



PROBATE & ESTATE PLANNING SECTION

Agenda and Attachments for

Friday, February 10, 2023

Meeting of Committee on Special Projects (CSP),

and

Meeting of the Council of the Probate and Estate Planning Section

at the University Club of Michigan State University
3435 Forest Rd, Lansing, MI 48910

Or *via* Zoom

**Probate & Estate Planning Section of the
State Bar of Michigan**

You are invited to the February meeting of the Committee on Special Projects (CSP) and
the Council of the Probate & Estate Planning Section:

Friday, February 10, beginning at 9 AM
at the University Club of Michigan State University
3435 Forest Rd, Lansing, MI 48910

Remote participation by Zoom will be available. So, you are also invited . . .

to a Zoom meeting.

When: Feb 10, 2023, 09:00 AM Eastern Time (US and Canada)

Register in advance for this meeting:

https://us02web.zoom.us/meeting/register/tZMpceutqTsqGNFMtCb0KzOPXVvue_2CaBV

After registering, you will receive a confirmation email containing information about joining the meeting.

If you are calling in by phone, email your name and phone number to Angela Hentkowski

ahentkowski@stewardsheridan.com, we will put your name in a zoom user list that

will identify you by name when you call in.

Please note that the Zoom feature of these meetings entails that they will be recorded.

This will be a regular in person and remote meetings of the Council of the Probate & Estate Planning Section. The Council meeting will be preceded by a meeting of the Council's Committee on Special Projects (CSP), which will begin at 9:00 AM. The CSP meeting will end at about 10:15 AM, and the Council meeting will begin shortly thereafter. The agenda and meeting materials will be posted on the Probate & Estate Planning Section page of the SBM website. Once those things are posted, you should be able to download them from: <http://connect.michbar.org/probate/events/schedule>.

Nathan Piwowarski
Section Secretary

Nathan Piwowarski
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**Officers of the Council
for 2022-2023 Term**

Office	Officer
Chairperson	Mark E. Kellogg
Chairperson Elect	James P. Spica
Vice Chairperson	Katie Lynwood
Secretary	Nathan R. Piwowarski
Treasurer	Richard C. Mills

**Council Members
for 2022-2023 Term**

Council Member	Year Elected to Current Term (partial, first or second full term)	Current Term Expires	Eligible after Current Term?
Olson, Kurt A.	2020 (2 nd term)	2023	No
Savage, Christine M.	2020 (2 nd term)	2023	No
Anderton V, James F.	2020 (1 st term)	2023	Yes
David, Georgette E.	2020 (1 st term)	2023	Yes
Hilker, Daniel	2020 (1 st term)	2023	Yes
Krueger III, Warren H.	2020 (1 st term)	2023	Yes
Wrock, Rebecca K.	2021 (1 st term)	2024	Yes
Glazier, Sandra D.	2021 (1 st term)	2024	Yes
Hentkowski, Angela M.	2021 (2 nd term)	2024	No
Mysliwiec, Melisa M. W.	2021 (2 nd term)	2024	No
Nusholtz, Neal	2021 (2 nd term)	2024	No
Sprague, David	2021 (1 st term)	2024	Yes
Mayoras, Andrew W.	2022 (2 nd term)	2025	No
Silver, Kenneth	2022 (2 nd term)	2025	No
Dunnings, Hon. Shauna L.	2022 (1 st term)	2025	Yes
Chalgian, Susan L.	2022 (1 st term)	2025	Yes
Shelton, Michael D.	2022 (1 st term)	2025	Yes
Borst, Daniel W.	2022 (1 st term)	2025	Yes

Ex Officio Members of the Council

Christopher Ballard; John E. Bos; Robert D. Brower, Jr.; Douglas G. Chalgian; Henry M. Grix; Mark K. Harder; Philip E. Harter; Dirk C. Hoffius; Shaheen I. Imami; Robert B. Joslyn; Kenneth E. Konop; Marguerite Munson Lentz; Nancy L. Little; James H. LoPrete; Richard C. Lowe; David P. Lucas; John D. Mabley; John H. Martin; Michael J. McClory; Douglas A. Mielock; Amy N. Morrissey; Patricia Gormely Prince; Douglas J. Rasmussen; Harold G. Schuitmaker; John A. Scott; David L.J.M. Skidmore; James B. Steward; Thomas F. Sweeney; Fredric A. Sytsma; Marlaine C. Teahan; Lauren M. Underwood; W. Michael Van Haren; Susan S. Westerman; Everett R. Zack

State Bar of Michigan
Probate and Estate Planning Section
2022 - 2023 Standing Committees

Standing Committee	Mission	Chairperson	Members
Amicus Curiae	Review litigants' applications and Courts' requests for the Section to sponsor amicus curiae briefs in pending appeals cases relating to probate, and estate and trust planning, and oversee the work of legal counsel retained to prepare and file amicus briefs	Andrew W. Mayoras	Ryan P. Bourjaily Angela Hentkowski Neil J. Marchand Kurt A. Olson David L.J.M. Skidmore Trevor J. Weston Timothy White Scott Kraemer
Annual meeting	Plan the Section's Annual Meeting	Mark E. Kellogg [as Section Chairperson]	[Chairperson only]
Awards	Periodically make recommendations regarding recipients of the Michael Irish Award, and consult with ICLE regarding periodic induction of members in the George A. Cooney Society	David L.J.M. Skidmore [as immediately previous Section Chairperson]	David Lucas Christopher A. Ballard [as previous Section Chairpersons]
Budget	Develop the Section's annual budget	Nathan R. Piwowarski [as immediately previous Section Treasurer]	Richard C. Mills Katie Lynwood [as incoming Treasurer and immediately previous Section Secretary]
Bylaws	Review the Section's Bylaws, to ensure compliance with State Bar requirements, to include best practices for State Bar Sections, and to assure conformity to current practices and procedures of the Section and the Council, and make recommendations to the Council regarding such matters	Daniel W. Borst	Christopher A. Ballard John Roy Castillo David P. Lucas Nancy H. Welber
Charitable and Exempt Organizations	Consider federal and State legislative developments and initiatives in the fields of charitable giving and exempt organizations, and make recommendations to the Council regarding such matters	Rebecca K. Wrock	Celeste E. Arduino Michael Bartish Julia Dale Brian Heckman Richard C. Mills Kate L. Ringler
Citizens Outreach	Provide opportunities for education of the public on matters relating to probate, and estate and trust planning	Kathleen M. Goetsch	Kathleen Cieslik Michael J. McClory Neal Nusholtz Jessica M. Schilling Nicholas J. Vontroba

