ACTEC JOINT
ESTATE & GIFT TAX AND BUSINESS PLANNING
COMMITTEE MINUTES

2017 ACTEC FALL MEETING

October 22nd, 2016

3:45 p.m. to 6:15 p.m.

Belmond Charleston Place Hotel

Charleston, South Carolina

The Estate & Gift Planning Committee and the Business Planning Committee of the American College of Trust and Estate Counsel held their joint 2016 Fall Meeting on Saturday, October 22, 2016, at the Belmond Charleston Place Hotel, Charleston, South Carolina. In attendance were members and visitors listed in the attached Committee Attendance Sheet for the 2016 Fall Meeting.

These minutes are subject to review and approval at the Annual Meeting in Scottsdale, Arizona. Extensive materials were prepared relating to the presentations below. The materials are posted on the ACTEC website – under Committees & Task Forces/Committee Meeting Materials/Business Planning Committee/2016 Fall Meeting Materials.

1. Welcome: Meeting and Committee Matters/Fabulous Entertainment.

Ann Burns, Chairman of the Business Planning Committee, and Turney Berry, Chairman of the Estate & Gift Planning Committee welcomed members and guests and called the meeting to order. After thanking the meeting sponsors, Ann and Turney reviewed the agenda for the meeting. The minutes from the prior meeting held in Boston were approved as submitted.

Ron Aucutt and Stephanie Loomis-Price treated the Committee to a rousing rendition of "Where Have all the Discounts Gone" (set to Peter, Paul and Mary's "Where Have all the Flowers Gone") that brought down the house.

2. Background to Section 2704 and regulations – Ron Aucutt and Richard Dees. Richard and Ron discussed the interesting history of Section 2704. Beginning with Revenue Ruling 81-253 (where the IRS refused to follow Bright v. Commissioner, 658 F. 2nd 999 (5th Cir 1981)) to Section 2036(c), and finally Chapter 14, the IRS has been attempting to address valuation discount issues. Following its dismal roll-out, Congress repealed 2036(c) and enacted Chapter 14 (IRC sections 2701 – 2704) with the intention of preventing the result of Estate v. Harrison (52 TCM 1306 (1987)). Richard discussed his history with Chapter 14 through his representation of the National Grocers Association and that the true purpose of 2704 was not to eliminate all valuation discounts but to eliminate valuation "bells and whistles."

3. What Do We Do With Transactions That have Already Occurred? The Dangerous World of Taxable Lapses – Barbara Sloan and Steve Akers.

Steve and Barbara addressed the troubling issue of the application of the proposed regulations to transfers that have already occurred. Under the proposed regulations, a new three year rule will apply to certain transfers made within three years of death. The existing regulations include an important exception, providing that a transfer that results in a loss of a voting right or liquidation right for the transferor will not constitute a lapsed right subject to Section 2704(a) if the "rights with respect to the transferred interest are not restricted or eliminated." Under the proposed regs the special exception will not apply under a three year rule. Thus, any transfers subject to 2704 within three years of death will result in a deemed transfer of the value of the lapsed voting or liquidation right at the transferor's death. This "phantom asset" value would end up back in the transferor's estate and presumably would not qualify for the charitable or marital deduction.

4. Comments on Treasury's Process – Cathy Hughes.

Cathy Hughes discussed Treasury's perspective on the proposed regulations. Cathy first assured the Committee that transfers made prior to the effective date of the final regulations would not be subject to the new regulations (the final regulations would not be retroactive.) Cathy also stated that the three year rule discussed by Steve and Barbara would not apply to transfers made before the effective date of the final regulations.

Cathy discussed the purpose of the proposed regulations is to make Sections 2701 and 2704 applicable again. Since the passage of Section 2704, forty seven states have amended their partnership laws to effectively remove the teeth of Section 2704.

Cathy reiterated that the purpose of the new regulations was not to eliminate valuation discounts and that the regulations were not in effect a deemed "put right".

5. What does Old McDonald Do When – Here an Applicable Restriction, There an Applicable Restriction, Everywhere an Applicable Restriction – Ed Koren and Clary Redd.

Ed and Clary discussed the many troublesome and "diametrically opposed" views of the actual meaning and effect of the proposed regulations if they were to become effective. Ed and Clary's went through their excellent (and succinct) materials to highlight the many areas of confusion that arise pursuant to the proposed regulations.

6. Review of ACTEC Comments on Proposed Regulations – Beth Kaufman and Danny Markstein.

Beth, Danny and the rest of the ACTEC committee commenting on the proposed regulations commented on the progress of the ACTEC comments as they were not available for presentation at the time of the meeting. The ACTEC comments are now available on the ACTEC website.

Beth reminded us all that the purpose of the ACTEC comments isn't to take a particular position on the regulations, but to help improve and reform the regulations. Our job is to point out technical issues and to assist with clarity and improvement.

MINUTES FOR THE ACTEC JOINT MEETING ON
BUSINESS PLANNING COMMITTEE AND ESTATE & GIFT TAX COMMITTEE
AGENDA
2016 ACTEC Fall Meeting
Belmond Charleston Place Hotel
Sunday, October 23, 2016
8:00-10:30 a.m. Eastern

The first second joint meeting of the Estate & Gift Tax Committee and the Business Planning Committee of The American College of Trust and Estate Counsel held its 2016 Fall Meeting on Sunday, October 23, 2016, at the Belmond Charleston Place Hotel in Charleston, South Carolina. In attendance were members and visitors listed in the attached Committee Attendance Sheet for the 2016 Fall Meeting. These minutes are subject to review and approval at the 2017 Annual Fall Meeting in Phoenix, Arizona. Some materials were prepared relating to the presentations below.

Welcome by Chairs and Approve Minutes of Summer Meeting

Ann Burns, Chair of the Business Planning Committee welcomed members and guests and called the meeting to order.

The minutes from the prior meeting held in Boston, Massachusetts for both the Estate & Gift Tax committee and the Business Planning committee were approved as submitted. (Approval of the Estate & Gift Tax committee minutes were held for approval until this meeting.) A uniform motion to pass both sets of minutes was made and approved.

