the GST tax.

Carolyn E. Wilson

OREGON PROBATE SYSTEM MANUAL INTRODUCED

A new OSB-CLE publication, *Oregon Probate System Manual*, was introduced at a seminar held in Portland on April 24, 1987, and co-sponsored by the Estate Planning and Administration Section.

This manual covers "typical estate" administration from a practical standpoint, including how to initiate probate, how to manage assets of the estate and how to file the necessary Oregon and federal tax returns. It features the most frequently used probate forms, including tax forms. Each form is keyed to a master information list to minimize the practitioner's time in completing the forms. The manual also contains an example of a cash flow spread sheet which is useful for projecting estate income and expenses.

The manual replaces the obsolete orange book, *Probate Manual*, and is intended to supplement the familiar black book, *Administering Oregon Estates*, which is aimed at the practitioner who requires assistance and references on the substantive issues which may arise during the administration of an estate.

This first edition is a product of over three years' work by dedicated Section members, headed by Mark W. Perrin and Jeffrey E. Boly. While several states now boast probate systems, Oregon's manual resulted from an interest in designing a system of forms that eventually could be integrated into a computerized probate system. It can be modified to suit the individual needs of the attorney, then computerized into an electronic version by using specific blanks or "fields" which are supplied by the master information list and then merged with the basic forms.

The *Oregon Probate System Manual* was developed primarily to permit secretaries and legal assistants to handle the nonattorney activities associated with administration and probate activities. It is approximately 500 pages in length, in looseleaf 8½ x 11" format with binder. It can be obtained for \$60 plus \$4 shipping and handling fee from:

CLE Registrar
Oregon State Bar
P.O. Box 1689
Lake Oswego, OR 97035-0889

Audiocassette tapes of the seminar are also available at the same address for \$50 per set.

Mark W. Perrin

THE NEW FEDERAL ESTATE TAX FOR QUALIFIED RETIREMENT PLAN BENEFITS

We all understand the federal estate tax, right? For years lawyers have woven the unified credit and marital deduction together with generally happy tax results for clients with modest estates or surviving spouses. But the Tax Reform Act of 1986 has introduced an *additional* estate tax that bears little resemblance to the tax imposed under IRC §2001. If you have a client with substantial retirement plan benefits (derived from qualified employer plans or individual retirement accounts), you had better read Code Section 4981A(d)!

For many years the federal treasury has subsidized tax-deferred accumulations of wealth by rich and poor alike, although somehow those clever people who deal with qualified retirement plans have managed to "enhance" accumulations by some people who are already quite well off. Doctors, lawyers, accountants, chief executive officers and others with substantial amounts of direct compensation have, in many instances, sheltered a large portion of their aggregate wealth in qualified retirement plans. Now, as a matter of policy, the government wants to recoup part of the tax benefit of the past by new taxes on "excess distributions" during lifetime and "excess accumulations" at death.

As an oversimplification, a new 15% non-deductible excise tax is imposed upon "excessive" periodic retirement plan distributions during life which are more than \$112,500 in any calendar year. Your client who is age 65, with a life expectancy of 20 years, can pay himself \$112,500 a year over his life expectancy if he has, at age 65, \$1,105,000.00 in plan assets and earns a consistent 8% on his retirement plan funds. But if your client is lucky enough to have this problem, he also has another problem that you need to identify and discuss with him.

The special companion estate tax that goes with the excess distribution tax is also 15% imposed on any "excess retirement accumulation" existing at death. If at the time of your client's death his total retirement plan assets exceed the *present value* of an annuity of \$112,500 for the rest of his *life expectancy* determined immediately before death, the excess over that present value is subject to a 15% estate tax. If the life expectancy and interest assumptions (to be determined later by IRS regulation) are the same as in the example above, and your client dies at age 65, every dollar of qualified benefit over

\$1,105,000.00 would be subject to the 15% additional estate tax.

