

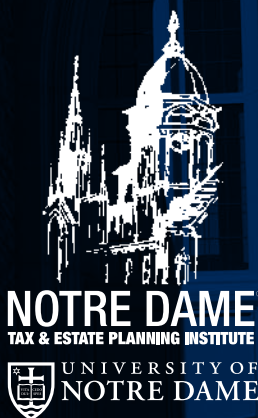
**45**

FORTY-FIFTH

**NOTRE DAME<sup>®</sup>**

**TAX & ESTATE PLANNING INSTITUTE**

Coverage of the  
**SECURE Act**  
will be added



**Century Center**

South Bend, Indiana | September 26-27, 2019

*Program will be modified to fully reflect any legislative developments affecting the estate tax.*

Wednesday, September 25, 2019

2 CLE credit hours

**3:30 p.m. - 5:30 p.m. Wednesday Afternoon: (120 mins)**  
 How § 7872 and the OID Timing Rules Impact Intra-Family Notes and Their Valuation for Transfer Tax Purposes ..... **Hall B**  
 ~ Michael Strauss

Thursday, September 26, 2019

8 CLE credit hours - 1 hour ethics

**8:00 a.m. Welcoming Ceremonies** ..... **Hall A**  
 Jerome M. Hesch, Miami, Florida

**8:10 a.m. Session 1 (70 mins)**  
 Part 1: Current Developments of Importance to Estate Planners  
 ~ Turney Berry, Charles Redd and Dana Fitzsimons

**9:20 a.m. Session 2 (60 mins)**  
 Part 2: Current Developments of Importance to Estate Planners  
 ~ Turney Berry, Charles Redd and Dana Fitzsimons

**10:20 a.m. Break (15 mins)**

session **A** Choose from the following sessions which are scheduled to run concurrently **B** session

**10:35 a.m. - Session 3A (60 mins)\***  
 Joint Representation: Conflicts, Waivers, Privileges and Retention Agreements  
 ~ Sandra Glazier

**10:35 a.m. - Session 3B (60 mins)\***  
 Avoiding Estate and Trust Litigation Before It Happens: Ethical and Practical Considerations and Strategies  
 ~ Jonathan Blattmachr

**11:35 a.m. - Session 4A (60 mins)**  
 Practical Planning and Drafting for Incapacity for Your Client and Their Beneficiaries  
 ~ Bernard Krooks

**11:35 a.m. - Session 4B (60 mins)**  
 Assuring Compliance with Decedent's Wishes in an Era of Decanting, Early Terminations, and Other Irrevocable Trust Modifications  
 ~ Diana Zeydel

**12:35 p.m. Luncheon** ..... **Great Hall**  
 ~ sponsored by Ernst & Young LLP and Heritage Auctions

session **A** Choose from the following sessions which are scheduled to run concurrently **B** session

**1:50 p.m. - Session 5A (60 mins)**  
 Using Powers of Appointment, Including Ways You May Have Never Considered  
 ~ Jonathan Blattmachr

**1:50 p.m. - Session 5B (60 mins)**  
 Trends in the IRS's Approaches to Transfer Tax Audits, Appeals and Litigation: How to Represent Clients and Draft Accordingly  
 ~ John Porter

**2:50 p.m. - Session 6A (60 mins)**  
 Partnership Audit Rules: Tips, Traps and Trends in Drafting FLP Agreements. Planning to Manage the Future Audit  
 ~ Jerry August

**2:50 p.m. - Session 6B (60 mins)**  
 Evaluating Life Insurance Products, What The Illustrations Really Mean, and What Advisors May Not Be Aware Of To Protect the Client  
 ~ Bobby Samuelson

**3:50 p.m. - Break (15 mins)**

**4:05 p.m. - Session 7A (120 mins)**  
 Trusts & Estates Advisory Board Panel: Collaboration When Working with the Contemporary Family  
 ~ Kim Kamin, Martin Shenkman, Hugh Magill and David Lenok

**3:50 p.m. - Break (15 mins)**  
**4:05 p.m. - Session 7B (120 mins)**  
 Best Practices for Partnering Between Lawyers, Financial Advisors and Trust Companies with the Life Insurance Industry  
 ~ Jonathan Forster, David Byers and Chris Morton

## THURSDAY NIGHT RECEPTION

Thursday, September 26, 2019  
 6:30 pm - 7:45 pm

sponsored by PNC Wealth Management

Friday, September 27, 2019

8 CLE credit hours - 1 hour ethics

session **A** Choose from the following sessions which are scheduled to run concurrently **B** session