Because this was a joint meeting, Ann announced that those who signed the attendance sheet the day before were not required to sign the attendance sheet during this meeting. Otherwise, members were asked to sign the attendance sheet.

ABA – RPTE Estate Planning with Subchapter S Stock book – request for authors

Ann made an announcement on behalf of Amy Hess. The RPTE section of the ABA is working on a book about estate planning with Subchapter S stock. Steve Gorin generously offered his incredible "outline" for anyone who wants to work on the project. He doesn't want to be the author. So, if someone wants to co-author or author the book, please let Ann or Amy know.

What Do Ya'll Think of UTIPA? Your Chance to Make the Law

Next up, Ann turned the mike over to Turney Berry to talk about UTIPA. Turney announced that he has heard many times over the years that what really drew people to the law was the discovery in the libraries of their parents or grandparents – a copy of the Principal and Income Act. The Act has gone through changes since its enactment in 1931, then revisions in 1962, 1997. . .but instead of this being another "revised" Act, there is a committee of which Turney is the Chair and Ron Aucutt is the Reporter. Two ACTEC Fellows, Steve Gorin and Carlyn McCaffrey, are Observers. Substantive comments will follow but in the meantime, a name change is warranted. They are tired of UPIA, two UPOAs (powers of appointment and powers of attorney) – it's all too confusing! The best so far is UTIPA – Uniform Trust Income and Principal Act. The idea is to create a name that describes what is being done. They are trying to move away from being so specific (e.g. what is

wheat in the field) and go to more trustee discretion. Turney encouraged anyone with a better name idea to submit it to him or to Ron, Steve, or Carlyn. More than one submission can be made. NOTE: The Secretary did not hear that a prize or other remuneration would be awarded for the winning name.

Ann announced that at the Substantive Chairs meeting a new meeting prop was going to be available and would be used in future Business Planning committee meetings. The prop is a live poll through the meeting app. Polls will be taken, results immediately tallied – be sure to become familiar with the app. The app has features such as the committee meeting materials. Ann noted that because it is a joint meeting, the materials are together so the Business Planning committee agenda is further into the materials – but never fear, it's there!

Next, Ann called Cathy Hughes to the mike. Ann reminded everyone that Cathy is with Treasury and how gracious she was yesterday to take part in the first joint meeting discussion. Cathy wanted to make some clarifying comments in follow up to that presentation:

Following are Cathy's comments, as close to verbatim as possible and written in first person:

> Thanks, Ann. I just wanted to clarify what I'm doing here because apparently I heard last night that there was some confusion. I'm not here as a representative of Treasury. I'm here as an ACTEC Fellow. I'm on vacation; I pay my own way and I'm here just like everybody else is – to try to learn how to do my job better. The other thing that I wanted to clarify is don't assume that Treasury doesn't have a comeback to some of the issues that were discussed yesterday just because I sat silent. I can't respond; I'm not allowed to debate issues at this point because we're in a comment period, so I can talk about what the regs. says, what it means, what was intended. I can talk about what was already said in public when press was present and that's it. I can't go any further so I just wanted to try and clear up that confusion. Thank you.

Ann noted again how gracious it was for Cathy to take part in the discussion, and she also noted that she sat next to Cathy the day before and saw that she was takin copious notes, so she's listening!

<u>Report from Executive Committee Liaison</u>

Ann stated that Steve Akers is one of the liaison to the Executive committee and he would make the report. First, Charles King commented to Steve that there should be some type of big celebration because the statute of limitations had run on the many, many 2012 gifts that were made! Clapping ensued!!

Also, he noted that chairs sometimes like to get outside speakers for committee meetings. He reminded everyone that there is a very limited budget for it but there is a possibility to do so.

Steve mentioned that the ACTEC Foundation is having an auction at the Annual meeting – the brochure was in the registration packet - and there is some interesting, exciting stuff on the auction. Several sponsors even gave to the auction. Donations are still welcome! It will be held at the Welcome dinner.

The online roster is now searchable. Books will be sent in mid-November or so, and a .pdf version

of it is online on the website. There was somewhat of a delay in sending the books out this year because of some database issue which has been resolved for future years.

As a reminder, the upcoming Annual meeting will a little different in that it will be one day less. A big change then is that there will be the two symposiums but in addition, there will be three seminars each day and you will choose one. They will not be repeated. The same thing will happen the next day with seminars. Instead you can order tapes either at the time you register or at the meeting - there will be a slight discount if they are ordered at registration or at the meeting.

Thus, concluded the Executive Committee report.

Ann reminded everyone that you don't need to sign the attendance sheet twice. If you signed it the day before, it's enough. She then reminded everyone that the proposed 2704 regs. aren't the only ones that exist and the meeting moved on to briefing on the partnership audit regs. which are another comments project.

Partnership audit regulations

Steve Gorin talked about the "other comments" project, the partnership audit rules. It's not just about partnership level audits. Others involved in that project are Scott Nelson, Lora Davis, Jerry August (who is an ACTEC Fellow who is very involved with the ABA Tax Section).

Steve mentioned that one might wonder why you would care about these rules. They would provide no partner level defenses. If you have an audit that results in more income, you won't be able to offset.

Imagine you have a partnership and sell an interest. There's a potential for audit of prior years. The prior year audits of the partnership bite the current partners not the prior partners.
With allocation of income, you don't always know how it's done. There can be a reallocation of income and the regulations say you would increase partnership income if its misallocated but there's no corresponding deduction for the partners. Also, with an amended return, there is an administration adjustment request process – it's not just an amended return. These are quite onerous, were supposed to apply to partnerships with more than 100 partners, but. . . .

Can you opt out? Only eligible partners can. An estates is an eligible partner but a trust is not an eligible partner. But, per the statute, Treasury can promulgate regulations to define who eligible partners are and expand the class. The bluebook includes certain trusts, such as a revocable trust that terminates within two years of death so no longer revocable and grantor trusts. The rules allow S corps. and tiered partnerships to be eligible partners.

