

Dear estate planning professional:

Every estate planner has clients who have TIAA-CREF plans. These retirement plans for university professors are different enough from the standard IRA or 401(k) plan to require specialized knowledge..but until now there was no cost-effective way to *get* that knowledge. So we estate planners can be grateful to Connecticut estate planners Irving S. Schloss, Esq., and Deborah V. Abildsoe, whose **book *Understanding TIAA-CREF*** (Oxford Univ. Press 2000; \$27.50) is now available at bookstores everywhere. *Understanding TIAA-CREF* de-mystifies the settlement options available to TIAA-CREF participants and explains how to fit these benefits into typical estate plans. If you don't read it, your TIAA-CREF-owning clients will know more than you do, because the "perfessers" are snapping this book up.

Only a year old, Steve Leimberg's **Employee Benefits and Retirement Planning e-mail newsletter** has become indispensable for those who want to keep current with new developments in estate planning for retirement benefits. Steve gets the news as it happens and provides not only instant notice, but analysis by experts such as Bob Keebler and Noel Ice. For only \$14.95 per month you get the email newsletter (at least weekly), *plus* access to all the archived past newsletters, *plus*, free, as many of the other Leimberg newsletters (such as tax "News of the Week," and "asset protection" edited by Alex Bove) as you wish to receive. Also included is Andy DeMaio's superb Law Threads. Andy monitors all the estate planning "list-servs" (web exchanges among estate planning pros, discussing questions and ideas of interest) so you don't have to. Just skim Law Threads and go straight to Andy's summaries of the topics that interest you. Two recent nuggets: post-mortem planning for U.S. Savings Bonds and how to use "Google" to search the IRS website. Subscribe (or visit once for free) at www.leimbergservices.com.

How would you like to provide a terrific service for your clients that they will truly appreciate and that will help them remember how great you are? **DocuBank® stores your client's living will** and health care directive. When an emergency arises, DocuBank® faxes these vital documents to where they're needed, anywhere in the world, in minutes. The client carries a plastic Emergency Card instructing the medical caregivers to call DocuBank® toll-free. The card also has your name on it as the estate-planning attorney; DocuBank® also mentions your name when reminding the clients annually to update their documents. This service was the best "new discovery" I made at Heckerling this year. To find out more about DocuBank®, visit www.docubank.com or call Fran Gibson at 610-667-3524.

I'd better put in some free stuff now that I've helped you spend your money. The IRS recently updated its old "PS58" table (replacement term rates for single life insurance) but neglected to give the new rates for the "US38" table (joint and survivor life). You can find the **new US38 rates** at www.tigertables.com/ps58.htm thanks to the indefatigable Larry Katzenstein. Visit www.collegesavings.org/tax_treatment.htm for a table summarizing all **states' tax treatments of \$529** college savings plans and other information about this new middle class tax deal.

I'm working on the **2001 edition of *Life and Death Planning for Retirement Benefits***, so now is the time to send in your suggestions. Please let me know what you would like to see added, subtracted, made clearer or left exactly the same; e-mail me at www.ataxplan.com (click "Contact us" on the home page).

Until the next issue,

--Natalie B. Choate
Never Revoke an Old Trust

Here's the dilemma: client is making major estate plan changes. Her unfunded revocable living trust has already been amended and restated several times. You could just restate it again, but the drawback of that approach is that, someday, an IRS auditor, transfer agent or beneficiary may demand to see all the prior editions to verify that the proper amendment procedure was followed. Not only will that cause a big waste of time and effort, it may expose provisions of the prior versions that the client would prefer to keep private. On the other hand, if the client revokes the old trust and adopts an entirely new trust, there is a chance that someday, somewhere, an overlooked beneficiary designation will leave an insurance policy or retirement plan account to the wrong trust. Leaving assets to a revoked trust creates a real mess and it happens regularly.

Here's a solution: create a totally new trust for the new estate plan, but *don't* revoke the old one. Instead, amend the old trust so that its new "dispositive" provision is simply "transfer all assets to the new trust." This way, the client gets the benefit of a fresh start with a brand new trust (no trail of "prior editions" for troublemakers to sift through), but also there's little harm done if someone forgets to change all the client's beneficiary designations over to the new trust.

Here's a form I've used to do this: (The main drawback is that if the client's living trust is already funded, this approach will necessitate changing the title on all the assets over to the new trust; in that case, it may be easier simply to amend the old one after all.)

Amendment of Trust

The undersigned, being the [Donor, Trustor, Grantor, or whatever title was used in the old trust] of a certain trust known as the [name of old trust] Trust, established by [Agreement, Instrument, Declaration, or whatever other title was used in the old trust] of Trust dated [date of old trust], [as previously amended (if applicable)], hereby amend said Trust, pursuant to powers reserved to me in [Article, Section, or whatever other title was used in the old trust] Number [number of provision in old trust that permitted amendments] thereof, as follows:

1. [Articles, Sections] numbered [here list the article or section numbers of all of the *dispositive* provisions of the old trust; i.e., the sections that say who gets what money from the trust and when; do *not* revoke the administrative provisions of the old trust, because they may be needed to carry out the following amendment] are hereby revoked, and replaced with the following:

"Any property that is now or later held by or payable to this Trust shall forthwith be assigned, transferred and distributed to [name(s) of trustee(s) of new trust] as [he/she/it/they] [is/are] Trustee(s) of the [name of new trust], under [Agreement, Instrument, Declaration, or whatever other title is used in the new trust] of Trust dated [date of new trust], as the same may be amended from time to time, or [his/her/its/their] successors in Trust, to be held and administered as provided therein."

2. [Name(s) of Trustee(s) of old trust] [is/are] hereby removed as Trustee and [name(s) of trustee(s) of new trust] [is/are] hereby appointed as successor Trustee.

[Complete the form with whatever signatures and acknowledgments are required under the terms of the old trust and applicable state law to make the above amendments effective.]