**8:00 a.m. - Session 8A (60 mins)**  
 IRA Planning for 2019-2020: Roth IRA Conversion Planning, and Strategies and Actions if Congress Kills the Stretch IRA  
 ~ Chris Hoyt

**8:00 a.m. - Session 8B (60 mins)**  
 The Impact of the New Alimony and Section 682 Rules on Spousal Support and Trusts  
 ~ George Karibjanian and Justin Miller

**9:00 a.m. - Session 9A (60 mins)**  
 Drafting or Amending FLP Agreements to Avoid IRS Challenges After Recent Tax Court Decisions: Best Practices and Still Give Decedent Some Control  
 ~ David Handler and David Herzig

**9:00 a.m. - Session 9B (60 mins)**  
 Pre-and Post-Marital Planning for Marriage, Divorce and Asset Protection: Keeping Separate Property Separate, Issues for Closely-Held Business Owners and Modifying Existing Trusts  
 ~ Sharon Klein

**10:00 a.m. - Break (15 mins)**

**10:00 a.m. - Break (15 mins)**

**10:15 a.m. - Session 10A (60 mins)**  
 The Current Status Using Trusts to Eliminate or Defer State Income Taxes  
 ~ David Berek and Raj Malviya

**10:15 a.m. - Session 10B (60 mins)†**  
 Using Technology for the Modern Estate Planning Practice  
 ~ Martin Shenkman and Thomas Tietz

**11:15 a.m. - Session 11A (60 mins)**  
 Defrosting the Freeze: Estate Planning No Longer Needed or Financially Impractical, Unwinding or Fixing the Technique, Drafting for Future Flexibility  
 ~ Todd Angkatavanich and Steve Breitstone

**11:15 a.m. - Session 11B (60 mins)**  
 Planning Upstream: Using Trusts Established By (and For) Parents for Better Income and Estate Tax Results  
 ~ Edwin Morrow

**12:15 p.m. Luncheon (60 mins - no CLE credit)**  
 Capital Update: What's Happening in Congress, the Oval Office, Treasury and the IRS - sponsored by The Chicago Community Trust  
 ~ Ron Aucutt

session **A** Choose from the following sessions which are scheduled to run concurrently **B** session

**1:15 p.m. - Session 12A (60 mins)\***  
 Planning for Privacy in a Public World: Ethics and Mechanics of Protecting Your Client's Privacy and Personal Security  
 ~ Jeff Chadwick

**1:15 p.m. - Session 12B (60 mins)\***  
 Restoring Civility and Professionalism in Attorney, CPA and Other Advisor Communications in a Digital Age  
 ~ Katarinna McBride and Karin Prangley

**2:15 p.m. - Session 13A (60 mins)**  
 Unwinding Life Insurance Transactions and Keeping a Policy: Dealing With ILITs, Split Dollar and Buyout Agreements When the Business Owns the Policy  
 ~ Todd Steinberg

**2:15 p.m. - Session 13B (60 mins)**  
 The Pot Trust and Trustee Discretion: Balancing Families Across Multiple Generations, Flexibility, Investment Objectives, Fiduciary Duties and Ignoring Family Dynamics  
 ~ Bruce Stone and Andrea Stone

**3:15 p.m. - Break (15 mins)**

**3:15 p.m. - Break (15 mins)**

**3:30 p.m. - Session 14A (60 mins)**  
 Estate Planning for the Contemporary Family. It's All in the Family. What's a Family?  
 ~ Hugh Magill

**3:30 p.m. - Session 14B (60 mins)**  
 Application of Section 199A, and its Interaction with Other Income Tax Rules, to Real Estate Investors, Operators and Developers  
 ~ Alan Gassman

**4:30 p.m. - Session 15A (60 mins)**  
 Home Repair: A Lawyer's Guide To Fixing A Damaged QPRT, Impact of a Divorce and Obtaining Step-up in Basis After the Term Expired  
 ~ Louis Harrison

**4:30 p.m. - Session 15B (60 mins)**  
 Estate Planning for Assets that did not Previously Exist: Blockchains, Bitcoins, Crypto Currencies and Hybrids.  
 ~ Benetta Jenson

\* ethics credits † technology credit

Program will be modified to fully reflect any legislative developments affecting the estate tax.