The comments are to seek to have all trusts included as eligible partners – the structure is no more complicated than tiered partnerships. They probably will not go into too much detail on how you would count partners so that they don't overwhelm Treasury. The comments reviewer is Ellen Harrison, and they expect the draft comments to be ready in the next two weeks. They will then be circulated between the Business Planning and Fiduciary Income Tax committees.

Ann asked if you have a trust that is an eligible partner, whether it would count as one partner or multiple partners. Steve said that it depends on how many people are affected. If the trust never makes a distribution, it should be one partner; if it makes lots of distributions, then it might be the

trust and all of the persons who get K-1s. For example, an ESBT would be one partner because the income is trapped in the trust; a grantor trust would be one because it goes to the grantor as the deemed owner.

Ann asked if this could change each year. Steve said yes – the partnership has to elect out each year as to its audit regime so you must determine the eligible partners each year. You would go to the trust and get K-1s because you need addresses, etc. That means the partnership has to go to the trust to ask who is going to get a K-1.

Gregg Simon asked what if you can't get the information from the trust or trustee doesn't want to tell the partnership who the beneficiaries. Steve said then you would not be able to opt out – it only takes one ineligible partner.

The partnership could be represented by someone other than a partner, so Jerry is worried that you may have someone involved who doesn't owe fiduciary duties to everyone. Steve thinks you just contract around it in the partnership agreement, but Jerry questions whether is the trustee is giving up a fiduciary duty when the partnership makes the election, makes adjustments and trustee has no input. (This is an issue raised by Jerry August.)

Ann asked whether the governing documents could provide that everyone is an eligible partners. Steve said that yes, the partnership agreement could control but he feared putting it in the agreement. What if the trust has "too many" beneficiaries, etc.? It might restrict what could be done in later years with the trust when the tradeoff is just blowing the audit issues.

Steve noted that no one else is commenting on trusts to this level of detail.

More on ABA – RPTE Estate Planning with Subchapter S Stock book – request for authors

Amy Hess then made a few comments on the item that Ann raised earlier – that she is here on behalf of ABA's RPTE section and that RPTE wants to do a book on owners of S corporations. Steve Gorin had offered his "book" on planning for closely held businesses to be used for this purpose and they are looking for volunteers for various chapters of the book, as well as a "chief cat herder" To oversee the chapters to be written by others. She noted that she realized that 2704 was taking priority at this point and that there is no time pressure for the writing or release of the book – the volunteers will set the timetable. Interested persons can contact Amy at ahess@utk.edu. She promises a special incentive to the person who agrees to be the chief cat herder.

Rev Proc 2016-49 Clayton QTIP

Randy Harris was next up to take on the next agenda item – Revenue Procedure 2016-49. He noted that Rev. Proc. 2016-49 was issued and replaces Rev. Proc. 2001-38. As background, the prior Rev. Proc. was to aid taxpayers who made an election for what ended up being an unnecessary QTIP election – the election was made even though estate tax wouldn't have been owed if the election hadn't been made. The election was made for property that was then included in the surviving spouse's estate which was a hardship. The old Rev. Proc. just said the taxpayer had to show sufficient evidence it qualified. But questions arose, such as what was meant by estate tax liability? There was no distinction for state and federal level so maybe the QTIP election had no affect for

federal liability but it gave a tax savings at the state level. Did the Rev. Prov. Invalidate the election for state law purposes?

Many issues because moot with the enactment of portability. The use of the marital deduction in the first estate creates an equal amount of DSUE which goes to the survivor and seems to cause no harm to the survivor when the assets are included in the second estate. Rev. Proc. 2016-49 says that any estate where a portability election is made won't invalidate the marital deduction just because no estate tax is generated or saved. So the open questions are now resolved completely in relation to portability and the QTIP election will not be invalidated!

A list of situations are provided in the Rev. Proc. for when the QTIP election will not be treated as void when portability is elected. Two times where portability may have been elected but isn't: (1) election is affirmatively not made ("opt out") on the 706 which isn't common except with dysfunctional families, and (2) a not timely filed 706. So there are still potential situations where a QTIP election is made and wasn't necessary, such as a late-filed return, and it could have a negative impact on the surviving spouse, but now there is an organized procedure to deal with it.

In order to invoke Rev. Proc. 2016-49 and have a pointless QTIP invalidated when you have no portability election, you might do so when you file a supplemental 706 for a decedent, a 709 for the surviving spouse like when giving away QTIP property, or make an election on the surviving spouse's 706. You have to put certain "filed for purposes of" language at the top of the return.

We can thank Treasury for doing this. They could have been simpler in their approach, but he thinks they really covered all bases instead and really covered portability.

Ann asked whether it could be done at any time and Randy said that's how it appears. Cathy Hughes commented that it could even be done on the surviving spouse's 706. Ann said that just the death of the second spouse is the only timeframe limitation.

Steve Akers was next up to talk about the Estate of Beyer case. The case came out on September 29th. It's an FLP case that was a total IRS win but for one minor item. For the most part, the judge went with the IRS on every issue. It's a 2036 FLP case. There were terrible mechanics and maybe that colored the case. Found the bona fide sale /adequate consideration exception didn't apply. The reasons given included providing for management succession and continuity of management but judge wasn't buying it – found no legitimate, significant non tax reasons. Regarding full and adequate consideration, regardless of the provisions in the partnership agreement, the court said no full consideration was given because there was no evidence that capital accounts were maintained from the beginning. One fact: several years of tax returns were filed without listing the persons who were partners! As for retained enjoyment, there was a single distribution of $600,000 made back to the decedent's revocable trust even though no longer a partner in order to pay gift taxes, then a big distribution to revocable trust to pay estate taxes. Lots of bad mechanics. And, to top it off, there were 529 accounts and 5-year averaging was not elected properly!

Steve Gorin mentioned that for small partnerships, you can elect not to show capital accounts (it's technically optional) but caution because simplified reporting might get you in trouble. Steve Akers said there was absolutely no evidence that capital accounts were ever maintained, and Steve Gorin said that he has recreated them after the fact so there is no question.