State Bar of Michigan
 Probate and Estate Planning Section
 2022 - 2023 Standing Committees

Committee on Special Projects	Consider matters relating to probate, and estate and trust planning, and make recommendations to the Council regarding such matters	Melisa M.W. Mysliwicz	meeting attendees
Court Rules, Forms, & Proceedings	Consider matters relating to probate, and estate and trust planning, and make recommendations to the Council regarding such matters	Warren H. Krueger, III	JV Anderton Susan L. Chalgian Morgan E. Cole Hon. Michael L. Jaconette Andrew W. Mayoras Michael J. McClory Dawn Santamarina Marlaine C. Teahan
Electronic Communications	Oversee all matters relating to electronic and virtual communication matters, and make recommendations to the Council regarding such matters	Angela Hentkowski	Michael G. Lichterman Amy N. Morrissey Nathan R. Piwowarski [Section Secretary] Marlaine C. Teahan
Ethics & Unauthorized Practice of Law	Consider matters relating to ethics and the unauthorized practice of law with respect to probate, and estate and trust planning, and make recommendations to the Council regarding such matters	Kurt A. Olson	William J. Ard Raymond A. Harris J. David Kerr Neil J. Marchand Robert M. Taylor Amy Rombyer Tripp
Guardianship, Conservatorship, & End of Life Committee	Consider matters relating to Guardianships and Conservatorships, and make recommendations to the Council regarding such matters	Sandra Glazier	William J. Ard Michael W. Bartnik Kimberly Browning Kathleen A. Cieslik Raymond A. Harris Phillip E. Harter Hon. Michael L. Jaconette Michael J. McClory Kurt A. Olson James B. Steward Paul S. Vaidya

State Bar of Michigan
 Probate and Estate Planning Section
 2022 - 2023 Standing Committees

Legislation Development and Drafting	Consider matters with respect to statutes relating to probate, and estate and trust legislation, consider the provisions of introduced legislation and legislation anticipated to be introduced with respect to probate, and estate and trust planning, draft proposals for legislation relating to probate, and estate and trust planning, and make recommendations to the Council regarding such matters	Robert P. Tiplady	Aaron A. Bartell Howard H. Collens Georgette David Kathleen M. Goetsch Daniel S. Hilker Henry Lee Michael G. Lichterman David P. Lucas Katie Lynwood Alex Mallory Richard C. Mills Nathan Piwowski Christine M. Savage James P. Spica David Sprague Stephen Dunn
Legislation Monitoring & Analysis	Monitor the status of introduced legislation, and legislation anticipated to be introduced, regarding probate, and estate and trust planning, and communicate with the Council and the Legislation Development and Drafting Committee regarding such matters	Michael D. Shelton	Stephen Dunn Brian K. Elder Elizabeth Graziano
Legislative Testimony	As requested and as available, the Members of this Committee will give testimony to the Legislature regarding legislation relating to probate, and estate and trust planning	Melisa M.W. Mysliwiec [as CSP Chair]	[Chairperson only]
Membership	Strengthen relations with Section members, encourage new membership, and promote awareness of, and participation in, Section activities	Angela Hentkowski	Kate L. Ringler Susan L. Chalgian
Nominating	Nominate candidates to stand for election as the officers of the Section and the members of the Council	David L.J.M. Skidmore [as previous Section Chairperson]	David P. Lucas Christopher A. Ballard [as previous Section Chairpersons]
Planning	Periodically review and update the Section's Plan of Work	Mark E. Kellogg [as Section Chairperson]	James P. Spica Katie Lynwood Nathan Piwowski Richard C. Mills [as Section Officers]

State Bar of Michigan
 Probate and Estate Planning Section
 2022 - 2023 Standing Committees

Probate Institute	Work with ICLE to plan the ICLE Probate and Estate Planning Institute	Katie Lynwood [as Section Vice Chairperson]	[Chairperson only]
Real Estate	Consider real estate matters relating to probate, and estates and trusts, and make recommendations to the Council regarding such matters	Kenneth F. Silver	Carlos Alvarado-Jorquera Jeffrey S. Ammon William J. Ard Leslie A. Butler J. David Kerr Michael G. Lichterman Richard C. Mills James B. Steward
State Bar & Section Journals	Oversee the publication of the Section's Journal, and assist in the preparation of periodic theme issues of the State Bar Journal that are dedicated to probate, and estates and trusts	Melisa M.W. Mysliwiec, Managing Editor	Nancy W. Little Neil J. Marchand Richard C. Mills Diane Kuhn Huff Molly P. Petijean Rebecca K. Wrock Kurt A. Olson
Tax	Consider matters relating to taxation as taxation relates to probate, and estates and trusts, and make recommendations to the Council regarding such matters	JV Anderton	Daniel Borst Jonathan Beer Mark DeLuca Stephen Dunn John McFarland Richard C. Mills Neal Nusholtz Robert Labe Christine M. Savage

