

MSBA PROBATE & TRUST LAW SECTION E-NEWSLETTER

February 2016

Hello from the Editors

We hope 2016 has started off well for everyone. The year already seems to be flying by, even just two months in. The annual Probate & Trust Law Section Conference will be here before we know it, as the dates are set for June 6th & 7th. The early bird registration deadline is approaching on March 4th. Don't forget to register by then to receive the discounted registration fee.

We are pleased to provide you with a short article this month with a helpful technology tip for drafting documents. Richard Baum, the chair of the Technology Committee for the Section, will be providing various technology tips and shortcuts for estate planning attorneys in future issues of the newsletter. The Section also hopes to have Richard present a CLE later this summer on these various tips. Keep an eye out for more details in the spring.

On April 20th, the Greater MN Probate & Trust Study Group Conference Call will have a guest speaker on their call. Tina Rosckes, a Senior Vice President and Trust Officer for Security Bank & Trust Co. will discuss the role of IRA and retirement plan distribution planning in your client's estate plan. See below for the dial-in details.

Lastly, as a reminder, if you are interested in becoming more involved in the Probate & Trust Law Section, please feel free to reach out to either one of us or the chair of the Section, Peter Hatinen (peter.hatinen@FaegreBD.com). We welcome article submissions for the Section's newsletter. Articles can focus on any issue relevant to probate and trust law. Writing for the newsletter is a great way to share your knowledge and expertise with your colleagues.

Regards,

Kimberly Prchal & Jennifer Santini

Wills For Heroes

Wills For Heroes is currently still in need of volunteers (attorney and data entry positions) for the following clinics:

- Lakefield & Jackson Fire Department: Saturday, April 23, 2016 from 10:00 a.m. -3:00 p.m.
- Rochester: Monday, April 11, 2016 from 5:00 p.m. – 9:00 p.m.

- Benson Fire Department: Monday, April 25, 2016 from 4:00 p.m. – 8:00 p.m.

For those interested in volunteering, please contact Andrea Bischoff (andrea.bischoff@maslon.com) or Susan Link (susan.link@maslon.com) or visit the Wills For Heroes website [here](#).

Upcoming Events and CLE Programs

- **Greater MN Probate & Trust Study Group Conference Call**
 - Wednesday, March 23, 2016 at 9 a.m. (the 3rd Wednesday of every month – although in March the call is pushed back a week)
 - Call-in Number: (800) 406-9170 passcode: 1491722
 - Contact either Bradley Hanson (320-251-1414 ext. 1119) or JoEllen Doebbert (320-763-7838) with any questions or to join the group.
 - This call will follow the normal format of discussing current topics and questions that participants raise, however, the call will also spend time discussing the MSBA’s proposed bills, including changes to the Ag Homestead Statute as it relates to trusts.
- **Greater MN Probate & Trust Study Group Conference Call – Guest Speaker**
 - This call will feature a guest speaker – Tina Rosckes, who is a Senior Vice President and Trust Officer for Security Bank & Trust Co. She will discuss the role of IRA and retirement plan distribution planning in your client's estate plan.
 - Wednesday, April 20, 2016 at 9 a.m.
 - Call-in Number: (800) 406-9170 passcode: 1491722
 - Contact either Bradley Hanson (320-251-1414 ext. 1119) or JoEllen Doebbert (320-763-7838) with any questions or to join the group.
- **MSBA Probate & Trust Law Section Monthly Meeting**
 - Thursday, March 17, 2016 at 3:30 p.m.
 - Location: MSBA Offices
 - Call-in Number: (800) 406-9170 passcode: 1491722
- **MSBA Probate & Trust Law Section CLE: *That’s Not My Duty: Conflicts of Interest in Estate Planning***
 - Thursday, March 17, 2016 at 12:00 – 1:00 p.m.
 - Location: MSBA
 - Registration: <http://www.mnbar.org/Meetings/Meeting?ID=1057#.Vsttqxh8YW7>
- **EARLY BIRD REGISTRATION for the 2016 Probate & Trust Law Section Conference**
 - Early bird registration ends on March 4, 2016 (\$50 discount)
 - Location: St. Paul RiverCentre
 - Dates of Conference: June 6-7, 2016
 - <https://www.minncle.org/SeminarDetail.aspx?ID=1002771601>

Case Law Update

There are no cases to report this month.