Steve Akers made another comment that this decision was by Judge Chiechi who has been taxpayer

favorable in other cases. He noted that there are about 129 pages of facts set out in the opinion. As Ann commented, why in the world did this ever get to Tax Court?!?

Ann asked if anyone had any other updates, and with no takers, the meeting moved on to the main event – 2704!

§ 2704 proposed regulations - valuation issues, comments and Q&A with Valuation Sponsors

Ann called the valuation expert sponsors to the main table and thanked them for agreeing to take part in the discussion. The persons speaking were Steve Rosenbloom of SMK as the moderator, Miranda McCray of FMV, Curt Kimball of Willamette, David Eckstein of FMV, Scott Nammacher of Empire, Dan Kerrigan of MPI, and Weston Kirk of Willamette.

Steve started off by setting some ground rules. He asked that there be no applauding or booing. Each person was going to address a different aspect of the issues. Finally, he asked that no references be made to the panel as "the basket of deplorables". Their goal as to help everyone help their client build a wall between the IRS and the 706 or 709. Miranda also noted that they were working as a team to break down the issues and address questions that had been raised but would take additional questions.

Curt introduced their overall approach to the 2704 regs. He noted that they may approach the issue differently from how attorneys do. Taking a worst case scenario approach, they see there being five proposed changes which he will address in the following order from a valuation standpoint: (1) timing and effective date, (2) 2701-2 as it defines "family entities" and "family members," (3) 2704-1 goes to the 3-year rule and assignee interests, (4) 2704-2 goes to applicable restrictions, and (4) 2704-3 goes to disregarded restrictions, put rights at minimum value, and how non family member owners effect valuation.

2701-2 defines a "family controlled entity" and the proposed regulation updates the definition. It also updates what makes "control," not by changing the 50% rule but making it apply to 50% to capital interests, profits and equity interests now and the form of the entity controls. 2704-1(a) and 2704-2 now incorporates siblings and their spouses. 2704-1 imposes a 3-year rule on transfers so appraisers may have to address what happens if a transfer was made within three years of death and brought back into an estate, being treated as a lapse or voting or liquidation rights of the transferor. Same with an assignee interest being treated as a lapse of these rights and the value of that lapse.

Curt continued to summarize the regulations including the exceptions to the rules. He noted that 2704-2 expands applicable restrictions and what could then result in "enhanced value" but there are exceptions, including:

1. commercially reasonable restriction;
2. mandatory law a family can't avoid;
3. rights that are subject to 2703, like binding buy-sell agreements; and
4. giving the family a put right at minimum value.

2704-3 gives a new class of disregarded restrictions associated with these transfers of interests in family controlled entities between family members where the restrictions are to be ignored for valuation purposes with essentially the same four exceptions above just discussed, except that the put right has to be exercised so that it defers the payment for no more than 6 months, with payment

in cash or other property, plus a fifth exception if the entity is engaged in an active trade or business where special rules apply.

2704-3 goes on to describe minimum value which to Curt is a new standard for value: fair market value of the assets determined under 2031 or 2512 less obligations under 2053. He went on to describe those certain minority non family member interests that would not be disregarded.

He noted that 2704-3 establishes a higher value, applies to marital deduction for estate tax purposes, and to basis adjustment regardless of whether there is estate tax. It doesn't apply to a transfer to a non family member, such as charity so ordinary fair market value standards will apply in those transfer situations.

Curt's conclusion: When you add it all up based on a plain reading and based on his experience as an appraiser, you will have some type of pro rata value of the control value of the enterprise apply to the controlling family's share: the standard may be fair market value vs. minimum value depending on the structure. He doesn't agree with the discussion the day before that minimum value may apply in all cases – for example, under state law (exception #2), you have the right to liquidate based on fair value and this would be a mandatory requirement.

Miranda commented that someone posed that the idea is to "take thumbs off of the scale."

Before addressing this idea, Scott said that with regard to the activity level they are seeing, it's about a 40% increase in business but not like in 2012 (David concurred). However, he recommends that it's better to get in the queue now in order to move things along and get valuations done timely.

Curt noted that the ASA and other appraisal groups are providing comments to IRS and Treasury. ASA will also testify and they are contacting congressmen as well.

Going back to Miranda's comment, David expanded on the implications of the proposed regs. and the partnership between advisors and appraisers. He said that there has always been an issue of coming together per 2704 regarding state law, what should be disregarded, etc., but now it's just a larger deal. The first question is whether what is being valued falls within the scope of the regs. For example, undivided interests, restriction agreements (like Beyer), the Hillgren case (business loan agreement that implicated 2036 where the loan agreement changed the issues and available discounts). Are these restrictions that are to be disregarded? Agreement needs to be met between the appraiser and advisors in this regard and the interpretations. Other examples as to the bells and whistles that need to be considered are ROFRs, rights to withdraw – are they to be disregarded? These emphasize the importance to get on the same page with advisors as to what applies. The regs. are open to interpretation and may still be after final.

Weston brought up another scenario with an operating or buy-sell agreement where there is no right to withdraw vs. the regs. that say to ignore that as a restriction. How would this affect the valuation of the company? What would be considered and what wouldn't?

Scott said that it's interesting when you have a willing buyer with two agreements/two opportunities: one with no right to redeem per agreement and the other where it will be disregarded or where it is silent – in which would someone (a willing buyer) invest? The unknown becomes larger. On its face, you may think that no prohibition is better, but it can make a difference based on the age of the company. With a brand new entity, there may be a slight difference between the two

scenarios, but it's unknown whether redemption can happen or not and what it will be. As the entity ages, you may have a history of allowing or disallowing redemptions, so the history becomes important for the appraiser to know and the appraiser would probably take this into account. Therefore, history may cause a difference, and no history should cause a very slight difference in value.