The Probate and Estate Planning Section Chairperson is an ex-officio Member of each Standing Committee

State Bar of Michigan
Probate and Estate Planning Section

2022 - 2023 Ad Hoc Committees

Ad Hoc Committee	Mission	Chairperson	Members
Assisted Reproductive Technology	Review the 2008 Uniform Probate Code Amendment for possible incorporation into EPIC with emphasis on protecting the rights of children conceived through assisted reproduction, and make recommendations to the Council regarding such matters	Nancy H. Welber	Christopher A. Ballard Edward Goldman James P. Spica Lawrence W. Waggoner Nazneen Hasan Christina Lejowski
Electronic Wills	Review proposals for electronic wills, including the Uniform Law Commission's draft of a Uniform Law, and make recommendations to the Council regarding such matters	Kurt A. Olson	Kimberly Browning Georgette David Sandra Glazier Douglas A. Mielock Neal Nusholtz Christine M. Savage James P. Spica
Fiduciary Exception to the Attorney-Client Privilege	Consider whether there should be some exception to the rule that beneficiaries of an estate or trust are entitled to production of documents regarding the advice given by an attorney to the fiduciary, and make recommendations to the Council regarding such matters	Warren H. Krueger, III	Aaron A. Bartell Ryan P. Bourjaily
Nonbanking Entity Trust Powers	Consider whether there should be legislation granting trust powers to nonbanking entities, and make recommendations to the Council regarding such matters	James P. Spica and Robert P. Tiplady (co-Chairpersons)	JV Anderton Laura L. Brownfield Warren H. Krueger, III Richard C. Mills Mark K. Harder Kathleen Cieslik Joe Viviano
Premarital Agreements	Consider whether there should be legislation regarding marital property agreements, and	Christine M. Savage	Daniel W. Borst Sandra Glazier Kathleen M. Goetsch Patricia M. Ouellette
Uniform Community Property Disposition at Death Act	Consider the Uniform Community Property Disposition at Death Act promulgated by the Uniform Law Commission and make recommendations to the Council regarding the subject of that Act	James P. Spica	Kathleen Cieslik Richard C. Mills Christine M. Savage David Sprague

Undue Influence	Consider the definition of undue influence and attendant evidentiary presumptions, and make recommendations to the Council regarding such matters	Kenneth F. Silver	Sandra Glazier Hon. Michael L. Jaconette Warren H. Krueger, III John Mabley Andrew W. Mayoras Hon. David Murkowski Kurt A. Olson David L.J.M. Skidmore
Uniform Fiduciary Income & Principal Act	Consider the Uniform Fiduciary Income and Principal Act promulgated by the Uniform Law Commission, and make recommendations to the Council regarding such matters	James P. Spica	Anthony Belloli Kathleen Cieslik Marguerite Munson Lentz Richard C. Mills Robert P. Tiplady Joe Viviano
Uniform Partition of Heirs Property Act	Consider the Uniform Partition of Heirs Property Act promulgated by the Uniform Law Commission and make recommendations to the Council regarding the subject of that Act	James P. Spica	Marguerite Munson Lentz Alex Mallory Elizabeth McLachlan Christine Savage David Sprague
Uniform Power of Attorney Act	Consider the Uniform Power of Attorney Act promulgated by the Uniform Law Commission, and make recommendations to the Council regarding such matters	Christine M. Savage	Kathleen A. Cieslik David P. Lucas Alex Mallory Michael D. Shelton James P. Spica David Sprague
Various Issues Involving Death and Divorce	Should EPIC be changed so that a pending divorce affects priority to serve in a fiduciary position; Should Council explore whether EPIC should be changed so that a pending divorce affects intestacy, elective share, exemptions and allowances, etc. Should “affinity” be defined to prevent elimination of stepchildren’s gifts by operation of law after divorce or, instead, should there be an exception allowing gifts to stepchildren on a showing of, Perhaps, clear and convincing evidence demonstrating that the Settlor would not have intended the omission of the stepchild?	Daniel Borst Sean Blume	Andy Mayoras Hon. Shauna Dunning Georgette David Katie Lynwood Elizabeth Siefker

The Probate and Estate Planning Section Chairperson is an ex-officio Member of each Ad Hoc Committee

State Bar of Michigan
Probate and Estate Planning Section

2022 - 2023 Liaisons

liaison to:	Liaison
Alternative Dispute Resolution Section	John Hohman
Business Law Section	Mark E. Kellogg
Elder Law and Disability Right Section	Angela Hentkowski
Family Law Section	Anthea E. Papista
Institute of Continuing Legal Education	Lindsey DiCesare
Law Schools	Savina Mucci
Michigan Bankers Association	David Sprague
Michigan Legal Help/Michigan Bar Foundation	Kathleen Goetsch
Michigan Probate Judges Association	Hon. Michael L. Jaconette
Probate Registers	Morgan Cole, Ingham County Probate Register
Real Property Law Section	Kenneth Silver
Supreme Court Administrative Office	Melisa M.W. Mysliwicz
State Bar	Jennifer Hatter
Taxation Section	Neal Nusholtz
Uniform Law Commission	James P. Spica

The mission of each respective Liaison is to develop and maintain bilateral communication between such Liaison's respective association and the Probate and Estate Planning Section of the State Bar of Michigan, in matters of mutual interest and concern.