Now for the really bad news. The unified credit and the marital deduction *do not apply* to this estate tax. The tax cannot be reduced or modified in any way, and is automatically payable by the estate. *NOTE:* Every dollar of this tax that is paid is a dollar reduction of the amount available for the unified credit exemption equivalent. If your client has an eventual effective marginal transfer tax rate of 50%, the net *effective* tax rate under 4981A(d) is 22-1/2%.

Can the tax be avoided? Of course it can. Clients with substantial retirement plan benefits should plan lifetime distributions to remain *below* the threshold for application of the new estate tax. It seems clear, from an estate tax standpoint, that you are better off to incur a current income tax on a lifetime distribution than to incur both the income tax and the additional estate tax which arise if the 4981A(d) tax is imposed on benefits left at death.

One last warning: It seems that no IRD deduction will be allowed for the estate tax paid under 4981A(d). This would be the worst of all worlds as the distribution may be subject to the ordinary estate tax, the new additional estate tax, and to income tax payable by the recipient without any corresponding IRD deduction for the additional 4981A(d) tax.

Stephen O. Lane

WHAT'S NEW?

The Court of Appeals in *Garrison v. Garrison*, 82 Or App 165 (1986), clarified who is entitled to benefits of the credit against inheritance tax allowed under ORS 118.035. ORS 118.035 allows a credit to each of certain beneficiaries of the decedent for deaths occurring prior to 1985. The amount of the credit is set under the statute and varies according to the year of death. No credit is allowed where the death occurs after 1984. A credit is allowed for a beneficiary who is unable to support himself due to certain disabilities. In this case, the decedent's will stated that taxes paid by the estate not be apportioned. The appellant, a beneficiary of the estate, had multiple Sclerosis and was unable to support himself and thus, qualified for a credit under ORS 118.035. The personal representative did not allocate the benefit of the credit to the appellant. Rather, the personal representative reduced the total inheritance tax due prior to allocating distributions to the beneficiaries.

The appellant objected to the final account and argued that the benefit of his credit should be allocated to him rather than indirectly benefiting all of the beneficiaries of the estate. The Court concluded that ORS 118.035 requires apportioning regardless of whether the will says that no apportionment shall be made adding that the legislature intended that the credit be for the sole benefit of the qualified handicapped person. Review open estates of decedents dying before 1985 to insure that a proper allocation of this credit will be made.

The Court of Appeals ruled on the validity and applicability of pre-nuptial agreements in two cases. In *Simmons v. Simmons*, 82 Or App 540 (1986), the Court affirmed the trial court's denial of the surviving spouse's claim to an elective share of her deceased husband's estate. The surviving spouse and decedent entered into a pre-nuptial agreement four days prior to the marriage. The agreement stated: "It is expressly understood that this agreement will bar the surviving party from any elective share under the provisions of ORS 114.105 pursuant to ORS 114.115." 82 Or App 540, at 542.

The surviving spouse argued that she first became aware of the agreement on October 5, 1981, just four days prior to the wedding. She was in a rush to get ready and signed the agreement minutes after it was given to her. The testimony of the husband's attorney was that he had met with her to explain the consequences of the agreement on October 1, 1981. The Court of Appeals accepted the trial court's findings that the attorney's statements were more credible. The Court concluded that the agreement was valid.

Although decedent's assets were not formally disclosed, the Court was not convinced that the surviving spouse did not understand the extent of decedent's estate.

In *Jacobs v. Jacobs*, 82 Or App 333 (1986), the Court affirmed a decision denying the personal representative's petition to have the surviving spouse turn over certain assets to the estate. The surviving spouse and decedent entered into a pre-nuptial agreement prior to their marriage ten years before the decedent's death. The appeal focused upon whether the surviving spouse was entitled to assets held in joint tenancy with rights of survivorship or whether the estate was entitled to them by virtue of the agreement. Although the agreement stated that the property of each would forever remain separate, the agreement allowed for property to be given from one party to the other by will or otherwise. The disputed assets included certificates of deposit, amounts in a checking account, real estate in Arizona and stocks and bonds.

