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ESTATE PLANNING

May 31, 1971

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1. Assuming the settlor of a trust wants the trust to be amendable and revocable. In what important respects is the situation changed if the inter vivos trust is amendable and revocable by:
 - (a) The settlor only with another who does not have a substantial adverse interest?
 - (b) The settlor only with another who does have a substantial adverse interest?
 - (c) By another alone?
 - (d) By the settlor alone, but on the revocation of the trust the trust property must go to someone other than the settlor.
2. The normal pour over situation is from the will of the creator of an inter vivos trust to the inter vivos trust. In what important respects is the situation changed if the pour over is from an inter vivos trust to a testamentary trust under the will of the creator of the inter vivos trust?
3. A desires to withdraw from the active management of his financial affairs. However, he does not wish to give up complete control of his assets. A is not only getting old but there is some definite sign of senility. His affairs are quite complicated and an interruption of or change in management at his death could be quite harmful. None of the corporations in which he has holdings are Subchapter S Corporations. What would you suggest? Explain your reasons in a few sentences.
4. Under what circumstances should a husband who established with his wife a tenancy by the entirety in real property elect to treat the transfer to his wife as a gift for federal gift tax purposes.
5. A desires to place \$100,000 worth of securities in an inter vivos trust. Assume that the trust instrument will be so drafted that he will be deemed to have made a gift of the trust property for federal gift tax purposes. A has 1,000 shares of the K Corporation which has a present worth of \$100 a share and which he acquired at \$10 a share; 1,000 shares of the Y Corporation which have a present worth of \$100 a share and which he acquired at \$80 a share and 1,000 shares of Z Corporation which have a present worth of \$100 a share and which he acquired at \$120 a share. Suggest the best way to fund the trust.
6. In establishing a short term trust why may it be undesirable to continue the trust for the full ten year period if the settlor should die before the ten year period expires? What effect would the settlor's life expectancy have on this consideration? Why may it be undesirable to continue the trust for the full ten year period if the short term beneficiary should die before the ten year period expires. What effect would the beneficiary's life expectancy have on this consideration?
7. To whom are the capital gains realized by a trust taxable if the settlor retains the right to income but indefeasibly transfers the remainder to B.
8. The settlor transfers property to T to hold in trust. The trust provides that the income and corpus may be expended in whole or in part for the support of S who is a minor, from time to time, in such amount or amounts as T in his discretion may determine, until S attains the age of 21 years; If S lives to attain 21 then when he attains 21 the trust is to terminate and the undistributed income and corpus are to be paid to him; If S dies before attaining 21 then on S's death the trust is to terminate and the undistributed income and corpus are to be paid to S's estate. What are the advantages of a trust for the benefit of S like the one described over an outright present interest gift to S and over the use of the so-called custodian arrangement to make the present-interest