David said that he agrees and today there are partnerships that allow withdrawal. An extreme example would be a general partnership. In these cases, they found that the IRS often says a right to withdraw affects value and gets rid of any discount but their firm sees it as fact-specific. They had case where there were lots of complications – weird assets, built-in gains, etc., etc., but they worked with the advisor to determine the process for liquidity, the timeline, etc. to get out. How would built-in gains, non divisible assets be dealt with? Ended up with a 20% discount. He felt that other facts might cause a much smaller discount. It's critical to determine how the facts would play out.

Dan mentioned that the absence of restrictions is not the same as having a right. For a minority owner, the world has changed as to how a document that just doesn't have the no right to withdraw language written in anymore. It doesn't change the fact that they can ask to withdraw; it just changes the right of the person on the other side to consider it. It really just changes the rights to enforce it. The decision makers, like a Board of Directors, can't just point to the agreement to say no you can't; you have to look to the business judgment and whether it's economically feasible to do which brings into consideration the fairness and equity of the other partners. The definition issue of fair market value and fair value makes a difference because now it's not just a definition they can follow and feel good about but it's a standard and approach change.

Curt said the biggest implication he sees is whether a minority interest can be seen as a minority interest or if it's part of a control block and what affect that has.

Miranda posed the next question that was raised: whether a phantom control premium would be applied to operating companies.

Dan cautioned that this is all interpretation that is being done at this point; it's all speculation. Regardless, he said that on interpretation in response (and it may be extreme) is that they aren't looking at minority level value now but control level value. He says he can't get to a control premium without knowing things like ability to change compensation, right to buy/sell assets, etc. but they can find the control premium by different means. So, it's viewing from the top down, so should the control level value be controlling vs. minority level value? Look at how the appraiser is dealing with this issue. If this is how it should be viewed, the control level values will rise. He thinks we should look at how the appraisal firm is looking at this issue. Minority interest plus premium can cause the company to be valued at far in excess of what it could sell for. Fair value is generally the operative reality of the situation, not the buyer's ability to change the situation: operative reality sets the capital structure, also sets the compensation structure but a control premium means owner can change it which is outside of fair value – all told fair value is outside of financial control so when you see 30-40% control premiums, it's at odds with the market place so perhaps fair value is a better guidepost if it's turning this way.

Scott said that control values in an flp holding marketable securities is one thing but control in a real estate entity is different because you are dealing with control value of the assets on the inside because it's built into the real estate appraisals. In an operating company, the question becomes should you look at how it's being managed and the current cash flow or is it what like a public

company could do with it. The gap is large between the two. You don't want it to get to the IRS saying it has to be valued at a control premium. The asset makeup becomes more important, and it seems that the operating one should be looked at differently.

Weston asked what other valuation adjustments are possible outside of lack of control and marketability, considering that minimum value may be better termed "maximum value."

Scott said that with minimum value, the way the definition is worded is interesting; it goes to book liabilities but ignores "soft" ones like environmental liabilities, major liabilities, etc. Appropriate discounts like key man, compensation agreements for senior parties, etc. When using guideline company approach, median company can't be the default – you have to look at smaller companies for multiples so watch for that when reviewing appraisals.

David agreed and said that on audit they aren't arguing discounts, but other factors are important. Non-family assets or alternative investments like hedge funds, private equity, real estate funds, etc. have discounts because of how they are locked up and illiquid. A family business is not the same as a family-controlled business, like Gen. 3 or 4 businesses. It could be cousins involved and control is among them, so these regs. won't apply to those and shouldn't. So, there are assets that should have discounts.

Dan mentioned built-in gains and tax affecting. Think of minimum value – an asset holding company that's a C corporation with built-in gains: what happens when an interest is redeemed so selling assets and triggering gains? What happens to the other owners? Look at the resulting, residual value of what's left to the remaining shareholders and see how important it is to value that resulting amount. For the pass-through issue, when looking at operating companies on a control basis as opposed to minority. For minority it's important at the shareholder level but with a deal it's important at the entity level because maybe buyer of a pass-through entity knows he might strike a deal with the shareholders and buy the assets to leave liabilities but get tax shield, e.g. 338 elections. With premium and tax benefits of pass-throughs it's a little different and perhaps double counted when looking at control transactions and setting multiples when looking at asset sales.

Curt commented that for entity level values, liquidation time horizons become more important because of risks like market absorption, blockage discounts, corporate vs. personal goodwill (depending on where it resides – company or genius of the founder) should all be taken into account.

Scott said to keep in mind Wandry and other adjustment clause-type matters in true sale transactions (not gifts). The reality (or FMV) of the transaction is important – don't let an adjustment clause skew the value. On audit, you'll be adjusting the note and it has the potential to make the value well above FMV. You don't want the adjustment language to turn it into a much bigger deal than it is when it is a sales transaction.

Curt addressed that other exceptions in the proposed regs. are commercially reasonable transactions (which could be a restriction the bank puts in on liquidating when loan is outstanding) and putting restrictions in agreements.

The audience was invited to ask questions.

Stacy Eastland had the following question: C corporation with built-in gain (using the Davis case as an example) the IRS uses swing vote theory to drive value, but the counter is that you have to look at

a hypothetical willing buyer and seller which assumes the parties are unrelated. At the same time, you can look at who the remaining shareholders are. Like in the Davis case, the judge said yes, you have to value this as if this minority interest being sold (27 ½ in this case) is not related to the other owners and assume there is a cohesive family. What is the difference with the old law (a bargain with minority oppression) vs. the new law (still can bargain but can't seem to take into account argument of minority oppression)? For the question, assume we have a 50-year entity, prohibit early withdrawal (earlier out could be negotiated), but the issue of minority oppression is still there. With the new law, you can always negotiate early withdrawal but what's different is you can argue that this owner is going to go to court and argue minority oppression because it doesn't seem to be allowed under the definitions of the proposed regs.

Scott posited that doesn't oppression require more proof? You can't just argue it. He said that he thought they had somewhat addressed this in that if you don't have the right to withdraw, it shouldn't be that big of a difference, even without oppression. But, he said he may be missing something in the question.