The Court concluded that all of the disputed property was held in joint tenancy with

rights of survivorship. The Court applied the rule that unless there is clear and convincing evidence to the contrary, the survivor is entitled to the property. Although the personal representative argued that the agreement was clear and convincing evidence, the Court disagreed. There was evidence that the decedent felt that income from the decedent's testamentary trust would not be enough for the surviving spouse to live on. The decedent's attorney testified that the decedent was a very astute businessman. The decedent transferred 90 to 95 percent of his assets into joint tenancy with his wife. There was also evidence from the decedent's attorney that in a meeting ten months prior to his death, the decedent wanted his assets to go to his children. However, the Court concluded that this evidence did not establish that decedent wanted his

interest in the joint assets going to his children. The Court did not say that the agreement was invalid. It held that the assets passed to the surviving spouse under the rights of survivorship. Attorneys should take care to advise clients entering into prenuptial agreements that property later placed in joint tenancy with rights of survivorship ownership, could pass under the survivorship characteristics of ownership to the joint owner.

C. Jeffrey Abbott

INVITATION

The *Newsletter Editorial Board* invites the submission of topic suggestions for future issues and the submission of unsolicited manuscripts, as well as suggestions for improvement of the Newsletter.

Communications should be addressed to:
Oregon Estate Planning and
Administration Section Newsletter
520 S.W. Yamhill, Portland, Oregon 97204
Attn: Helen Rives-Hendricks (503) 226-6151

SCHEDULE OF SEMINARS AND EVENTS

The following is a selected schedule of seminars which may be of particular interest to Section members:

MAY 14-15, 1987: P.L.I., INCOME TAXATION OF ESTATES AND TRUSTS, San Francisco, Hyatt on Union Square.

MAY 21-22, 1987: P.L.I., ADVANCED WILL DRAFTING, San Francisco, Hyatt on Union Square.
Repeats: June 25-26, 1987, New York City, Golden Tulip Barbizon.

JUNE 1-2, 1987: New York University School of Continuing Education, Institute of Federal Taxation, CONFERENCE ON TRUSTS AND ESTATE TAX PLANNING, San Francisco, Hyatt Regency Embarcadero.

JUNE 5, 1987: Willamette University Center for Dispute Resolution, TAX PLANNING FOR THE CLOSELY HELD BUSINESS.

JUNE 11, 1987: ALI-ABA Video Law Review, ABA Section of Real Property, Probate and Trust Law, SOPHISTICATED ESTATE PLANNING AFTER TRA 86 (Approximately 50 cities).

JUNE 15-19, 1987: University of Wisconsin Law School, ESTATE PLANNING IN DEPTH, Madison, Wisconsin.

JUNE 22-26, 1987: University of Wisconsin Law School, POSTMORTEM PLANNING AND ESTATE ADMINISTRATION, Madison, Wisconsin.

OCTOBER 23, 1987: Oregon Law Institute, SENIOR LAW: COUNSELING THE ELDERLY, Portland, Willamette Center.

OCTOBER 29-30, 1987: Washington State Bar Association, 32ND ANNUAL ESTATE PLANNING SEMINAR, Seattle, Westin Hotel.

DECEMBER 3, 1987: Washington State Bar, WILL DRAFTING SEMINAR, Seattle, Sheraton Hotel.



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Oregon
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Section Newsletter

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PRODUCTIVE 1987 OREGON LAWMAKING SESSION

Special kudos to the Section's legislation committee for their achievements. Chaired by Stan Loeb and assisted by the OSB staff, especially Bob Oleson and Diana Godwin, the committee was responsible for placing into bill form and introducing a number of Section-sponsored and -endorsed bills. Approximately 35 Section members were involved in 3 sub-committees headed by Rees Johnson, Walter Crow, Jr., and Ronald Shellan. The resulting crop of new legislation is of significance to estate planning practitioners. Thanks for your perseverance and hard work.