CSP Materials

**MEETING OF THE COMMITTEE ON SPECIAL PROJECTS OF THE
COUNCIL OF THE PROBATE AND ESTATE PLANNING SECTION
OF THE STATE BAR OF MICHIGAN**

**The Committee on Special Projects, or CSP, is our Section's
"committee of the whole." The CSP flexibly studies, in depth, a
limited number of topics and makes recommendations to Council.
All Section members are welcome to participate and are able to vote.**

AGENDA

Friday, February 10, 2023

9:00 – 9:45 AM

In person meeting at the University Club of Michigan State University
3435 Forest Road, Lansing, MI 48910

You are also welcome to participate by Zoom. Register in advance at:
https://us02web.zoom.us/meeting/register/tZMpceutqTsqGNFMtCb0KzOPXVyue_2CaBV

If you are calling in by phone, please email your name and phone number to
Angela Hentkowski at ahentkowski@stewardsheridan.com; we will put your name in a zoom
user list that will identify you by name when you call in.

**1. Rob Tiplady – Legislative Drafting and Development Committee –
15 minutes**

Re: Omnibus Legislation

Should the amounts under MCL 700.3918 (Distributions to persons under a disability without court order) and MCL 700.5102 (Payment of delivery to a person for the benefit of a minor without having to appoint a conservator) be increased from \$25,000 to \$50,000?

CSP will be asked to recommend that Council vote in favor of increasing certain amounts in the EPIC Omnibus Legislation. See Exhibit 1A.

**2. Rob Tiplady – Legislative Drafting and Development Committee –
15 minutes**

Re: Petitions and Orders for Assignment

CSP will be asked to recommend that Council vote in favor of allowing for netting of some liens in determining eligibility for the Petition and Order for Assignment.

See Proposal attached as Exhibit 1B and Board Discussion attached as Exhibit 1C.

EXHIBIT 1A

Legislative Development and Drafting Committee

EPIC Omnibus

Tiplady II, Robert

From: Nathan Piwowski <nathan@mwplegal.com>
Sent: Sunday, January 29, 2023 3:50 PM
To: Tiplady II, Robert
Cc: Katie Lynwood; Rick Mills; James Spica; mkellogg@fraserlawfirm.com
Subject: EPIC Omnibus: statutory thresholds

*** EXTERNAL ***

Rob,

I suggest that the Legislative Development and Drafting revisit the threshold adjustments in the EPIC Omnibus. Here's where they currently stand:

MCL Section	Description	Current Amount ^[1]	Proposed Amount
700.3605	Threshold for demands that the personal representative must be bonded	2,500	25,000
700.3916	Maximum value of unclaimed assets that a personal representative may hold without depositing them to the county treasurer	250	1,000
700.3918	Distributions to persons under a disability without appointment of a conservator or protective order	5,000	25,000
700.5102	Payment or delivery to a person for the benefit of a minor without having to appoint a conservator	5,000	25,000
700.3981	Release of cash and wearing apparel to a decedent's family members (e.g. funeral homes, police, hospitals, etc.)	500	1,000
257.236	Vehicle transfer by the Secretary of State without the opening of a decedent estate	60,000	100,000
324.80312	Watercraft transfer by the Secretary of State without the opening of a decedent estate	100,000	200,000
554.530	Payments by a personal representative or trustee to an account for the benefit of a minor under the Uniform Transfer to Minors Act	10,000	50,000

Notably absent from this list: small estate petitions (MCL 700.3982) and small estate affidavits (MCL 700.3983). Our bills increase the base text to \$25,000. In what I believe is an error that I previously missed, these provisions were given 2023 as their base year for future CPI adjustments (under the proposed addition of MCL 700.1210(2)). Based on my memory and notes, we intended for these provisions to maintain their current base year, which would've translated into a small estate threshold closer to \$40,000.

Given recent inflation and the small estate issue, could Legislation Development and Drafting recommend new thresholds to Council next month? To start the discussion, I suggest the following:

MCL Section	Description	Current Amount	2021 Omnibus	Recommended
700.3605	Threshold for demands that the personal representative must be bonded	2,500	25,000	30,000
700.3916	Maximum value of unclaimed assets that a personal representative may hold without depositing them to the county treasurer	250	1,000	1,000
700.3918	Distributions to persons under a disability without appointment of a conservator or protective order	5,000	25,000	25,000
700.5102	Payment or delivery to a person for the benefit of a minor without having to appoint a conservator	5,000	25,000	25,000
700.3981	Release of cash and wearing apparel to a decedent's family members (e.g. funeral homes, police, hospitals, etc.)	500	1,000	1,500
700.3982	Petition and order of assignment	25,000	25,000	50,000
700.3983	Personal property affidavit	25,000	25,000	50,000
257.236	Vehicle transfer by the Secretary of State without the opening of a decedent estate	60,000	100,000	120,000
324.80312	Watercraft transfer by the Secretary of State without the opening of a decedent estate	100,000	200,000	230,000
554.530	Payments by a personal representative or trustee to an account for the benefit of a minor under the Uniform Transfer to Minors Act	10,000	50,000	50,000

Thank you,

Nathan Piwowarski

McCurdy, Wotila, and Porteous, PC

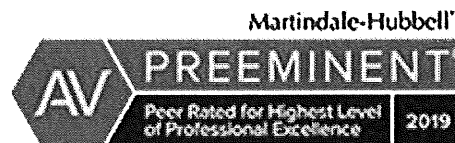
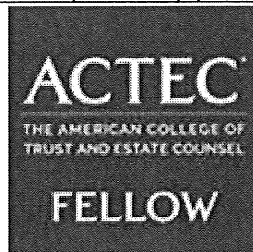
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**MCCURDY
WOTILA &
PORTEOUS**



^[1] This table uses the most recently published thresholds, which are adjusted under MCL 700.1210.

