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BOOK REVIEW

Multistate and Multinational Estate Planning

BY JEFFREY A. SCHOENBLUM
BOSTON, MASSACHUSETTS
LITTLE, BROWN AND COMPANY, 1982

Multistate and multinational estate planning is the reality of today. It is, and, in fact, has been for some time. No lawyer whose practice touches basic estate planning issues can ignore this reality. Instead, each must prepare adequately to recognize and deal with these issues fully. More importantly, to do otherwise is to risk additional taxation, delay, settlement at variance with the decedent's intent, and, perhaps raise issues of professional propriety.

This excellent two volume analysis by Jeffrey A. Schoenblum provides comprehensive treatment of the multi-faceted area of estate planning.¹ Mr. Schoenblum, an associate professor of law at Vanderbilt University, has indeed made a unique and valuable contribution. In short, Mr. Schoenblum's product is a must for every attorney, both within the United States and abroad, whose practice relates, whether directly or indirectly, to estate planning.

Volume I contains eighteen chapters. These chapters are covered by five separate parts:

- I. Introduction to Multistate and Multinational Estate Planning (Chapters 1 - 3).
- II. Practice Problems Confronting the Planner of Multijurisdictional Estates (Chapters 4 - 6).
- III. Law-Determinative Affiliations in Multijurisdictional Estate Planning (Chapters 7 - 9).
- IV. Restrictions on, and Substitutes for, Testamentary Disposition (Chapters 10 - 13).
- V. Nontax, Multijurisdictional Aspects of Wills, Trusts, and Estates (Chapters 14 - 18).

1. The book is two volumes. Volume I has 809 pages and Volume II has 721 pages.

The Introduction (Part I), stresses the aims of effective estate planning. The importance of drafting is emphasized in a quote from Professor Casner: "A lawyer may give the client the best possible advice as to what should be done in disposing of accumulated wealth, but such advice will go for naught if the lawyer fails to carry out the desires of the client in drafting the necessary documents." The important and thoughtfully prepared topic of multijurisdictional practice problems (Part II), which confronts each lawyer covers: (1) malpractice, (2) unauthorized practice of law in a foreign jurisdiction, and (3) professional responsibility. The jurisdictional bases of domicile, residence, and nationality are analyzed and defined in great detail (Part III).

The comprehensive treatment of restrictions on, and substitutes for, testamentary disposition (Part IV), is broken down into four distinct components:

- (1) The Spouse's Forced Share
- (2) Intestate Succession
- (3) Rights of Children, and
- (4) Other Restrictions on, and Substitutes for, Testamentary Disposition.

This treatment also focuses on important elements of multijurisdictional aspects of community property law as well as essential choice of law issues for both common and civil law jurisdictions.

The last five chapters of Volume I (Part V), dissect nontax, multijurisdictional aspects of wills, trusts, and estates with great precision. The discussion covers civil law trust substitutes including: (1) the *Stiftung*, (2) the *Anstalt*, and even, (3) the *Wakf* (an Islamic trust alternative). Mr. Schoenblum focuses directly on those civil law jurisdictions adopting trust enabling legislation. These include: Louisiana, Puerto Rico, Panama, Liechtenstein, Quebec, Mexico, South Africa, and Israel. He also cautions as to the extent such substitutes should be utilized.

Volume II contains two chapters, eleven separate appendices, tables and a comprehensive index. The two chapters cover tax aspects of multijurisdictional estate planning. In so doing they set out a basic tax framework which can be supplemented to the extent necessary with alternative tax sources.

The appendices are elaborate indeed. Included are:

Appendix A State-by-State Summaries of Wills Requirements, Surviving Spouse's Rights, and Capacity of Nonresi-

- dents to Serve in Various Fiduciary Roles.
- Appendix B State-by-State Summaries of Estate, Inheritance, Gift, and Generation Skipping Transfer Taxes.
- Appendix C Relevant Nontax, Bilateral Treaties, and Conventions of the United States.
- Appendix D United States Income Tax Conventions.
- Appendix E United States Inheritance, Estate, and Death Tax Conventions.
- Appendix F United States Gift Tax Conventions.
- Appendix G Inheritance, Estate, and Death Tax Conventions Between Foreign Countries.
- Appendix H Country-by-Country Summaries of Death and Gift Taxes.
- Appendix I State and Federal Regulations of Alien Rights with Regard to Inheritance, Property, and Serving in a Fiduciary Capacity.
- Appendix J Summaries and Analysis of United States Inheritance, Estate, Death, and Gift Tax Conventions.
- Appendix K The Civil Law Model of Estate Administration.

The index is extremely detailed. It allows the busy practitioner ready access to an invaluable reference source.

In conclusion, Mr. Schoenblum has made a timely and scholarly contribution to the field of estate planning. It is a contribution of which every lawyer and accountant should take advantage.

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