On June 28, 1987, the most intense part of a busy year ended for the Section's legislative committee when the Oregon legislature adjourned *sine die*. Four section-sponsored measures passed both houses and have been signed by the Governor. One passed the Senate but failed in the House. All of the following measures become effective September 27, 1987, unless otherwise specified.

The 1987 laws affecting estate planning and administration.

Intestate succession. Senate Bill 302 (a section-sponsored bill); amends ORS 112.025 so that if the decedent leaves a surviving spouse and issue, and all the decedent's issue are also the issue of the surviving spouse, the surviving spouse's intestate share is the *entire* net estate. Under prior law, such a surviving spouse would receive only one-half of the net estate.

Premarital agreements. House bill 2295 (the Uniform Premarital Agreement Act) repeals ORS 108.140 and replaces it with the Uniform Premarital Agreement Act, effective January 1, 1988. This statute does not specifically modify any of the probate code provisions. It does recognize that certain premarital agreements may validly provide for the disposition of property on death, and that a will can carry out the provisions of a premarital agreement.

Recorded statement describing decedent's real property. House bill 2323 amends ORS 113.165 to *require* the personal representative of a court-administered decedent's estate to record with the appropriate county deed record clerk *either* a certified copy of the probate inventory or an abstract statement identifying the estate and the affected real property. Also amends ORS 114.515 to *permit* recording of the Affidavit of Claiming Successor described

in ORS 114.525 in the county clerk lien record in any county in which decedent owned real property. This legislation becomes effective January 1, 1988.

Inheritance tax and pickup tax revisions. Senate Bill 97; amends ORS 116.013, 116.113, 116.263, 118.100, 118.160, 118.250, 118.525. Repeals ORS 118.320. This significant legislation:

Eliminates the requirement of a finding in an order for partial distribution that all inheritance taxes have been paid or that the Department of Revenue has consented (ORS 116.013).

Eliminates the required finding in an order approving final account of payment of inheritance taxes (ORS 116.113).

Eliminates the necessity of Department of Revenue inheritance tax release before payment by an Oregon resident to the estate of a decedent non-resident (ORS 116.263).

Amends the "pickup" tax provision so that no Oregon pickup tax is due when a state inheritance tax credit is allowable on the federal estate tax return but is not used due to use of other credits also allowable on the federal estate tax return (ORS 118.100(2)). This was a section-sponsored proposal to avoid the problem encountered under Washington's similar pickup tax. See *Estate of Turner v. Department of Revenue*, 106 Wa2d 649, 724 P2d 1013 (1986).

Amends ORS 118.100 to require the personal representative to report changes during federal estate tax return audit resulting in a change in the maximum state death tax credit. Treats report of reduced state death tax credit as a claim for refund if filed within two years after federal correction is made. Report of increased state death tax credit may lead to issuance of notice of deficiency (will be ORS 118.100(4)). Adds other related provisions.

Eliminates required filing of inheritance tax returns for decedent dying on or after January 1, 1987 unless a federal estate tax return must be filed (ORS 118.160(1)). *But* it does permit the Department of Revenue to continue to require the filing of a list of the decedent's transfers of property within three years of death, whether a federal estate tax return is required to be filed or not (ORS 118.160(2)).

Eliminates requirement of inheritance tax receipt before personal representative or trustee can obtain an order approving final accounting (deletes ORS 118.250(2)).

Repeals ORS 118.320 prohibiting the transfer of stock registered in the decedent's name without the consent of the Department of Revenue.

Gift tax revisions. Senate Bill 97(7); amends ORS 119.065 to eliminate the requirement for filing of gift tax returns for years beginning January 1, 1987.