# INTRODUCTION

The Institute continues to present practical topics relevant for all families, even those not exposed to the estate tax, as well as topics focusing on saving estate taxes. With simultaneous sessions, we scheduled estate planning topics opposite practical topics to provide attendees with the opportunity to attend the sessions of interest to them and their clients. The Institute will continue to offer topics not found in estate tax-focused estate planning programs.

With the recent Tax Court decisions expanding the reach of Section 2036 and 2038 to include in a decedent's gross estate interests in family limited partnership owned in an irrevocable trust, the sessions will review these expansive court decisions, will discuss how to draft or amend FLP agreements to avoid these IRS challenges and describe the best practices while still giving a decedent some control.

With the larger exemptions, practitioners are concerned with what to do with irrevocable structures no longer needed for tax saving or other reasons. And, how should one deal with a trust no longer able to meet its financial obligations under a deferred payment arrangement because the trust's assets have declined in value or because the annual payments increase each year by a stated percentage? Frequently, the grantor desires to toggle off grantor trust treatment, but the trustee, owing a fiduciary duty to the beneficiaries, may refuse to allow the trust to convert to a non-grantor trust. What can be done to toggle off grantor trust treatment? Frequently, another person has guaranteed the trust's obligations. When the trust is insolvent, what is the responsibility of the trustee regarding the guarantor? These situations will be covered in the topic "Defrosting the Freeze." The "Fixing the QPRT" topic will deal with situations not considered when the QPRT was drafted, such as the impact of a divorce, using the up to \$500,000 exclusion of gain when a principal residence is sold and obtaining a basis step-up at death.

With the proliferation of complex life insurance products, the family advisor may not be able to fully evaluate the life insurance product and the accompanying illustrations. The first speaker will discuss how to evaluate the different products and the accompanying illustrations. Immediately following, a panel will discuss with the lawyer, the financial advisor and the trust company can work with the life insurance industry to assist in the evaluation process. There frequently arise situations where life insurance was an integral part of the planning technique where the structure is no longer needed and there is a desire to keep the life insurance policy in place, such as when the ILIT is no longer needed. The more difficult situation occurs when there is a buy-sell agreement in place that is no longer needed, and the life insurance policy is owned either by the company or by owners of the company who are not the insured. Our speaker will discuss the obstacles that need to be addressed and how to solve these problems with little or no income tax exposure and not cause any financial problems.

With the estate planning profession's renewed interest in income tax planning, one topic will address how powers of appointment can be used to obtain an income tax-free step-up in basis at death with no estate tax exposure. Given recent attempts to exact a state income tax on the income of trusts created by a resident of the state where the trust is located in another state with no state income taxes, and the pending Supreme Court decision in North Carolina v. Kaestner, our speakers will describe the techniques designed to either eliminate state income taxes or how to at least defer the taxation of trust income by the states and evaluate their effectiveness.