EXHIBIT 1B

Legislative Development and Drafting Committee

MCL 700.3982 and MCL 600.871

700.3982 Court order distributing small estates.

Sec. 3982.

(1) Upon a showing of evidence, satisfactory to the court, of payment of the expenses for the decedent's funeral and burial and if the balance of a decedent's gross estate consists of property of the value of ~~\$5045,000.00~~ or less, the court may order that the property be turned over to the surviving spouse or, if there is not a spouse, to the decedent's heirs.

(2) Upon a showing of evidence, satisfactory to the court, that the decedent's funeral or burial expenses are unpaid or were paid by a person other than the estate, and if the balance of the gross estate after payment of the expenses would consist of property of the value of \$15,000.00 or less, the court shall order that the property be first used to pay the unpaid funeral and burial expenses, or to reimburse the person that paid those expenses, and may order that the balance be turned over to the surviving spouse or, if there is not a spouse, to the decedent's heirs.

(3) Other than a surviving spouse who qualifies for allowances under this act or the decedent's minor children, an heir who receives property through an order under this section is responsible, for 63 days after the date of the order, for any unsatisfied debt of the decedent up to the value of the property received through the order. The court shall state in the order the condition on the distribution of property provided by this subsection.

(4) If a decedent's estate meets the criteria for using the procedure under either this section or section 3983 and if a person is authorized by this act to use either procedure, a person, other than the court, shall not require the authorized person to use 1 procedure rather than the other.

(5) Beginning _____, in calculating the balance of a decedent's gross estate under subsection (1), if real property that is included in the estate is encumbered by or used as security for an indebtedness, the amount of the indebtedness (not to exceed \$50,000) must be deducted from the value of the real property.

(6) ~~The~~A dollar amounts prescribed by this section shall be adjusted as provided in section 1210.

Current Inventory Fee Language

600.871 Decedents' estates; fees; payment; final accounting; receipt.

Sec. 871.

(1) In all decedents' estates in which proceedings are instituted for probate, the probate court shall charge and collect the following fees as an expense of administration on the value of all assets, as of the date of death of the decedent, as follows:

- (a) In an estate of value of less than \$1,000.00, \$5.00 plus 1% of the amount over \$500.00.
- (b) In an estate of value of \$1,000.00 or more, but less than \$3,000.00, \$25.00.
- (c) In an estate of value of \$3,000.00 or more but less than \$10,000.00, \$25.00 plus 5/8 of 1% of the amount over \$3,000.00.
- (d) In an estate of value of \$10,000.00 or more but less than \$25,000.00, \$68.75 plus 1/2 of 1% of the amount over \$10,000.00.
- (e) In an estate of value of \$25,000.00 but less than \$50,000.00, \$143.75 plus 3/8 of 1% of the amount over \$25,000.00.
- (f) In an estate of value of \$50,000.00 but less than \$100,000.00, \$237.50 plus 1/4 of 1% of the amount over \$50,000.00.
- (g) In an estate of value of \$100,000.00 to \$500,000.00, \$362.50 plus 1/8 of 1% of the amount over \$100,000.00.
- (h) For each additional \$100,000.00 value, or larger fraction thereof, over \$500,000.00, \$62.50.
- (i) For each additional \$100,000.00 value, or larger fraction thereof, over \$1,000,000.00, \$31.25.

(2) Beginning March 28, 2013, in calculating a fee under subsection (1), if real property that is included in the estate is encumbered by or used as security for an indebtedness, the amount of the indebtedness must be deducted from the value of the real property.

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(3) The fees in subsection (1), rounded to the whole dollar, are due and payable to the probate court on or before the closing of the estate or within 1 year after the commencement of probate proceedings, whichever occurs first. The probate court shall not accept a final accounting until the fees are paid in full and shown as part of the final accounting. An official receipt must be issued to the payer when the fees are collected.

EXHIBIT 1C

Legislative Development and Drafting Committee

Discussion Thread from SBM Connect



PROBATE & ESTATE PLANNING SECTION

Discussion: View Thread

The views expressed below belong to the author alone and do not necessarily reflect those of the State Bar of Michigan (SBM) or any SBM section or committee. SBM's hosting this page does not constitute an endorsement of any view expressed below.

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Small Estate Real Estate Valuation

Follow ☆



Howard Bush 15 days ago

I attempted to file a small lestate with the St.\. Joseph County Probate Court. The only asset was real ...

1. Small Estate Real Estate Valuation

0 Recommend



Howard Bush

Posted 15 days ago

Reply



I attempted to file a smal lestate with the St.\. Joseph County Probate Court. The only asset was real estate. The SEV value was over the small estate limit. However there was an outstanding mirtgage, which brought the value below the limit. The decedent died after March 28, 2013. The Court refused the

Petition based upon the value being over the limit.

In a regular estate, the inventory form states that the gross value of real estate may be reduced by the amount of the outstanding mortgage.

Why two standards, one for a small estate and another for a regular estate? What gives?