David said that we may not be going in one direction per the proposed regs. We might be gaining some in terms of the argument of the right to withdraw but losing some based on what would be arguments based on statutory rights set out in state law under the real world scenario. He agreed with Scott that minority oppression might not help you much depending on the facts. As always, if the value is greatly depressed because of the minority oppression factors, it has more impact.

Stacy mused that we might have a better argument if the interloper is not related to the family so when cohesive families are involved we might hide facts.

Curt mentioned that it's analogous to private equity where you get a penalty if you leave early which is the same concept as in this case. He said their job is to work with the attorneys to go through the scenarios.

David agreed that you have to look at the facts of the shareholders who are not being assumed to be hypothetical buyers and sellers, such as a swing vote vs. a cohesive group with a single owner facing a unified group. For example, you have a 49% owner and the remaining 51% is split among 7 other owners. If they are cohesive, you are the minority owner, so cohesive can be the same as a minority shareholder. If you are not cohesive, you are the largest shareholder and you only need one to go along. It's important to look at the specifics. He raised the "crazy brother discount" as a further optional discount. You always have to look at the facts of the specific transaction, including the other owners.

Weston stated that for estimating minimum value, if the facts say that you have to liquidate assets in order to redeem an interest, family interaction and what assets may be sold are important. It may lower the value more if the family than if the family was cohesive and so would use available cash to redeem vs. saying we'll sell the assets with built-in gains or other high expenses.

Curt said that like in hedge fund cases, you don't use the cash to redeem someone if possible – instead you use the dogs in the portfolio (low basis, undivided interests in real estate, undeveloped property, or developed with no cash flow, etc.) (See again private equity transactions.)

Richard Dees brought up that the proposed regs. seems to come from the idea that state law restrictions as being the default measure of a liquidation restriction are being undermined. From the

preamble, one of the reasons argued for the proposed regs. is because state laws have been changed to be more favorable to estate planning. He believes that the state law provisions are not that meaningful (regardless of what planners say). He reviewed how the law had changed with respect to 704(b)'s enactment in 1990 and the number of ways an owner could have limited liability. He mentioned Delaware as being the classic business law state vs. estate planning state. So, with a corporation, there is no right to withdraw or if you were a limited partner, it depended on whether it was a perpetual partnership where a limited partner has a right to withdraw with 6 months' notice, or a term partnership with no right to withdraw until the end of the term. These rules were pre-check-the-box. The passage of the check-the-box regulations and their affect is an aspect missing in the 2704 proposed regs. Looking at the perpetual partnership (which matches the 6 months in the proposed regs.) In 1990, a limited partner would get the fair value of the right to share in the distributions from the partnership. He thinks that the person who wrote the statute meant fair market value when using fair value. In Maryland, for example, fair value has been found by courts to be what a dissenter's right would be in the corporate context but that's not the same as what the statute says. To him, the right to share in distributions corresponded with the right of an individual partner to transfer or assign his interest as otherwise limited by the agreement such as with rights to limit transfer of management rights, etc. There's a limit to an assignee interest to be able to transfer which limits the ability to profit from the transfer. All that can be sold is an assignee interest. He saw the meaning of the fair value of the right to share in distributions as being that of an assignee interest so he never saw a big advantage to a transfer of an assignee interest vs. as a partner. Instead, he saw the transfer from a partner to an assignee to be a lapse of voting rights per 2704(a) (as it provides in the regs.) so he never liked. He doesn't see much difference with all the changes in state laws that goes beyond the fact that as a limited partner you still have no right to receive the assets of the entity or to withdraw and get your money back.

Curt emphasized the importance of the dialogue between the appraiser and the advisor, and unfortunately, the lack of clarity in the proposed regs. means there may be years of litigation to get clarity.

Scott said that he sees Richard as looking as what can be done in real life vs. how it's valued for transfer tax purposes. He says that we have to be careful regarding how the partnerships are run, what is paid in reality vs. what has to be reported from a tax perspective. It seems like it has the potential to create family dissidence when the value per the proposed regs. may be higher than what could be obtained in an actual sale and family members start saying they all want to get paid that amount.

David said that the most significant changes he saw with state law changes were things like percentage needed to change or dissolve something, super majority vote, etc. He agrees with Richard that there may be many things that were hyped that just don't have that much effect.

Steve said that he doesn't see a clear path to resolve the issues in the near future. There's a new dimension regarding the lack of control and lack of marketability that didn't exist before. The dynamics continually change. They talked around private equity and hedge funds but the limits, etc. in those changes each time he reviews documents for them. It's making them think through things that haven't been an issue recently.

Kevin Millard asked about the approach to a deemed lapse of a voting liquidation right under the 2704-1 reg. and how if it occurs within 3 years of death it could be a phantom value. How would the panel approach value?

Curt commented that the issue is regarding a pro rata value on a controlled interest basis of an entity and when you have a lapse, you have to do an analogy taking into account the specifics of each case so it becomes a highly hypothetical exercise.

Rhonda brought up the Adams case out of the 5th Circuit where an independent discount for the uncertainty of the legal status of the ownership of the entity, and then asked Stacy why aren't we talking about the constitutionality of the proposed regs.? Stacy stated that he learned that Northern folks get real nervous when a Southern boy talks about the Constitution.

David said that the Adams case was good but it was an assignee interest issue which complicates it. It's a good case that points out when we look at dissolution, withdrawal rights, etc., the specific facts are important.

Scott said that the Newhouse case is another good case to review as well – the complexities of the corporate structure.

Weston commented that the hypothetical value for tax purposes may be different than if a transaction takes place between two family members. So, the question becomes: Is it possible that two valuation reports are needed?

There was a "yes" by all. Weston commented that you may have to come up with a FMV value report for a transaction like cash or note between father and son vs. this hypothetical minimum value report for one that is a gift and not an exchange of cash.

Curt agreed and said there's an issue of complexity because exception three of the proposed regs. give an exception under 2703 which may require a review of buy-sell and operating agreements to see how it applies, especially when non family members are involved, or organization documents may have similar issues. A comment was made about being nervous about having a trustee make a decision based on a hypothetical value.