Estate and trust administration. Senate Bill 97(12); pertaining to marital deduction transfers. This section-sponsored provision requires that any transfers intended to qualify for the marital deduction under IRC § 2056 or IRC § 2523 shall be interpreted consistent with that intent, and the rights, powers and discretion exercisable by the fiduciary shall be exercisable only in a manner consistent with that intent. The Act applies to wills and trusts executed before the effective date of the statute. The measure is intended in part to meet some of the problems discussed in a 1986 IRS Technical Advice Memorandum involving wills or trusts that use an initial credit shelter trust and a residuary marital deduction trust or distribution.

Estate administration – partial attorney fees. Senate Bill 1039. This Section-sponsored bill amends ORS 116.183 to authorize the allowance of partial attorney fees and other expenses by the Court upon a showing that the final account cannot reasonably be filed at the time, and upon such notice, as directed by the Court. This corrective legislation provides any additional statutory authorization that may have been required for partial fee payment and answers one of the questions raised by *In re Coe*, 302 Or 553 (decided January 21, 1987). In that disciplinary case the Court questioned the statutory authority for Court-ordered partial payments of attorney fees in probate proceedings.

Guardianships and Conservatorships.

Senate Bill 783 is a significant bill that (1) changes the definition of an "incapacitated person," (2) changes the definition of the "visitor," (3) requires 15 days' prior mail or personal service of a notice of time within which to file written objections to a petition or other matter, (4) amends ORS 126.013 to permit anyone to waive notice *except* an alleged incapacitated person, (5) specifies in detail the written report to be filed by the visitor, (6) requires a finding of incapacity by clear and convincing evidence, and (7) requires that a large-type plain English notice of appointment of guardian or notice of removal of guardian be personally served on an incapacitated person, which notice shall list certain specified rights of the incapacitated person.

Filing of inventory or statement of real property. House Bill 2323; amends ORS 126.277 to permit the recording by the conservator with the deed record county clerk of the inventory in the conservatorship or of an abstract describing the specific real property of

the protected person located in that county. This legislation becomes effective January 1, 1988.

Annual account and filing of vouchers in conservatorship accountings. House Bill 2671; amends ORS Chapter 126 to prescribe the content of the conservator's annual account and to permit a corporate conservator to retain disbursement vouchers under certain conditions.

Uniform determination of death. Senate Bill 301; amends ORS 146.001 to provide for two alternative times for determining death: (a) irreversible cessation of circulatory and respiratory functions or (b) irreversible cessation of all functions of the entire brain.

The Custody and Disposition of Wills Act. Senate Bill 812, a section-sponsored bill, provided a framework for the custody and disposition of wills by attorneys and other custodians of wills (other than the testator). The bill was prepared by Rees Johnson and his estate planning and transfers subcommittee at the initial request of the Oregon State Bar Economics of Law Practice committee chair. The bill passed the Senate but was defeated in the House. The estate planning and transfer subcommittee will review the measure, confer with its critics, and consider appropriate revision.

Present legislative subcommittee projects.

The estate planning and transfer subcommittee is considering the following: Rule Against Perpetuities legislation; Custody and Disposition of Wills Act; Durable Power of Attorney proposal; personal property presumption revisions; small trust early termination proposals.

The estate administration and litigation subcommittee is considering the following: overhaul of Guardian and Conservatorship provisions; updating of Claims and Notice statutes; review of attorney fee procedures; review of personal representative and conservator bonding and security matters; consideration of non-judicial dispute resolution statutes (Washington and other statutes).

The tax subcommittee is considering overhaul of ORS Chapters 118 and 119.