Howard Bush P11467

Howard Bush
Bush & Bush Attorneys At Law
Constantine MI
bushnbush@yahoo.com

2. RE: Small Estate Real Estate Valuation

0 Recommend



Avery Rose

Posted 15 days ago

Reply

Hello Mr. Bush, I would suggest that determining whether an estate qualifies as a small estate (based on its gross value) is separate from and precedes the task of calculating the inventory fee (in which a deduction of liens and encumbrances is permitted). MCL 700.3982 employs the word "gross" when describing the qualifying threshold. The statute states that the contents of an estate can only be transferred if: "the balance of a decedent's **gross** estate consists of property of the value of \$15,000.00 or less" (\$25,000 in 2022) or if "the balance of the **gross** estate after payment of the [funeral] expenses would consist of property of the value of \$15,000.00 or less." Although one may deduct funeral and burial expenses not paid by the decedent for the purpose of determining qualification (i.e. to ascertain the gross value of the estate), other liens and encumbrances, like a mortgage, cannot be used for this purpose. The Petition for Assignment form itself suggests this is the case by separating the gross value total from inventory value total. Inventory fees are calculated using the same formula, in both small estates and standard deceased estates, under MCL 600.871. I hope that helps make some sense of it.

Best,
Avery

Avery D. Rose

Kent County Probate Register
180 Ottawa NW, Suite 4400
Grand Rapids, MI 49503
Phone / Fax (616) 632-5422
avery.rose@kentcountymi.gov

➤ Original Message

3. RE: Small Estate Real Estate Valuation

0 Recommend



Robert Dutka

Posted 14 days ago

Reply



Howard,

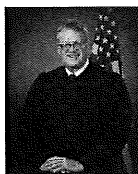
I was caught in the same situation, in the same Probate Court, and the result was the same. I believe the response from Avery Rose is likely correct, at least that was the explanation I received. I believe we had no choice but to do a full administration.

Robert Dutka
Three Rivers

➤ Original Message

4. RE: Small Estate Real Estate Valuation

1 Recommend



Kenneth Tacoma

Posted 15 days ago

Reply



Mr. Bush,

You have hit upon a real problem that needs to be addressed, and it looks like it will take a statutory fix. The interpretation of the Michigan Probate Registers Association on this results in disqualifying many small estates and frankly, results in great injustice to many of Michigna's most vulnerable low income/low asset people. The original Reporter's Comments on this section of EPIC were not consistent with this current interpretation of legislative intent. I have confirmed that with the original reporters. Based on the best available data I could find, nearly half (46.1%) of Americans die with less than \$10,000.00 in assets, including equity in real estate. I have tried to involve this Bar section and MPJA in changing this policy (it wasn't always this way), to no avail. I can supply you with the details of the tortured history of how we got where we are, as well as my other materials, if you wish, as I would welcome allies in this project. As it is, I am hoping for some receptive legislative ears in the new session.

Kenneth Tacoma
Wexford Probate Judge Retired
Cadillac MI
kennethtacoma@hotmail.com

➤ Original Message

5. RE: Small Estate Real Estate Valuation

0

Recommend



Howard Bush

Posted 14 days ago

Reply



Thanks for the Responses:

I believe that I have found at least a comment as to why the policy. It was stated somewhere (an I cnnnot remeber which web site) that the only bill considered in a Small Estate it the funeral bill. Nothing else is considered or counts. Under this theory, the Court cannot look at the Mortgage. Therefore, it does not count or deduct. (Why is it on the form?)

I do not like it or agree, but at least I have some understanding.
I will support and assist with any statutory changes.
Thanks for the comments and assistance.
Also a Happy NEw Year to all.
Howard Bush

► Original Message

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Council Materials

**MEETING OF THE COUNCIL OF THE
PROBATE & ESTATE PLANNING SECTION OF THE
STATE BAR OF MICHIGAN**

Friday, February 10, 2023

Agenda

- I. Call to Order and Welcome (Mark Kellogg)
- II. Zoom Roll Call Confirmation of Attendees (Mark Kellogg)
- III. Excused Absences (Mark Kellogg)
- IV. Lobbyist's Report (Public Affairs Associates)
- V. Monthly Reports:
 - A. Minutes of Prior Council Meeting – January (Nathan Piwowarski) – **Attachment 1**
 - B. Chair's Report (Mark Kellogg)
 - C. Treasurer's Report (Rick Mills)
 - D. Committee on Special Projects (Melisa Mysliwicz)
 - E. Tax Committee Tax Nugget (JV Anderton) – **Attachment 2**
- VI. Written Reports
- VII. Other Business
- VIII. Adjournment

The next Probate & Estate Planning Council meeting will be **Friday, March 10, 2023**. The Council meeting will begin (almost) immediately after the Committee on Special Projects meeting, which begins at 9:00 AM. To register for participation via Zoom, visit https://us02web.zoom.us/meeting/register/tZMpceutqTsqGNFMtCb0KzOPXVvue_2CaBV.

ATTACHMENT 1

**MEETING OF THE COUNCIL OF THE
OF THE PROBATE AND ESTATE PLANNING SECTION
OF THE STATE BAR OF MICHIGAN**
Friday, January 13, 2023 @ 9:00 AM

University Club of Michigan State University
3435 Forest Rd, Lansing, MI 48910
and
Remote

