REPORT OF THE CHAIR

BY RISE NEWMAN, ESQUIRE | DRUCKER BECKMAN SOBEL, LLP

It is almost June and our Section has had a meaningful six months.

At its April 26, 2018 meeting, the Board of Governors unanimously adopted a resolution approving an amendment to our Section’s bylaws. Through this amendment, there is no longer a need for our Corporate Fiduciaries liaison or Committee. To make-up for this loss, our other committees have been busier than ever.

Our technology committee has worked with the Bar Association to upload The Philadelphia Estate Practitioner Handbook (“PEPH”) to the Bar Association’s website (see the resources tab under the Probate and Trust Law Section). Along with this upload, our Rules and Practice Committee has undertaken the job of updating and revising this opus. We expect this project to take several years. Please jump in and help with some revisions, ideas, and support.

Congratulations to the Education Committee for the very successful March 26 CLE on Tax Cut and Jobs Act Summary and Analysis-Estate Tax and Other Planning. Thanks, too, to the Business Committee for their very informative Succession Planning for Businesses Under the New Tax Law. For its encore, the Education Committee will present, on June 5th, a CLE on Health Care Powers of Attorney. The Business Committee, too, is planning to podcast the June 7th meeting which will be posted to our Website by June 11th.

This year, Bench Bar will be held on October 12-13 at the Borgata Hotel in Atlantic City, New Jersey. Our topic is: “Estate Planning for The Solo and Small Firm Practitioner: How to Plan During Your Lifetime and How to Administer A Practice Upon Death”. We will present along with the Small and Solo Firm Committee and the Tax Committee. This topic is important for many reasons. A significant amount of probate and trust practitioners practice on their own or with small boutique firms. There are both tax consequences and ethics consequences to deal with at a solo practitioner’s death. It is a critical topic and one that every (continued on page 3)
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Above, left to right:
Susan L. Bartels, Senior Vice President
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GUARDIANSHIP CRISIS
FROM THE CHAMBERS OF THE ADMINISTRATIVE JUDGE OF THE ORPHANS’ COURT DIVISION

May was Older Americans’ Month with the theme “Engage at Every Age,” promoting physical, mental and emotional well-being. Through the Orphans’ Court, guardians are appointed to help incapacitated persons, many of whom are older adults, engage more fully in the activities of life that bring peace and joy to their hearts and keep harm from their doors. However, in a few unfortunate situations, guardians have taken advantage of their wards, presenting challenges for the Orphans’ Court Division.

Guardians are appointed under 20 Pa. C.S. §5501, et seq. for those adult individuals whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he/she is partially or totally unable to manage his/her financial resources or to meet the essential requirements for his/her physical health and safety. In many cases, a guardian has been appointed to stem or halt physical and/or financial abuse under the Older Adults Protective Services Act, 35 P.S. §10225.101, et seq.

It takes a special kind of person to serve as a guardian. While there are resources, services and guidance available to the elderly in many instances, the same cannot be said for their guardians. Guardians are fiduciaries appointed for the life of their wards. Their responsibilities range from handling medical, housing and family affairs to the management of funds and assets. Guardians are on call twenty-four hours a day, seven days a week. They walk the tightrope of dealing with conflicts among family members, caregivers and incapacitated persons. At times, they are required to deal with abusive and violent situations. And, even if there are no funds to compensate them for their hard work, they render the services anyway. Few are willing to assume such a tireless job.

Unfortunately, 2018 has seen the betrayal of a number of older incapacitated adults by their guardians who were less than forthright regarding their

REPORT OF THE CHAIR, CONTINUED

attorney should become familiar with. Even if you do not practice on your own, you may in a position to provide business advice to a solo practitioner or plan his or her estate. Please join us for an important learning experience. I personally am looking forward to hearing our Section’s presentation and to attending my first Bench Bar Conference.