# FACULTY

## Todd Angkatavanich

Ernst & Young LLP  
- Hartford, CT

## Ron Aucutt

Bessemer Trust  
- Sarasota, FL

## Jerald August

Fox Rothchild, LLP  
- Philadelphia, PA

## David Berek

Baker & McKenzie LLP  
- Chicago, IL

## Turney Berry

Wyatt, Tarrant & Combs, LLP  
- Louisville, KY

## Jonathan Blattmacher

Pioneer Wealth Partners LLP  
- Garden City, NJ

## Steven Breistone

Meltzer, Lippe, Goldstein &  
Breistone LLP  
- Mineola, NY

## David Byers

Capital Strategies Group  
- Birmingham, AL

## Jeff Chadwick

Winstead PC  
- Houston, TX

## Dana Fitzsimons

Bessemer Trust  
- Atlanta, GA

## Jonathan Forster

Baker & Hostetter LLP  
- Washington, DC

## Alan Gassman

Gassman, Crotty & Denicolo P.A.  
- Clearwater, FL

## Sandra Glazier

Lipson Neilson, P.C.  
- Bloomfield Hills, MI

## David Handler

Kirkland & Ellis, LLP  
- Chicago, IL

## Louis Harrison

Harrison & Held, LLP  
- Chicago, IL

## David Herzig

Ernst & Young LLP  
- Dallas, TX

## Chris Hoyt

University of Missouri School of Law  
- Kansas City, MO

## Benetta Jensen

JP Morgan Private Bank  
- Chicago, IL

## Kim Kamin

Gresham Partners, LLC  
- Chicago, IL

## George Karibjanian

Franklin Karibjanian & Law PLLC  
- Boca Raton, FL

## Sharon Klein

Wilmington Trust  
- New York, NY

## Bernard Krooks

Littman Krooks LLP  
- White Plains, NY

## David Lenok

Penton Publishing  
- New York, NY

## Hugh Magill

Northern Trust  
- Chicago, IL

## Raj Malviya

Miller Johnson  
- Grand Rapids, MI

## Katarinna McBride

Harrison & Held LLP  
- Chicago, IL

## Justin Miller

BNY Mellon  
- San Francisco, CA

## Edwin Morrow

U.S. Bank Private  
Wealth Management  
- Cincinnati, OH

## John Porter

Baker Botts LLP  
- Houston, TX

## Charles "Clary" Redd

Stinson LLP  
- St. Louis, MO

## Robert Samuelson

The Life Product Review  
- Charlotte, NC

## Martin Shenkman

Martin M. Shenkman, P.C.  
- Fort Lee, NJ

## Todd Steinberg

Loeb & Loeb LLP  
- Washington DC

## Andrea Stone

Rozencwaig Nadel LLP  
- Hallandale Beach, FL

## Bruce Stone

Golman, Felcoski & Stone, P.A.  
- Coral Gables, FL

## Michael Strauss

Strauss, Malk & Feder LLP  
- Northbrook, IL

## Thomas Tietz

Martin M. Shenkman, P.C.  
- Fort Lee, NJ

## Diana Zeydel

Greenberg Traurig  
- Miami, FL

# PROGRAM INFORMATION

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The Institute will be held September 26 and 27, 2019, at South Bend's Century Center on the banks of the St. Joseph River in downtown South Bend, Indiana, at 120 South Dr. Martin Luther King Jr. Blvd.

South Bend uses Eastern Time (same as New York City)

**SAVE MONEY AND TIME, REGISTER ONLINE AT:**

**<http://law.nd.edu/estateplanning>**

*On site registration rates will apply starting September 16th*

## **Continuing Education Certification**

For those attendees desiring certification of attendance at the program, the Institute will provide attendance logs and will issue certificates of attendance. The program will afford up to 18 actual hours of continuing education, including up to 2.00 hours of ethics. Each continuing education accrediting agency determines the number of continuing education hours (including ethics) it will accept for accreditation.

## **Registration**

If you register online prior to September 16th, the fee is \$795 (the fee for online registration on or after September 16th is \$840). The fee for the Institute is \$840.00 if you submit a paper application and pay in advance (refundable if written notice of cancellation is received not later than August 26, 2019, by Venue ND, W066 Duncan Student Center, Notre Dame, Indiana 46556), and \$860.00 if paid at the time of the Institute. Single day on-line registration prior to September 16th is \$515.00 (or \$525.00 if you submit a paper application prior to Sept. 16th; after Sept. 16th, the fee will increase to walk-in/on-site registration of \$530.00). The fee includes continental breakfasts, refreshments, luncheons, the reception following the program on Thursday and the lecture outlines. Questions? Telephone (574) 631-1400; email, [conferences@nd.edu](mailto:conferences@nd.edu).

## **Audio CDs and Lecture Outlines**

If you are not attending, you may purchase materials online or by mail using the attached form with payment. Lecture outlines alone may be purchased onsite for \$205.

## **Confirmations**

Confirmations will be emailed.

## **Lodging**

Limited lodging is available at group rates. Contact the hotels directly and ask for the Institute's group block rate. For lodging assistance and alternatives, call 1-800-828-7881 (the Convention and Visitors Bureau).

Note: Conference registration is required for hotel group rates.

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### **Hotels**

Double Tree.....574-234-2000

*For additional lodging options, please visit [www.visitsouthbend.com/places-to-stay](http://www.visitsouthbend.com/places-to-stay) or go to the online registration at <http://law.nd.edu/estateplanning>*

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## **Football Game Information**

We regret that the Institute cannot supply tickets to the Virginia vs. Notre Dame game which follows the Institute on Saturday, September 28, 2019.