David said that there are family fairness issues too when looking at the division of the assets. The family may want to know the two values to see the difference.

Weston noted that for buy-sell agreements that are not grandfathered in from the late 80's, the family might trigger gift tax implications because they aren't complying with the regs.

Jim McGraffey posited that there may be a problem with the private equity and hedge fund analogies. He doesn't see them as very applicable because whatever is in the agreement, the sponsor wants to sell fund after fund so their action with regard to the present fund and a minority in that fund is driven by a desire to sell a future fund and those future buyers will be influenced in how they treat minority owners in prior funds. Curt said that it's not a perfect analogy. Dan added that the restrictions the funds have are there so they can weather downturns, so they do have a purpose and he can see there is a business purpose to having restrictions.

David commented that there are two elements if they are valuing a family situation under the current rules: (1) how useful are the discounts present in the marketplace which has always been an issue and the idea that incentives in selling a fund like SEC oversight in public entities suggest that you should have higher discounts, all else being equal, and (2) what if we end up in a world where

there's minimum value where discounts are diminished, are there other games in town regarding assets to invest in to give discounts at that level.

Scott said that you have to look at the assets to see the potential valuation adjustments because of illiquidity, e.g. a single member LLC with discounts on the assets inside if they are illiquid vs. discounts on the outside. So you can be selective on the assets themselves. Or, an entity that invests not just in marketable securities. What about carried interests with long-term payouts, life insurance like split dollar where the payoff is later? How about entities with built-in gains? So, private equity fits as a type of asset to invest in.

Dennis Reardon raised the question: With the minimum value concept, it seems like it's really structured for hard assets, so what about goodwill and those types of assets? How do you apply the minimum value concept?

Dan responded that this seems to be contemplated by the proposed regs. and the inclusion of things like goodwill, so they are going to apply the same concepts as when they value an entity with assets, looking at multiples, etc. He added that the liquidating aspects of the assets and how easy it is to turn them into cash. He feels you need a secondary analogy as to liquidity and how easy (or not easy) it is to turn the assets into cash. Dennis queried whether that means he's treating goodwill as a hard asset. Dan said it doesn't mean carving it out on its own but including the value as part of the value of the assets. Curt said that he agrees with Dennis and sees minimum value as setting awkwardly on 2512 and 2031 for operating companies because targeted more toward holding companies and asset management companies which the IRS sees as less business oriented and so are more skeptical about.

Ann asked if there were any other questions. There were none, and a round of applause was given in appreciation.

Ann made a call for the sign-in sheet.

Ann decided to give Ron Aucutt the last word on the 2704 subject.

Ron said that his comments were going to be controversial so Ann might want let others comment. He gave his thanks to the panel and noted that his comments were directed to them. He suggested that they do maybe a separate investigation as to the facts but they should be able to rely on the lawyer as to the operating agreement. For example, section 5(g) – ignore that because it's a disregarded restriction. Following are the remaining comments of Ron, fairly verbatim and written in first person:

> I want to reassure our guests and enable them to relax particularly about things like the minimum value and the disregarded restriction and the effect of that. As I say, some of my colleagues have worked hard and not only do they disagree with me, they don't understand why they do. But, here's the way it is. As you know, when you take on an appraisal engagement, you ask the lawyer, what's up – what are the legal boundaries, what are the facts. As to facts and circumstances, you sometimes do interviews and research and investigate that on your own. But, as far as the governing documents, you ought to be able to rely on the lawyer. All disregarded restriction does is say when the lawyer gives you a document, they have to say ignore article 5(g) because that's a disregarded restriction. Now that makes it to you the same as if 5(g) was never there. It should be absolutely no

difference, absolutely business as usual for you to then decide what that document as excised and the facts and circumstances that you discover in your research is where you go. And, you're going to be taking all kinds of factors into account, like the risk that a hypothetical willing buyer won't be able to negotiate with the family, won't be able to get along with the family at all, lack of ability to control in a going concern. In an operating business, an active trade or business many, many more factors like illiquidity, obstacles to redemption, fiduciary duty to other owners, the business itself, the fact of a partial liquidation on the ability of the business to continue and all of these kinds of things. There are lots and lots of others – I've read your books – they're thick. You know how to do it though and I want to encourage you. Now as you in an individual engagement rely on an individual lawyer, you maybe relied too much on some lawyers who have scared you, and I feel your pain; I feel the pain of business owners that Cathy mentioned yesterday who think their business are going to be shut down by January 20th because that's an administration agenda. We lawyers could have done better. We could have avoided, for example, the notion that family businesses are targeted. They're clearly not; they're going to be affected very little if at all. The notion that the absence of an explicit provision is the same as a grant of an exclusive power. The notion that in light of our instincts about statutory authority and the plain language of section 2704(b)(2) the proposed regulations must say what they can't say – they can't say what they should say. All that in a literal reading. Or, the notion that minimum value is a new standard of value. Or it's an element of valuation at all. The notion that it's not just explicit provisions that we ignore. Of course we ignore just explicit provisions. We don't take into account rights of first refusal and all this kind of thing. The notion in effect – if a partnership has other partners – imagine in a partnership that having other partners is a disregarded restriction because if they weren't there they're the sole partner (if there is such a thing) who can grant everything that the statute includes. The notion that when we hear reports that Cathy in a public meeting has denounced all these other notions that somehow Cathy can't possibly know what the drafters intended. Huh? And Cathy, you and your colleagues could have done better. Unconventional though it might have been, you could have acknowledged the Greenbook proposals and acknowledged the walk back from those proposals in the absence of Congressional cover. You could have found a different term than "minimum value" or at least anticipated that we might interpret that to mean minimum value for transfer tax purposes. You could have avoided explaining the effect of disregarded restriction in the preamble by stating fair market value is determined under generally accepted valuation principles. Fine, guys, got it? Including any appropriate discounts or premiums subject to the assumptions described in this paragraph – "assumptions" is the same word as in "certain assumptions could be specified in regulations in the Greenbook provisions that got us here. You could have in -3(f) avoided the use of the word "otherwise" in conjunction with governing documents and local law. For that matter, Treasury and the White House could have avoided their grandiose political statements contemporaneous with the publishing of these proposed regulations to make it sound that, indeed, the administration intends this to be a hinge on which the future of civilization turns. They are fueling the notion that all family businesses will be out of it by January 20th. Now, contemporaneous with this last point, Cathy, you and your colleagues can make amends in the final regs. Now, I'm not blaming anybody. Mickey and Melissa and Stephanie and Steve, some of my own partners will attest that I myself started out with a much more cosmic view of these regulations and what they might do. I have apologized. But, when trying to make amends, I only hope that all of my colleagues can be as charitable.