On another topic, we understand that there are challenges facing the guardianship sector of our practice. We are aware there is a need for guardians and for the monitoring of guardians. The Section Officers are beginning to examine various solutions to present to the Orphans’ Court judges with the goal of assisting them with the very serious task of finding and training guardians. If you would like to share some thoughts with us, please reach out to me (my information is at the end of this article).

Finally, we are urging people to renew their membership. If you know someone who has not renewed their membership, please remind them about the many benefits of membership, much of which is a community of estate, trust, and guardianship practitioners.

To get involved, please feel free to contact me directly at newman@dbslawllp.com; 267-765-7332.
GUARDIANSHIP CRISIS, CONTINUED

criminal background, who took advantage of having access to their wards’ assets, who moved out of state without notice, or who were delinquent in their statutorily required filings. We cannot permit a few fiduciaries previously appointed by this Court to foul the reputation of the overwhelming number of guardians who perform a most difficult and thankless job.

The Orphans’ Court Division lacks the funding, resources and mandate to police guardians, nor is there an abundance of individuals willing to accept appointments as guardians for incapacitated persons. However, that does not mean that we should sit idly by without attempting to remedy these inequities. Due to increased oversight, the Court has removed guardians from 198 cases and appointed successor guardians.

Traditionally, the Court has relied upon the petitioner to investigate and vouch for the good character of the nominated guardian. Under the proposed new guardianship rules, the petitioner will be required to provide a criminal background check of the nominated guardian when filing the initial guardianship petition. Although the new rules have not yet been enacted, the Philadelphia Orphans’ Court Division has already implemented additional procedures in the form of consents and criminal background checks to hopefully prevent future abuse.

We graciously ask the Probate and Trust Section to be ready to assist the Orphans’ Court. Within the next twelve months, we may call upon you to assist with the following initiatives:

- Enunciate the Court’s reasonable expectations for guardians, especially those who are non-professional guardians;
- Establish a volunteer panel to assist the non-professional guardians who are good and honest caregivers but who need assistance with technical legal matters and accessing services for their wards;
- Enhance/revise the Court’s Guardian’s Manual to reflect changes in the rules together with education and training materials;
- Establish an ombudsman program, possibly through the Elder Justice Resource Center, where family members could receive information about the least restrictive alternatives and substitute decision makers as options to guardianship, and which could provide liaison services among guardians, family members and the Courts when issues arise;
- Develop a corps of volunteer guardians and advocates;
- Create a volunteer guardianship assistance project; and
- Offer any other thoughts and insights you may have to address the guardianship crisis.

You have come to the aid of our bench and the public many times before. We shall be calling upon you to do the same, this time to ensure that all guardians are true fiduciaries who understand their fiduciary responsibilities and act accordingly. This will not only aid untold individuals who need the trusted assistance of guardians, but will also elevate the level of expectation from all guardians. Moreover, this will bring honor to that position and especially to those who deserve it. Lest we forget, fiduciaries are a necessary part of our area of law, so we must make every effort to see that those who exercise fiduciary responsibilities as guardians do so within the law and do nothing to reflect negatively on all those who serve, in every area, with fidelity.

We are ever thankful to the Probate and Trust Section for always answering the call for assistance. Your record of selfless service is unparalleled in our Bar Association.

BY BRADLEY D. TEREBELO, ESQUIRE | HECKSCHER, TEILLON, TERRILL & SAGER, P.C.

Joseph Passarelli engaged his friend and lawyer to do estate planning work for him and his wife, Margaret, including creating a joint irrevocable inter vivos trust funded with the couple’s marital assets in excess of $13,000,000. Margaret met the lawyer at a single, hour-long meeting where she asked many questions and eventually signed the documents prepared by the lawyer at Joseph’s direction.

After executing all the documents, Margaret learned that Joseph was involved in an extramarital affair. She also learned that Joseph had purchased two real properties in Florida with marital assets less than one month prior to executing the joint trust, and the Florida properties were not disclosed during the estate planning process and were not listed among the marital assets included in the trust (it is not clear whether the attorney knew of the Florida properties). Although not stated in the Orphans’ Court opinion, apparently the Florida properties were purchased by two property companies that were listed on Schedule A to the trust instrument.

