

TEdec Times

PRACTICE MANAGEMENT

Strategic Benefits from Outsourcing

Cynthia Feathers and Craig S. Brown in an article entitled **“Contract Attorneys: How a Small Firm Can Reap Huge Benefits”** in the February 2011 edition of the NYSBA Journal, made a significant case for outsourcing of legal work for small law firms.

Feathers and Brown conclude that by outsourcing small to medium sized law firms can keep clients, attract new business, become more competitive, save money, [provide quality legal services in areas outside of the firm’s core competency] and make the best use of the firm’s own experience and resources.

Simply put, Feathers and Brown state that it makes good business sense to outsource.

(Reference TEdec Service Bureau, pg. 3)

(Please see attached summary of the Feathers and Brown article)

The Perils of Portability

The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (2010 Tax Act) Pub. L No. 111-12, 124 Stat. 3296 provides for “portability” of the applicable exclusion amounts between spouses. Marc S. Bekerman in an article entitled “Credit Shelter Trusts and Portability” in the May/June 2011 issue of Probate and Property (Vol. 25 No. 3) raises some interesting points and serious considerations in the use of portability. Here are some of the concerns which Marc Bekerman raises – what we call the

“Perils of Portability:”

- Some practitioners have informally commented that portability will obviate the need for credit shelter trusts. Marc Bekerman strongly disagrees.
- An Estate Tax Return must be filed for the first spouse to pass away. This may create administration requirements and costs, which would not otherwise be required. The estate tax return must show the amount of unused exclusion amount and make an irrevocable election on the return designating the unused exclusion amount as such.
- Leaving the credit shelter amount of both estates to the survivor’s estate may lead to increased federal or state estate taxation. The reason is that a properly drafted credit shelter trust will shelter from estate taxation the appreciation in asset value from the date of the first spouse’s death to the date of the second spouse’s death.

(Please see attached expanded listing of the Perils of Portability)

Route to: 1) _____ 2) _____ 3) _____ 4) _____

**TEdec
Systems, Inc.**

Special points of interest:

- > Outsourcing
- > The Perils of Portability
- > Recent Updates

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New Release

TEdec v. 6.3.9.p.2 thru p.5 New Releases

The following are some of the enhancements in the 6.3.9.p.2 - 5 systems:

Security history detail upgraded with the new filter to improve overall performance

Completrac Transaction Report upgraded to include for securities the current number of shares/par value/units

Reconcile bank accounts (P1 - P4) upgraded

Zero market values included for market values of assets on hand

Insurance policies and IRC § 1035 exchanges upgraded for insurance trusts

Florida Reports upgraded - both the accounting of the personal representative and the guardianship annual account and report

Refund for backup withholding function is upgraded

E-mail to TEdec Support is upgraded -- now you can send a copy e-mail to a specific member of the TEdec Support Team

North Carolina Reports

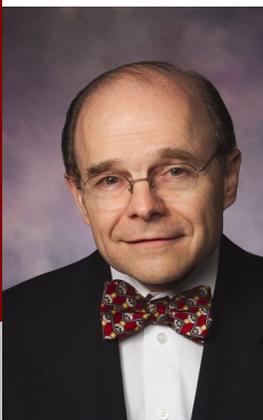
Market value added to combined total on the Annual Trust Accounting summary page

Added notes to Schedule of Unpaid Administration Expenses (New York enhancements)

EPF Upgrade - TEdec will now notify the user when your user SMA is about to expire

I wanted to let you know how much I appreciate you and your staff and the TEdec program. I have been using the program for over a year now and have been elated with it. If I'm unsure, I can go to TEdec University or email or call for help and I always get a timely response. I sent my first accounting to the NYS Attorney General using TEdec and had an approval within the week, it normally takes 4 to 6 weeks so they obviously like the formatting and ease of reading. I wanted to take the time to let you know how much I appreciate TEdec.

Terri Hogue, Law Office of Patrick J. Roth, Esq., CPA, Corning, NY



From the Desk of the President

Our objective is to provide you with the best fiduciary accounting and administration software for your trusts and estates practice, and to provide the best support in the industry. From the accolades we have received this last year from our user base, we are succeeding! Our goal is to enhance your trust and estates practice and to make you more productive and effective; and, we continue to work on additional enhancements, which we believe will further improve your productivity. As always, if there is anything we can do to improve TEdec, please let us know. We appreciate and look forward to your comments and suggestions.

*Teddar S. Brooks
President/CEO*

CASES AND RULINGS OF CURRENT INTEREST

100% of Built in Capital Gains Deducted from Estate Tax Value of C Corporation. In *Jensen Est. v. Comr.*, T.C. Memo 2010-182 (Aug. 10, 2010), the tax court gave justification for a 100% deduction on the capital gains tax owed by a C corporation in determining the valuation for estate tax purposes.

Alternate Valuation Election. PLR 201033023 (Aug. 20, 2010) denied the request for an extension of time to make an alternate valuation election. It was noted that the IRS will grant discretionary extensions of time for making the alternate valuation date election in appropriate cases, but it will not do so when a one year statute of limitations has passed.

No Contest Clause - Revocable Trust. The Supreme Court of Virginia held that a no contest provision in a revocable trust (that constitutes part of the decedent's testamentary estate plan) is subject to the same principles as applied to clauses in a Will -- particularly the principle that such clauses are to be strictly construed. *Keener v. Keener*, 682 S.E. 2d 545 (Va. 2009).

Tortious Interference with Expectancy. The Supreme Court of Illinois in the estate *In re Estate of Ellis*, 923 N.E. 2d 237 (Ill. 2009), held that the six month statute of limitations on filing a Will contest does not apply to an action for Tortious interference of inheritance rights, if the remedy of the Will contest is not available. The plaintiffs in this case did not know of their rights under the Will and the alleged fraudulent conduct until after the Will was admitted to probate. In addition, the Court held that the Will contest would not have provided a

full relief to the objectants, because it would not have dealt with the lifetime transfer alleged to have been fraudulent.

Estate Tax Deductions: IRS Issues Final Regulations. The IRS has issued final regulations for determination of the amount deductible from a decedent's gross estate for claims against the estate under IRC § 2053(a)(3). Although there are some exceptions, the general rule is that the deduction is limited to the amount actually paid.

An appraisers work file (prepared to support large income tax deduction) was not privileged or protected by the work product doctrine. The 9th Cir. Court of Appeals in *United States of America v. Mark Richey* Case No. 09-35462 (C.A. 9, Jan. 21, 2011), ruled that the appraisal was not made for the purpose of providing legal advice, but instead for the determination of value of the easement involved.

Section 645 Election. If no executor is appointed, the trustee may make the 645 election. See 1.645-1(c)(1)(i). This election will allow the non-calendar tax year, no estimated income tax payments for two years, the charitable income tax set aside deduction available to estates, and possibly extend the time the trust may own S corporation stock.

Fiduciary Commissions. Statutory fees and commissions are not includable in the gross income of the executor (fiduciary) of the estate, where the fiduciary effectively waives the right to receive such fees or commissions within a reasonable time after commencing to serve as such fiduciary. Rev. Rule 66-167, 1966-1cb 20 - IRC § 61.



Don't get bogged down with historical reconstruction, TEdec can help meet your time deadlines.



Give AMBER a call at TEdec Support (716-938-9137) and she can give you a quote on any of these items.

TEdec Service Bureau

TEdec Systems, Inc. through its service bureau, can assist you with the following:

- Upload Data into TEdec;
- Prepare Reports: Court Inventories, Court Accountings, and Management Reports;
- Prepare Estate Tax Returns;
- Prepare Fiduciary Income Tax Returns.