Minutes

- I. **Call to Order and Welcome** (Mark Kellogg)
 - a. Chairperson Mark E. Kellogg called the meeting to order at 9:00 AM noting that the meeting was being recorded and that the resulting recording is to be deleted once the minutes of the meeting have been submitted by the Secretary and accepted by the Council.
- II. **Zoom Roll Call Confirmation of Attendees** (Mark Kellogg)
 - a. In Person: Mark E. Kellogg, Richard Mils, Hon. Shauna Dunning, Ryan Phillips, David Sprague, Melisa Mysliwiec, Elizabeth Sietker, Michael D. Shelton, and Steven A. Heisler.
 - b. Remote: James Steward, James P. Spica, Daniel Borst, Angela Hentkowski, Kenneth Silver, Christine Savage, Sandra Glazier, Nathan Piwowarski, James F. Anderton, Katie Lynwood, Susan Chalgain, Daniel Hilker, Andrew Mayoras, David Lentz, Stephen J. Dunn, Kathleen A. Cieslik, Georgette David, Rebecca Wrock, Lindsey DiCesare (ICLE), Alaina Nelson, Rebecca Bechler (Public Affairs Associates), and Andrea Neighbors (Administrative Assistant)
- III. **Excused Absences** (Mark Kellogg)
 - a. Warren Krueger
- IV. **Lobbyist's Report** (Public Affairs Associates)
 - a. This week was the formal start of the legislative session and committee assignments were given out.
 - b. The Governor delivers her State of the State address on January 25th and February 8th will be her budget.
 - c. Rep. Kelly Breen will chair the House's traditional judiciary committee. The House's leadership has divided the judiciary committee's responsibilities between two committees. Rep. Kara Hope will chair the criminal justice committee. Graham Filler has agreed to help us with some of our initiatives
 - d. Senator Stephani Chang will chair the Senate's judiciary committee.
- V. **Monthly Reports**
 - a. **Minutes of Prior Council Meeting** – November (Nathan Piwowarski) –Attachment
 - b. Motion by Nathan Piwowarski, second by Jim Spica to accept minutes with addition of Angela Hentkowski, Christine Savage, Daniel Borst, Elizabeth McLachlan, Georgette David, James F. Anderton, James P. Spica, Kenneth Silver, Michael Shelton, Neal Nusholtz, Rebecca Wrock, Sean Bloom, Sandra D. Glazier, and Warren Krueger to the attendees list. Approved.
 - c. **Chair's Report** (Mark Kellogg)

- i. Hopeful that the legislation that the council has been working on will be enacted.
 - ii. Assigned the Legislative and Drafting Committee the question of the ability to deduct the amount of a mortgage when determining whether assets can be transferred through a small estate proceeding
 - d. **Treasurer's Report** (Rick Mills)
 - i. The milage rate for reimbursement has increased. The correct amount is on the current Expense Reimbursement Form and is available on the State Bar website.
 - ii. Motion by Piwowarski, second by Spica. Approved.
 - iii. Suggested council member donation to Hearts & Flowers is \$35.
 - e. **Committee on Special Projects** (Melisa Mysliwiec)
 - i. There was not a CSP meeting this month.
 - f. **Amicus Committee** (Andy Mayoras)
 - i. There has been no new amicus activity.
 - g. **Tax Committee Tax Nugget** (JV Anderton) – Attachment 3. JV Anderton reviewed the information included in Attachment 3.
- VI. **Written Report Only**
- VII. **Other Business.**
- VIII. **Adjournment**
 - a. There being no other business before the Council, the Chairperson declared the meeting adjourned at 9:42 AM.

Respectfully Submitted,

Nathan Piwowarski, Secretary

The next Council meeting will be held on Friday, February 10, 2023.

ATTACHMENT 2

Tax Nugget; Tax Changes for the 2022 Tax Year

Christine Savage on behalf of the Tax Committee

Below is a brief summary of some of the key tax changes for the 2022 tax year. While this does cover all of the tax changes that may be applicable to taxpayers, it highlights some of the key items applicable to the 2022 tax year.

Estate and Gift Taxes

The lifetime estate and gift tax exemption for 2022 increased from \$11.7 million to \$12.06 million (\$24.12 million for couples if portability is elected on a timely filed estate tax return after the death of the first-to-die spouse). In addition, the deadline for electing portability is changed from two years to five years for estates that are not required to file an estate tax return because their assets do not exceed the exemption amount.

The special estate tax valuation of real estate is increased for 2022. For the estate of a taxpayer dying in 2022, up to \$1.23 million of farm or business real estate can receive discount valuation (increased from \$1.19 million in 2021), permitting the estate to value the real estate at its current use instead of fair market value.

Estates that include closely held business interests may qualify for installment payments to defer more estate tax liability. If one or more closely held businesses total more than 35% of a 2022 estate, as much as \$656,000 of estate tax can be deferred and the IRS will charge only 2% interest (increased from \$636,000 in 2021).

The annual gift tax exclusion for 2022 rises from \$15,000 to \$16,000 per donee.

Child Tax Credit

Temporary changes were made to the child tax credit for 2021. The credit amount was increased, the credit was made fully refundable, children up to 17 years of age qualified, and half the credit amount was paid in advance through monthly payments from July to December during the 2021 tax year. The payment of the child tax credit in advance was not extended to the 2022 tax year.

As a result, the child tax credit reverts back to its pre-2021 amounts for the 2022 tax year. That means the 2022 credit amount is reduced to \$2,000 per child (it was \$3,000 for children 6 to 17 years of age and \$3,600 for children 5 years old and younger for the 2021 tax year). Children who are 17 years old do not qualify for the credit for the 2022 tax year.

Child and Dependent Care Tax Credit

Improvements were made to the child and dependent care credit that applied to the 2021 tax year. Note these 2021 tax year amounts were only applicable for one year.

The 2021 credit was worth 20% to 50% of up to \$8,000 in eligible expenses for one qualifying child/dependent or \$16,000 for two or more qualifying children/dependents.

The percentage decreased as income exceeded \$125,000. When combining the top percentage and the expense limits, the maximum credit for 2021 was \$4,000 if the taxpayer had one qualifying child/dependent (50% of \$8,000) or \$8,000 if the taxpayer had more than one (50% of \$16,000). The credit was also fully refundable in 2021.