Margaret filed for divorce and filed an emergency petition to prevent the dissipation of marital assets. She later petitioned the Orphans’ Court to terminate the joint trust pursuant to 20 Pa. C.S. §7736 on grounds that her signature on the trust agreement was induced by fraud.

The Orphans’ Court evaluated the fraudulent execution of a trust on the same basis as the fraudulent execution of a will, which requires: (a) the testator had no knowledge of the concealed or misstated fact; and (b) the testator would not have made the same bequest had the testator known the truth. See In re Estate of Glover, 669 A.2d 1011 (Pa. Super. 1996). The Orphans’ Court concluded that Margaret had no knowledge of the purchase of the Florida properties with marital assets prior to signing the trust, and that she “understood the trust to encompass all of their marital property at the time. By failing to disclose the information from [Margaret] she did not, and could not know, exactly what assets or issues were really on the table as part of the transaction.”

Accordingly, the Orphans’ Court held that Joseph’s failure to disclose the purchase and existence of the Florida properties was an act of fraud intended to induce Margaret to execute the trust, and that Margaret would not have executed the trust had she known of the existence of the Florida properties. The Court also noted that the “haste in which the Passarelli estate plan documents were initiated, prepared

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1 The Orphans’ Court Litigation and Dispute Resolution Committee will provide summaries of recent litigation cases in each quarterly newsletter.

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CASE SUMMARY, CONTINUED

and executed are suspicious circumstances that give additional weight to the other evidence of fraudulent conduct.” The Court therefore terminated the trust and directed that all assets titled in the name of the trust be returned to the title that was in place prior to the execution of the trust.

On appeal, the Superior Court reversed in a 2 to 1 decision. Judge Ransom, writing for the majority, initially dismissed the Orphans’ Court’s conclusion that “will contests and trust contests should be treated similarly without further examination of the appropriate law. That said, the same general standards apply.” Citing Rebidas v. Murasko, 677 A.2d 331 (Pa. Super. 1996). The majority also found the Orphans’ Court’s definition of fraud as “both simplistic and reliant upon dicta” and instead relied on a 6-factor common law test to determine whether there was fraud in a transaction: “(1) a representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and (6) the resulting injury was proximately caused by the reliance” (citations omitted).

The majority then concluded that the 6-factor test was not met because there was no false statement made. As stated above, although not set forth in the Orphans’ Court’s opinion, apparently the properties were held by two property companies that were listed on Schedule A to the trust instrument: “Although not specifically listed on the Schedule A, the properties were included in the trust under the corporation’s holdings and combined value of $4,200,000.00. [Margaret] has identified no duty to fully disclose a corporation’s assets when that corporation is added to the corpus of the trust.”

In addition, the majority also concluded that Margaret did not suffer an injury: “She has not parted with any property: it is included in the Trust for which she is a settlor and her children are beneficiaries. Her argument that she has suffered an injury because she cannot access these funds in a divorce settlement is misplaced: during the execution of the trust documents, [Margaret] specifically wished to ensure the security of these assets in the event of a divorce.” Accordingly, the majority held that the execution of the Trust was not premised on fraud and reversed the Orphans’ Court.

Judge Platt filed a dissenting opinion stating that the Orphans’ Court found that Margaret would not have executed the trust if she had known that the properties were included in the marital assets, and as an error-correcting court, “[i]t is not our role to second-guess the factual findings of the trial court.” Furthermore, Judge Platt stated that the majority disregarded the Orphans’ Court’s credibility assessments, “which plainly favor [Margaret].” Finally, Judge Platt accused the majority of “expand[ing] the role of appellate review improperly” by enunciating new precepts of law.

On January 12, 2018, the Superior Court granted reargument en banc and vacated the November 16, 2017 decision. As of the date of this article, briefs have been submitted and oral argument is scheduled for July 10, 2018.
TECHNOLOGY COMMITTEE UPDATE

BY ROSS BRUCH, ESQUIRE | BROWN BROTHERS HARRIMAN & CO.