Federal & Minnesota State Tax Update

By: Richard Hawke, Eileen Day & Ryan Connell

- **White House Releases FYE 2017 Budget Proposal**

The Obama Administration released its fiscal year 2017 budget, including several tax proposals. Included again this year's proposal is the elimination of step-up in tax basis for inherited property. The middle-class, surviving spouses and small businesses would be "protected" by a \$100,000 per person exclusion of gains recognized at death.

It also proposes restoring the 2009 exclusion for GST to \$3.5 million per person on inherited assets and \$1 million for gifts. The top tax rate would be increased to 45%.

GRATS would be restricted by requiring a longer minimum period of time, prohibiting the tax-free exchanges of any assets held in the trust and imposing other restrictions.

- **Reporting of Step-Up in Basis Delayed Again**

On February 11, 2016, the IRS issued Notice 2016-19 further delaying the reporting of tax basis until March 31, 2016, for estates filing a Form 706 after July 31, 2015. Notice 2016-19 will be published in IRB 2016-09, dated February 29, 2016. Separately, the IRS released Form 8971 for the purposes of making this filing. This form is now available on the IRS website, www.irs.gov.

- **Penalties imposed under Code Sections 6721 and 6722 for failing to file a correct Form 1099 increase for the 2015 tax year**

If a payer fails to timely file a Form 1099 including all information required to be shown on the Form 1099, or includes incorrect information on the Form 1099, then the payer is subject to increased information reporting penalties.

The penalty amount is based on the date that the correct Form 1099 is filed. If the correct Form 1099 is filed within 30 days of the due date, then the penalty is \$50 per information return with a maximum penalty of \$500,000 per year. If the correct Form 1099 is filed more than 30 days after the due date, but before August 1 of the same year, then the penalty is \$100 per information return with a maximum penalty of \$1,500,000 per year. If the correct Form 1099 is filed after August 1, or not filed at all, then the penalty is \$250 per information return with a maximum penalty of \$3,000,000 per year. [Note: there is no exception for payments of any sort paid to a lawyer or law firm, incorporated or otherwise, of over \$600 in a calendar year.]

- **The IRS Has Withdrawn a Proposed Regulation Allowing Organizations Receiving Charitable Donations to Collect Donor SSNs**

The IRS proposed a regulation under Code Section 170(f)(8) that would have given organizations receiving charitable donations the option of reporting information to the IRS

regarding donors who gave \$250 or more during the tax year. Amongst other items, this information would have included the donor's social security number.

This proposed regulation was controversial because it would have required organizations to have had the means and resources to archive, maintain, and produce information required to file a return under Code Section 170A(f)(8)(B) including the donor's name, address, and taxpayer identification number. The organization would also have to have the ability to store the donor's social security number. These regulations would have put a serious administrative burden on many organizations. Additionally, potential donors were concerned that their personal information would be subject to data breaches should an organization's data ever be hacked. In light of these concerns, the proposal was withdrawn in January this year.

- **ACTEC Requests Clarification on New IRS Form 8971**

On July 31, 2015, the President of the United States signed into law H.R. 3236, titled Surface Transportation and Veteran's Health Care Choice Improvement and Veteran's Health Care Choice Improvement Act of 2015 (P.L. 114-41). Section 2004 of H.R. 3236 enacted new Code Sections 1014(f) and 6035.

Code Section 1014 includes rules mandating that the tax basis of certain property acquired from a decedent, as determined under Code Section 1014, may not exceed the value of the property as finally determined for federal estate tax purposes. If the basis has not been finally determined, then the basis may not exceed the value of the property as reported on a statement made under Code Section 6035.