For 2022, the child and dependent care credit is non-refundable. The maximum credit percentage decreased from 50% to 35%. Fewer care expenses are eligible for the credit. For 2022, the credit is only allowed for up to \$3,000 in expenses for one child/dependent and \$6,000 for more than one. When the 35% maximum credit percentage is applied, that puts the top credit for the 2022 tax year at \$1,050 (35% of \$3,000) if the taxpayer has just one child/dependent and \$2,100 (35% of \$6,000) if you have more. Also, the full child and dependent care credit will only be allowed for families making less than \$15,000 a year in 2022 (instead of \$125,000 per year).

Tax Brackets

Although the tax rates did not change, the income tax brackets for 2022 are slightly wider compared to the 2021 tax year. The difference is due to inflation during the 12-month period from September 2020 to August 2021, which is used to figure the adjustments.

Tax Rate	Taxable Income (Single)	Taxable Income (Married Filing Jointly)	Taxable Income (Head of Household)
10%	Up to \$10,275	Up to \$20,550	Up to \$14,650
12%	\$10,276 to \$41,775	\$20,551 to \$83,550	\$14,651 to \$55,900
22%	\$41,776 to \$89,075	\$83,551 to \$178,150	\$55,901 to \$89,050
24%	\$89,076 to \$170,050	\$178,151 to \$340,100	\$89,051 to \$170,050
32%	\$170,051 to \$215,950	\$340,101 to \$431,900	\$170,051 to \$215,950

35%	\$215,951 to \$539,900	\$431,901 to \$647,850	\$215,951 to \$539,900
37%	Over \$539,900	Over \$647,850	Over \$539,900

Long-Term Capital Gains Tax Rates

Long-term capital gains rates and qualified dividends did not change for the 2022 tax year. However, the income thresholds to qualify for the various rates were adjusted for inflation.

In 2022, the 0% rate applies for individual taxpayers with taxable income up to \$41,675 on single returns (\$40,400 for 2021), \$55,800 for head-of-household filers (\$54,100 for 2021) and \$83,350 for joint returns (\$80,800 for 2021).

The 20% rate for 2022 starts at \$459,751 for singles (\$445,851 for 2021), \$488,501 for heads of household (\$473,751 for 2021) and \$517,201 for couples filing jointly (\$501,601 for 2021).

The 15% rate is for filers with taxable incomes between the 0% and 20% break points.

The 3.8% surtax on net investment income stays the same for 2022. It starts for single people with modified AGI over \$200,000 and for joint filers with modified AGI over \$250,000.

Standard Deduction

The standard deduction amounts were increased for 2022 to adjust for inflation. Married couples receive \$25,900 (\$25,100 for 2021), plus \$1,400 for each spouse age 65 or older (\$1,350 for 2021). Single taxpayers can claim a \$12,950 standard deduction (\$12,550 for 2021); \$14,700 if taxpayer is at least 65 years old (\$14,250 for 2021). Head-of-household filers receive \$19,400 for their standard deduction (\$18,800 for 2021), plus an additional \$1,750 once taxpayers reach age 65 (\$1,700 for 2021). The standard deduction is increased by \$1,400 for blind taxpayers (\$1,350 for 2021). That amount is increased to \$1,750 if the taxpayer is unmarried and not a surviving spouse (\$1,700 for 2021).

Charitable Gift Deductions

The deduction for up to \$300 of charitable cash contributions (\$600 for married couple filing a joint return) expired at the end of the 2021 tax year. As a result, it is not available for the 2022 tax year (it was available for 2020 and 2021).

The 2020 and 2021 suspension of the 60%-of-AGI limit on deductions for cash donations by people who itemize also expired, so the limit is back in place starting with the 2022 tax year.

Retirement Accounts

The IRS updated the table used to calculate required minimum distributions to account for longer life expectancies beginning in the 2022 tax year. As a result, RMDs will be slightly reduced beginning in the 2022 tax year.

In addition, dollar limits on retirement plans and IRAs are higher in 2022. For example, the maximum contribution limits for 401(k), 403(b) and 457 increased from \$19,500 to \$20,500 for 2022, while people born before 1973 can once again contribute \$6,500 more as a "catch-up" contribution. The 2022 limit on contributions to SIMPLE IRAs is \$14,000 (\$13,500 in 2021), plus an extra \$3,000 for taxpayers age 50 and older.

The 2022 contribution limit for traditional IRAs and Roth IRAs is unchanged at \$6,000, plus \$1,000 as an additional catch-up contribution for individuals age 50 and older. However, the income ceilings on Roth IRA contributions increased. Contributions phase out in 2022 at AGI of \$204,000 to \$214,000 for couples and \$129,000 to \$144,000 for single taxpayers (up from \$198,000 to \$208,000 and \$125,000 to \$140,000, respectively, for 2021).

Deduction phaseouts for traditional IRAs also start at higher levels in 2022, from AGIs of \$109,000 to \$129,000 for couples and \$68,000 to \$78,000 for single filers (up from \$105,000 to \$125,000 and \$66,000 to \$76,000 for 2021). If only one spouse is covered by a plan, the phaseout for deducting a contribution for the uncovered spouse starts at \$204,000 of AGI and ends at \$214,000 (\$198,000 and \$208,000 for 2021).

Alternative Minimum Tax

AMT exemptions increased for 2022. They increased from \$114,600 to \$118,100 for couples and from \$73,600 to \$75,900 for single filers and heads of household. Also, the phaseout for the exemptions start at higher income levels for the 2022 tax year, \$1,079,800 for couples and \$539,900 for singles and household heads (\$1,047,200 and \$523,600, respectively, for 2021).

In addition, the 28% AMT tax rate starts a little higher in 2022, above \$206,100 of alternative minimum taxable income. The rate applied to AMT income over \$199,900 for 2021.