Pleading with clients to provide accurate and timely information can frequently be an unwelcome consequence of working with busy, high net worth individuals. And, when counseling clients on issues such as whether they may establish or maintain domicile in another state (a typical “snowbird” dilemma), where they owe taxes (a constant issue for the jet-setting corporate exec), or how long they’ve been out of the country (a concern for green-card holders that like to frequently visit home), obtaining precise, real-time data is often essential to providing the best legal advice.

Luckily, when it comes to travel, technology can help your clients spend less time gathering and sharing this data. In recent years, several useful apps have been released that allow users to easily track their residency requirements with much less stress and effort than keeping a personal log or relying on emails and invoices to decipher travel dates. After a user downloads one of these apps to his or her phone, the software will automatically track the user’s location and provide your clients with a complete picture of where they’ve traveled, how long they’ve spent in each location, and, in some instances, analyze how this information impacts their residency status in various jurisdictions. A few notable options include:

- **TaxDay** (taxday.com) - According to TaxDay’s website, this app can help taxpayers with defining tax residency, temporary residency, tax domiciles and abodes. It also allows the user to “generate year end reports that provide all the information needed to file taxes, including a summary of your travel in each jurisdiction, complete with travel records and receipts” to support residency status filing.

- **TaxBird** (taxbird.com) - Like TaxDay, TaxBird provides users with reports that show “total days in each location for the selected tax year,” as well as “exact travel dates and time spent in each location.” TaxBird appears to offer fewer features than TaxDay, but a more streamlined offering may be helpful to users with less complex needs.

- **TrackingDays** (trackingdays.com) - TrackingDays also prepares reports and summaries to help users track travel dates and locations, but this app’s primary focus is on expat users that wish to track international travel in and out of the US or UK.

- **FollowMee** (followmee.com) – FollowMee’s GPS Tracker app allows users to track and summarize travel, but also allows businesses to track multiple devices on a single account – which can be useful if, for example, an employer needs reports on all its employee’s travel.

- **Monaeo** (monaeo.com) – This app is designed primarily for the world business traveler and offers several cross-border compliance functions. Monaeo also receives honorable mention for being the sole app on this list that doesn’t unnecessarily remove spaces between words for branding purposes.

This is far from an exhaustive list of tracking apps, and depending on your and your clients’ needs, they may vary in overall usefulness. But, hopefully this list will serve as a good starting point to explore GPS tools available to you to make one frustrating aspect of advising your clients a little easier.
DONOR ADVISED FUNDS ARE THE CURRENT DARLINGS OF THE PHILANTHROPIC WORLD -- WITH GOOD REASON

BY RACHEL GROSS | RGROSS@JEWISHPHILLY.ORG.

A donor advised fund (DAF) is a separate, named fund used solely for charitable giving. A contribution into a DAF is a completed charitable gift made by a donor to a public charity which sponsors the DAF program. These include programs at community foundations and Jewish Federations, as well as those established by large financial institutions like Fidelity and Vanguard.

However, unlike an annual, capital or endowed gift, the donor reserves the right to make grant recommendations from the DAF. The donor also has the ability to designate him or herself and/or others to be the DAF advisors. DAFs are a wonderful tool for organizing and implementing charitable giving. With one gift - and one tax receipt - the donor can support many charitable causes. The sponsoring organization does all of the due diligence, check writing and administration. With most programs, the donor can use an online platform to make and track grant recommendations, including the ability to see when checks were sent to grantees and if and when those checks were cashed.

Many people fund DAFs with highly appreciated securities. In this way, they can avoid capital gains tax if the securities were held for more than one year. If the assets in the fund grow, they do so tax free, which means more dollars are available to grant. Additional gifts to the fund can be made at any time. A DAF may allow a donor to take advantage of a good business year, windfall profits or simply the fact that a donor may have assets available now.