If you would like to be a legislative subcommittee member, write or call one of the following persons:

Estate Planning and Transfers Subcommittee
– Rees Johnson; PO Box 14929; Portland,
OR 97214-0929; 232-3171

Estate Administration and Litigation Subcommittee
– Walter Crow, Jr.; 707 SW
Washington, Suite 300, Portland, OR 97205;
223-1332

Tax Subcommittee – Ronald A. Shellan; 1001
SW 5th Avenue, Suite 1111; Portland, OR
97204; 227-1111

Stanley R. Loeb, Chair
Legislation Committee

SPECIALIZATION – TO BE OR NOT TO BE

The Oregon State Bar's proposed plan of specialization will be presented at the 1987 Annual Meeting. Thereafter the Membership will be asked to vote by mail on the plan. The Section Executive Committee has reviewed and discussed the proposed plan during its past several Executive Committee meetings and has appointed a specialization subcommittee to review the proposal in greater depth.

Whether the final form of the proposed plan is to be or not to be will largely depend upon the Bar Membership's feelings about Section 5.9. That section provides as follows:

"5.9 – Any lawyer who advertises in a field of law that is a recognized specialty area under this plan, but who is not recognized as a specialist in that area must include the following statement in the advertising:

'Not recognized as a specialist by the Oregon State Bar'."

Our subcommittee has analyzed this provision as follows:

PRO 5.9

1. The required disclaimer is essential to fulfilling the purposes set forth in paragraph 1 of the proposed plan, to wit:

- "1.1 Providing greater access by the public to appropriate legal services;
- 1.2 Identifying and improving the quality and competence of legal services;
- 1.3 Providing appropriate legal services at reasonable cost; and
- 1.4 Assuring minimal competency by lawyers who advertise as Oregon State Bar recognized specialists."

2. Without the advertising disclaimer required of non-certified attorneys there would be little or no reason for attorneys to seek qualification particularly in light of the telephone book yellow pages listings by areas of law.

CON 5.9

1. There will likely be a disparity in the ability of attorneys to qualify based on their geographical location, i.e. suburban or rural area attorneys may be less likely to meet the

required standards of qualification because of their less specialized and more generalized practices, thus the advertising disclaimer may be more onerous.

2. Physicians have had specialty certification for many years, but have not been subject to an advertising disclaimer if non-certified. Why should attorneys?

3. No other states that have adopted specialization programs have included the advertising disclaimer for non-certified practitioners as a part of the Plan (NOTE: as of May, 1986, 12 states have adopted Specialization Plans. TEXAS, which has adopted Specialization, requires disclosure of non-certification in advertising by separate Disciplinary Rule). Why should we in Oregon adopt this extra measure?

The foregoing points and conclusions are those of the sub-committee and are not intended to express an opinion of the plan on behalf of the entire Executive Committee or the membership of the Estate Planning and Administration Section. The purpose of this article is to simply point out what we see as the major area of discussion on the proposed plan of specialization and to suggest that all members of the Section read and analyze the proposed plan and vote accordingly.

Specialization Sub-Committee

INVITATION

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WHAT'S NEW

The Oregon Court of Appeals reversed the trial court's decision to dismiss an action to enforce an alleged contract to make a will. *Catching v. Lashaway*, 84 Or App 602 (1987). Mr. and Mrs. McKay executed a joint will leaving all their assets to the other. In the event of a simultaneous death, assets would pass to four daughters. Two are the daughters of Mr. McKay, plaintiffs, and two are the daughters of Mrs. McKay. Mr. McKay died in 1976 survived by Mrs. McKay. Mrs. McKay executed a new will subsequent to the death of Mr. McKay leaving the bulk of her estate to her two daughters. The new will made no mention of plaintiffs. There was no provision in the joint will preventing the surviving spouse from executing a new will. The trial court concluded that Mrs. McKay received the joint estate free of any continuing obligation, and therefore, the trial court granted defendant's motion to dismiss plaintiff's allegation of the existence of a contract that the four daughters share the joint estate.

The Court of Appeals stated that the plaintiffs had to prove the existence of an agreement by clear and convincing evidence. Further, the existence of a joint will is insufficient to prove the agreement. However, citing existing Oregon case law, the court concluded that the existence of a joint or mutual will coupled with strong extrinsic evidence of an oral agreement between testators is adequate to prove the existence of a contract. Noting that a contract to make a will is irrevocable by the survivor, the Court of Appeals reversed the dismissal and remanded the case to the trial court.