# REGISTRATION FORM

## FORTY-FIFTH ANNUAL NOTRE DAME TAX & ESTATE PLANNING INSTITUTE

JEROME M. HESCH  
Adjunct Professor of Law  
Florida International University Law School  
Boston University School of Law

# Thursday and Friday, September 26-27, 2019

We appreciate your interest in the Notre Dame program and want you to have this priority notice of the program for 2019. There are concurrent sessions. All sessions will be audio recorded and available for purchase.

**PLEASE USE THIS PORTION TO ACCOMPLISH EARLY MAIL-IN REGISTRATION  
YOU MUST PROVIDE COMPLETE INFORMATION FOR REGISTRATION TO BE PROCESSED  
TO SAVE MONEY & TIME, REGISTER ONLINE AT <http://law.nd.edu/estateplanning>**

**REGISTRATION FEE:**  Both Days \$840 (\$860 at door - \$795 if you register online before Sept. 16th)

**SINGLE DAY REGISTRATION:** \$525 (\$530 at door - \$515 for online registration prior to Sept. 16th) Indicate Date:  Thurs.  Fri.

**MEDIA OPTIONS PLEASE SELECT ONE:**  Outline Book  Flash Drive  Text CD

All Three Options (additional \$100)

Outline Book with Flash Drive (additional \$90)

Outline Book with Text CD (additional \$90)

Flash Drive with Text CD (additional \$75)

**IF NOT ATTENDING:**  Audio CDs and Outline Book (\$840)  Outline Books (\$225)  Flash Drive (\$185)  Text CD (\$185)

Outline Book, Flash Drive, and Text CD (\$260)

Outline Book with Flash Drive (\$245)

Outline Book with Text CD (\$245)

Flash Drive with Text CD (\$190)

**MAKE CHECKS PAYABLE TO: UNIVERSITY OF NOTRE DAME.** Refundable in full if written notice is received on or before August 26, 2019

**Mail to:** Venue ND, W066 Duncan Student Center, Notre Dame, Indiana 46556

Please Include Me on Roster:  Yes  No

**Name** \_\_\_\_\_ **Phone** \_\_\_\_\_

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**Accrediting Agency & State** \_\_\_\_\_ **Lic #** \_\_\_\_\_

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**Dietary Restrictions** (please list, if any) \_\_\_\_\_ **I'm a Notre Dame Alumna/ae**  Yes  No

**Wednesday, Sept. 25th**

3:30 - 5:30 pm - Wednesday Afternoon - Strauss

Concurrent Sessions -- Pre-registration required:

**Thursday, Sept. 26th** (indicate choice)

10:35-11:35 am - Session 3A - Glazier

10:35-11:35 am - Session 3B - Blattmachr

11:35 am -12:35 pm - Session 4A - Krooks

11:35 am -12:35 pm - Session 4B - Zeydel

12:35-1:50 pm - Luncheon

1:50 pm-2:50 pm - Session 5A - Blattmachr

1:50 pm-2:50 pm - Session 5B - Porter

2:50-3:50 pm - Session 6A - August

2:50-3:50 pm - Session 6B - Samuelson

4:05-6:05 pm - Session 7A - Kamin, Shenkman, Magill & Lenok

4:05-6:05 pm - Session 7B - Forster, Byers & Morton

Concurrent Sessions -- Pre-registration required:

**Friday, Sept. 27th** (indicate choice)

8:00-9:00 am - Session 8A - Hoyt

8:00-9:00 am - Session 8B - Karibjanian & Miller

9:00-10:00 am - Session 9A - Handler & Herzig

9:00-10:00 am - Session 9B - Klein

10:15-11:15 am - Session 10A - Berek & Malviya

10:15-11:15 am - Session 10B - Shenkman & Tietz

11:15-12:15 pm - Session 11A - Angkatavanich & Breitstone

11:15-12:15 pm - Session 11B - Morrow

12:15-1:15 pm - Luncheon - Aucutt

1:15-2:15 pm - Session 12A - Chadwick

1:15-2:15 pm - Session 12B - McBride & Prangley

2:15-3:15 pm - Session 13A - Steinberg

2:15-3:15 pm - Session 13B - Stone & Stone

3:30-4:30 pm - Session 14A - Magill

3:30-4:30 pm - Session 14B - Gassman

4:30-5:30 pm - Session 15A - Harrison

4:30-5:30 pm - Session 15B - Jenson



UNIVERSITY OF  
NOTRE DAME

Notre Dame, Indiana 46556

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### **Advisory Board**

*Aen Webster*

*Jack Sawyer*

*Alan Gassman*

*Sandra Glazier*