Grants can be made on the donor’s timeline to 501(c)(3) public charities. The donor may not receive anything of value in return (with the exception of de minimis gifts). In addition, most programs will not allow bifurcated gifts to be made from a DAF. For example, a donor attending a gala where a portion of the ticket price is a tax-deductible donation and a portion covers the cost of attending the event, may not use the DAF to pay for the tax-deductible portion.

Under the new tax law, donors may wish to use a DAF to donate more than the standard deduction in some years to take advantage of a larger tax deduction in that year. They can then spread out their charitable giving from the fund over several years.

Normally, donors have the right to appoint successor advisors, allowing the fund to continue to a second or third generation, or a donor can instead recommend that the account be divided into a number of new funds, each with its own advisor or advisors. Alternatively, a donor can recommend that any remaining funds at the donor’s demise be distributed to a specific charity or charities. At a community foundation or Jewish Federation, the donor can instruct that any remaining assets be used to establish a permanent charitable fund to benefit one or more organizations or an area of interest to the donor.

Donors can also instruct that assets from a will or trust, an IRA or other retirement plan, or an insurance policy be added to a DAF to be advised by a family member or friend.

DAFs can be a great alternative to a private foundation or can be used in conjunction with one. A DAF has far fewer requirements than a private foundation. Because
NEW FINCEN CUSTOMER DUE DILIGENCE (CDD) REGULATIONS GO INTO EFFECT

BY MICHAEL A. BRESLOW, ESQUIRE | HECKSCHER, TEILLON, TERRILL & SAGER, P.C.1

Introduction

On May 11, 2016, the Financial Crimes Enforcement Network (FinCEN) issued final regulations under the Bank Secrecy Act to strengthen the customer due diligence (CDD) requirements for financial institutions (the “CDD/BO Regulations”).2 The CDD/BO Regulations require financial institutions to gather “beneficial ownership” (BO) information on the substantial owners of, and the individuals that control, a “legal entity” when the entity seeks to open a bank or other financial account. Financial institutions had until May 11, 2018 to comply with the regulations. The purpose of the CDD/BO Regulations is to assist law enforcement to combat the abuse of shell corporations and other legal entities by money launderers, tax evaders and terrorist financiers.

Background on CDD/BO

The problems that shell corporations, LLCs and partnerships present have drawn significant recent attention as a result of the Panama Papers and Paradise Papers scandals.3 These episodes revealed tax evasion, corruption and other criminality deploying the opacity of shell corporations as the primary vehicle for evading exposure. Because anonymous legal entities could circumvent CDD rules, the recent focus of international regulatory efforts has been to require actors in the financial system to gather and retain information on the “beneficial ownership” of legal entities—that is, the natural persons who own or control an entity such as a corporation, a partnership, an LLC or a trust.

FinCEN’s Regulations

FinCEN’s CDD/BO Regulations are fairly similar to beneficial ownership regulations existing in other countries with a few important differences. Under the new regulations, when opening a new account, a financial institution will be required to gather identifying information on the individuals that own a 25% or more of the DAF is a fund of the sponsoring organization, it does not need to file a separate tax return and, accordingly the grants attributable to a specific DAF are not listed and remain private. Under current law, there is no minimum annual distribution amount. This may be helpful in timing a meeting, especially if trustees are not able to convene as needed before the distribution has to be made. Because of the more private nature of a DAF, a private foundation may choose to use a DAF for grants that are outside of its main mission or which it simply prefers to make anonymously or more confidentially.

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continued on page 11
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NEW FINCEN REGULATIONS, CONTINUED

greater equity interest in a “legal entity customer,” and on a single individual who has “significant responsibility to control, manage or direct a legal entity customer,” such as a director or officer of a corporation or a manager of an LLC.\(^4\) FinCEN recently published guidance in the form of Frequently Asked Questions to assist the public in understanding the new CDD/BO Regulations.\(^5\)

Noteworthy for members of the Philadelphia Bar Probate and Trust Section is that private trusts are not included in the definition of “legal entity customer” under the regulations. Therefore, a trustee opening a bank account for a trust will not be required to provide the bank with information on the trust’s individual beneficiaries, unless the bank decides to go further than the minimum requirements of the new regulations and to require the production of such information. In the author’s experience, several banks have asked for identification information for trustees and trust beneficiaries, notwithstanding that the latter is not a requirement of the regulations.