C. Jeffrey Abbott

[Editor's Note: This case only applies to contracts to execute a will entered into before January 1, 1974. ORS 112.270 sets forth the requirements for an enforceable agreement to make a will entered into on or after January 1, 1974.]

ANNUAL MEETING

The Annual Meeting of the Estate Planning and Administration Section will be held on September 17, 1987 from 5:00 to 6:00 p.m. in the Dolphin Room of the Seaside Convention Center: The election of the new members of the Executive Committee will be held at the annual meeting. The nominations subcommittee proposes the following persons for the office set opposite his/her name:

Chair Elect Valerie J. Vollmar
Secretary Carol J. Kyle
Co-Secretary and Subcommittee
Liaison Carolyn E. Wilson
Treasurer John R. Hassen
Members at Large (Two Year Term)
Michael M. Morgan (Portland)
Sarah C. Landauer (Portland)
David B. Beckham (Albany)
Jill E. Golden (Springfield)

Additional nominations may be made from the floor. Stanley R. Loeb as chair elect will automatically become chairperson and Laurie Caldwell as chairperson will become past chair.

Also on the agenda for the annual meeting are the issues of specialization and other matters which will be announced by special notice.

Laurie Caldwell
Chair

SUBSCRIPTION

Oregon Estate Planning and Administration Section Newsletter

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SCHEDULE OF SEMINARS AND EVENTS

The following is a selected schedule of seminars which may be of particular interest to Section members:

SEPTEMBER 17-18, 1987: The Estate Planning Council of Northwest Center for Professional Education, ANNUAL ESTATE PLANNING INSTITUTE, San Francisco, Sheraton Palace Hotel. Repeats: November 19-20, 1987, Atlanta, Georgia, Hyatt Regency (Atlanta).

SEPTEMBER 25, 1987: Eugene Chapter, Oregon Estate Planning Council, ANNUAL ESTATE PLANNING SEMINAR, Richard Shaw, James Treadwell and Richard Losey, speakers, Emerald Valley Forrest Inn, Creswell.

OCTOBER 8-9, 1987: National Law Foundation, 11TH ANNUAL FIDUCIARY INCOME TAX CONFERENCE, New York City, Waldorf Astoria.

OCTOBER 11-14, 1987: National Association of Estate Planning Councils, 24TH ANNUAL CONFERENCE, Philadelphia, Sheraton Society Hill.

OCTOBER 23, 1987: Oregon Law Institute, SENIOR LAW: COUNSELING THE ELDERLY, Portland, Willamette Center.

OCTOBER 29-30, 1987: Washington State Bar Association, 32ND ANNUAL ESTATE PLANNING SEMINAR, Seattle, Westin Hotel.

NOVEMBER 8-14, 1987: New York University School of Continuing Education, 46TH ANNUAL INSTITUTE ON FEDERAL TAXATION, New York City, Marriott Marquis. Repeats: December 6-12, 1987, San Francisco, Fairmont Hotel.

NOVEMBER 16-20, 1987: P.L.I., PLANNING TECHNIQUES FOR LARGE ESTATES, San Francisco, Hyatt on Union Square.

DECEMBER 3, 1987: Washington State Bar, WILL DRAFTING SEMINAR, Seattle, Sheraton Hotel.

JANUARY 11-15, 1988: University of Miami, 22ND ANNUAL PHILIP E. HECKERLING INSTITUTE ON ESTATE PLANNING, Miami Beach, Florida, Sheraton Bal Harbour Hotel.

JANUARY 23-30, 1988: National Law Foundation, 9TH ANNUAL ESTATE PLANNING CONFERENCE, St. Thomas, Virgin Islands, Frenchman's Beach Resort.



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