In Notice 2015-57, issued on August 21, 2015, the IRS asked executors to delay reporting the finally determined value of estates until further guidance from the IRS.

The American College of Trust and Estate Counsel (ACTEC) has released a 17-page letter highlighting many areas of uncertainty relating to Form 8971 and the accompanying Schedule A.

Among the uncertainties raised by ACTEC were what to report on the forms when the value of the asset that will be received by the beneficiary has not been fully determined. This situation could occur when the beneficiary's interest either is determined by formula bequest, is a residuary gift, or is a pecuniary amount that can be funded in-kind, as opposed to being funded by specifically identified assets.

The IRS draft instructions suggested that in these situations, the beneficiaries should be given information on every asset that could *possibly* be used to fund the bequest. ACTEC contends, however, that such a broad disclosure requirement could raise concerns over a decedent's confidentiality where a beneficiary would not normally have access to such information.

ACTEC additionally suggested that Schedule A include a section allowing the executor to, optionally, report any post-death basis adjustments that have occurred at the time Schedule A is furnished to the beneficiary.

ACTEC further requested that assets such as cash, items that are income in respect of a decedent, retirement plan benefits, and similar assets be excluded from having to be reported on a Form 8971.

ACTEC also asked for guidance on to whom a Schedule A should be provided especially in situations when a will pours over to a trust that divides into subtrusts.

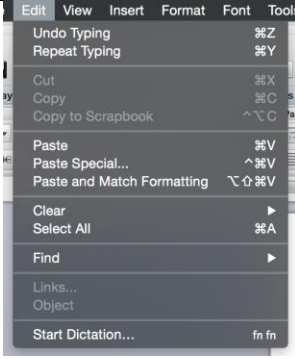
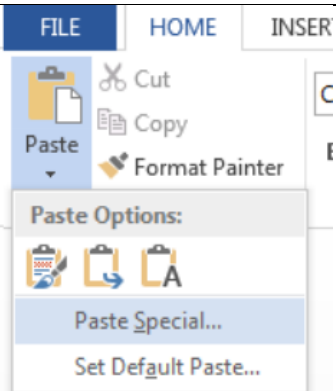
Articles

**Tech Tip for Estate Planners
Copy and Paste (without frustration)**

By: Richard Baum

Admit it. We all do it. You have found some text that would be useful in your document. All you need to do is copy and paste it into your document. When you do this, however, the formatting for your document gets messed up. You think to yourself, “Technology is supposed to make things better, not frustrating. Is there a better way?”

Yes, there is. Here’s how you can (hopefully) reduce frustration the next time.

1. Copy the text you want in the source document.	
2. Now things get interesting. Depending on which version of Microsoft Word you have, you will take one of these steps:	
a. Word (Mac) 2011: In your destination document, select the menu Edit > Paste and Match Formatting	
b. Word 2013 (PC): In your destination document, go to the “Paste” button found on the Home ribbon, then click on the down arrow. From there select “Use Destination Theme (H)”. The nice thing here is that you should see a preview of how the pasted text will look in your destination document when you hover over the options. NOTE: you could also select “Paste Special” on this menu to get the same results, but you lose the ability to preview.	
3. You should now have the text formatted automatically into your destination	

document format.

Richard Baum is a solo practitioner based in Saint Paul. As chair of the Technology Committee for the Probate and Trust Law Section, his goal is to help section members understand how to use technology in their practice. His other life includes camping, biking, and becoming a better tuba player.

Newsletter Committee Co-Chairs: Kimberly Prchal and Jennifer Santini

To access the PROBATE & TRUST LAW SECTION WEBSITE |Click [here](#)

If you are interested in submitting an article, please contact **Kimberly Prchal** (kim@blahniklawoffice.com) or **Jennifer Santini** (jen@sykorasantini.com) with your idea.

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Tram Nguyen at tnguyen@statebar.gen.mn.us.

Current and prior E-Newsletters are posted on the website for the MSBA Probate & Trust Law Section and are available at: [Probate & Trust Law Section Newsletters](#)