Additionally, for entities with multiple layers of entity owners, financial institutions will be required to “look through” each layer of entities until individual beneficial owners can be identified. Trusts and estates lawyers are familiar with the scenario in which a trust owns 25% or more of a family limited partnership or an LLC. In the CDD/BO Regulations, a bank is permitted to “stop” looking through legal entities when it reaches a trustee—“[i]f a trust owns directly or indirectly . . . 25 percent or more of the equity interests of a legal entity customer, the beneficial owner. . . shall mean the trustee.” Again, it is possible that banks may go beyond the regulations and ask for information about the individual beneficiaries of a trust in these circumstances. Also noteworthy as it pertains to law firm practice, for purposes of the regulations, the legal entity customer for an attorney escrow account is the lawyer or the law firm, and not the lawyer or law firm’s clients, meaning that lawyers will not need to provide information to banks on their clients who have funds deposited in their client escrow accounts.

Trusts and estates practitioners should be aware that these regulations will impact their clients when opening bank accounts, particularly where clients are forming corporations, limited partnerships or LLCs. With respect to trusts, although the regulations do not require financial institutions to gather information on beneficiaries, it is apparent that financial institutions may do so regardless. It will be interesting to see how this develops as both financial institutions and practitioners become accustomed to the new regulations.

\(^4\) 31 C.F.R. §1010.230(d)(1), (2).

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TAX UPDATE
BY MARGERY J. SCHNEIDER, ESQUIRE | STEINBACHER, GOODALL & YURCHAK

FEDERAL ESTATE TAX

Federal Estate Tax Transcripts


For estate tax returns filed on or after June 1, 2015, federal estate tax closing letters are now issued only upon the request of an estate. Instead, estate tax transcripts are available online to registered tax professionals. The transcript includes the date of receipt of the return, payment and refund history, penalties and interest assessed, balance due with accruals, and the date on which the examination was closed. A new registration and login process, which began on December 10, 2017, calls for two-factor authentication process. See https://www.irs.gov/tax-professionals/e-services-online-tools-for-tax-professionals.


Reformation to Alter Grantor Trust Status to Conform to Grantor’s Intent

Private Letter Ruling 201807001 (November 13, 2017)

A person who was not a U.S. citizen or U.S. resident set up an irrevocable grantor trust under the laws of a U.S. state. His attorney intended for it to qualify as a grantor trust under IRC §677, which provides that a trust is treated as a grantor trust insofar as its income may be distributed to the grantor without the consent of an adverse party. However, after the establishment of the trust, IRC §672(f)(1) was amended to make IRC §§ 671-677 inapplicable to non-citizen non-residents unless only the grantor or grantor’s spouse can receive distributions. The statute was made retroactive to a date before the trust was funded, and therefore the trust no longer qualified as a grantor trust.

Justifying its decision on the grantor’s intent, the retroactivity of the change of law, and the fact that no distributions had been made, the IRS allowed the trust to be reformed to remove the grantor’s issue as potential beneficiaries, thereby qualifying the trust as a grantor trust under IRC §672.

FEDERAL GIFT TAX

GST vs. Gift Tax Splitting

Private Letter Ruling 201811002 (March 16, 2018)

The IRS ruled that gift-splitting is applied differently to federal gift taxes and generation-skipping transfer taxes. As authorized by IRC §2513(a)(1) and reported on Form 709, for gift tax purposes a gift made by donor to a person who is not the donor’s spouse is considered to be made one-half by the donor and one half by the donor’s spouse.

In this PLR, a taxpayer made gifts to four irrevocable trusts, one for the benefit of each of his children. Each child was to receive the income for life from his/her trust, with the child’s issue receiving the trust principal at age thirty-five. Both the taxpayer and his spouse filed Form 709, agreeing to split the gifts. But due to their accountant’s error, the husband’s gift tax return showed a gift of 75% of the total value transferred and the wife’s return showed a gift of 25% thereof. No GST tax allocation was made on the gift tax return.

The husband, having decided to make a late GST allocation, filed a second gift tax return, which erroneously reported the husband...
Probate and Trust Law Section Newsletter | NO. 147

PRACTICE POINT

NAVIGATING THE NEW PUBLIC ACCESS POLICY IN THE FIVE-COUNTY AREA

BY NEAL G. WILEY, ESQUIRE | ALEXANDER & PELLI, LLC

You probably know it as the big dusty binder on a shelf in your office, or maybe you have a .pdf file of it saved to your desktop. Either way, odds are, you have either used a form or consulted an article from the Philadelphia Estate Practitioner Handbook (PEPH) at some point in your career. As an Orphans’ Court law clerk, I saw the PEPH cited as authority in pleadings more than once, and not just by pro se litigants.

Where does this monument to Philadelphia estate practice come from? It originally existed as separate color-coded books (hence the current division into the Blue Book, Green Book, and Red Book). The Green Book has been with us since at least the 1930s, and was originally compiled by David G. Hunter (of Common Place Book fame), who served as a Philadelphia Orphans’ Court law clerk from 1906 until 1943, and Orphans’ Court Judge from 1943 until his death in 1960. The Red Book originated as a pamphlet published in 1950, based on a series of lectures on Orphans’ Court practice given by John Blessing, a law professor at Temple and a former Philadelphia Orphans’ Court law clerk of 23 years. The Blue Book was assembled by the Register of Wills Committee of the Probate and Trust Law Section of the Philadelphia Bar Association and Continental Bank, and first published in 1987.

All three books have, of course, gone through numerous and extensive revisions since their inception. Most recently, the Green and Blue books were revised by the Rules and Practice Committee of the Probate and Trust Law Section of the Philadelphia Bar Association in 2002. A revised Red Book followed, and these together make up the PEPH as it exists today.

As much as 16 years have passed since the last complete revision of the PEPH. Much has changed since then, including, among other things, the advent of the Pennsylvania Uniform Trust Act and new Orphans’ Court Rules. New technology enables new ways to publish and access information. Clearly, a new revision is in order.

The Rules and Practice Committee began the long and laborious task of updating the PEPH last year, starting with the Green Book. We recently began planning for its implementation on the Bar Association website. We are also

TAX UPDATE, CONTINUED

as the transferor of 100% of the total value of the trust property.

Upon the expiration of the statute of limitations for reporting the gifts and the late allocation of GST tax, the IRS ruled that the amount of the taxable gift reported by the taxpayers could not be adjusted. The husband was treated as making a taxable gift of 75% of the total value transferred. In contrast, the IRS treated the husband as allocating GST tax exemption to only one-half of the property transferred to the trust, because Treasury Regs. §26.2652-1(a)(4) provides that whatever the allocation for gift tax purposes, for the purpose of GST tax allocation each spouse is treated as the transferor of an equal share of the trust property.

continued on page 15
pleased to announce that the current version of the PEPH (which, taken with a grain of salt, is still very useful) has migrated to a new home on the Probate and Trust Law page of Philadelphia Bar Association’s website.¹ So next time you pull that binder off the shelf (or open up that .pdf), consider the deep roots of the PEPH in our professional community, and stay tuned for the next update.

³ See: http://philadelphiabar.org/page/ProbateAndTrustLawSectionResources?appNum=1

JOIN A COMMITTEE

The Section’s committees depend on the steady flow of people, energy and ideas. Join one!

Contact the Section Chair:
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Philadelphia, PA 19103
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rnewman@dbslawllp.com

The Probate and Trust Law Section is pleased to introduce its new hashtag:

#phillyprobatetrust

Please use the hashtag #phillyprobatetrust when posting on social media about news or events that might be interesting to section members!