Ann commented that she had nothing to add.

Pam Schneider took to the mike to make a few comments as well. Following are Pam's comments, also fairly verbatim, and also written in first person:

> Thanks to Cathy and everybody for being here but I take slight issue with one piece of what Ron said which is the piece that implies that we should be relying on Cathy's statements to understand the intent of the regulations. I certainly believe that what Cathy is telling us is what the intent of the regulations is but we have had enough years of dealing with regulations and statutes where we hear the intent and years later there are cases, there are interpretations, there are others that look and the intent is besides the point. It's the words that count and it's the way it's interpreted and we can't as attorneys tell our clients to rely because we happen to know that this is what the drafters intended because we don't know that and we can't as much as we would like it to inform our opinions somewhat but I really think that it is dangerous to rely on oral statements when we have no ability to rely and in the absence of final regulations with a good preamble or a notice that tells us that no, everybody's got it wrong this isn't what was intended we have to assume that it could be interpreted that way regardless of whether it was intended or not.

Closing Comments by Chairs

Ann advised everyone to look for the comments in the next week or so. She then announced that we would break into subcommittee meetings and signaled where each of those groups would meet.

Adjourn

At 10:04 a.m., the first second joint meeting of the Estate & Gift Tax committee and the Business Planning committee was adjourned for all but the subcommittee breakout sessions.

BP Subcommittee Breakout Sessions

The subcommittees met!

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SECRETARY Melissa Williams - Sunday Michael Baldwin - Saturday Members: 114, Visitors 116

Members		Signature
Berry, Turney P. Chair, Estate and Gift Tax	E&G	
Burns, Ann B. Chair, Business Planning	BPC, E&G	
Akers, Stephen R. Member and EC Liaison	BPC, E&G	
Aghdami, Farhad	BPC	
Akins, David J.	E&G	
Albright, Christine L.	E&G	
Allevato, John F.	BPC, E&G	
Ambrecht, John W.	BPC	
Armstrong, Robert E.	BPC	
Aucutt, Ronald D.	BPC, E&G	
Baldwin, Michael J.	BPC	
Barrick, Gregory N.	BPC	
Bart, Susan T.	E&G	
Barulich, Paul J.	BPC	
Barwick, Donna G.	E&G	
Basile, Paul L.	E&G	
Baskett, Richard M.	BPC, E&G	
Bayard, Alton E.	BPC	
Belcher, Dennis I.	BPC, E&G	
Benford, Norman J.	E&G	
Bergner, John F.	E&G	
Berry, A. Franklin	BPC	

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Bjelland, Gary W.	E&G	
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Blackman, John C.	BPC	
Blattmachr, Jonathan G.	E&G	
Boring, James L.	BPC	
Bourland, Michael V.	BPC	
Bozell, Douglas Allen	BPC	
Brown, William O.	BPC	
Bucher, Elaine M.	E&G	
Burnside, Benjamin J.	BPC	
Carp, Gerald I.	BPC	
Cavataio, Lorraine K.	BPC	
Chae, Chang H.	E&G	
Chomakos, Andrea C.	BPC	
Chorney, Marc A.	BPC	
Coleman, J. Grant	BPC	
Comiter, Richard B.	BPC	
Conaty, F. Peter	E&G	
Conway, Mark A.	BPC	
Crabbe, Cheryl Cain	BPC	
Craig, Richard D.	BPC	
Culler, M. Patricia	E&G	
Dalvano, Barbara Ann	E&G	

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Daniels, C. Fred	BPC, E&G	
Davidson, M. Katharine	BPC	
Davis, Lora G.	BPC	
Davis, Mickey R	BPC, E&G	
Dees, Richard L.	BPC	
Detzel, Lauren Y.	E&G	
Dickinson, James G.	BPC	
Dickinson, Tasha K.	BPC, E&G	
Donaho, Stephanie E.	E&G	
Draneas, John H.	BPC, E&G	
Dudley, Bruce K.	BPC	
Dyer, Stephen T.	E&G	
Eastland, S. Stacy	BPC	
Edgar, Christopher L.	BPC	
Edwards, David F.	BPC	
Fahrner, Karen	BPC	
Fitzsimons, Dana G.	BPC	
Fletcher, Derek L.	E&G	
Fox, Charles D.	E&G	
Frankel, Craig M.	BPC	
Frankel, Michael I.	BPC	
Gadarian, Gregory V.	BPC	
Gagliardi, Elaine Hightower	E&G	
Galant, Jeffrey A.	BPC	

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Gissel, L. Henry	E&G	
Godwin, Michael H.	BPC	
Golden, Alvin J.	E&G	
Goldsmith, Donald A.	E&G	
Goodman, Joe M.	BPC	
Gordon, Michael M.	E&G	
Gordon, Peter S.	BPC	
Gorin, Steven B.	BPC	
Graf, William R.	BPC, E&G	
Graham, Michael L.	BPC	
Green, Patrick J.	BPC	
Grove, T. Randall	BPC	
Hallenberg, Robert L.	BPC	
Harrington, Carol A.	E&G	
Harrington, Ellen M.	E&G	
Harris, T. Randolph	E&G	he was @ mtg
Harrison, Ellen K.	E&G	
Harrison, Louis S.	BPC	
Hesch, Jerome M.	E&G	
Hirschson, Linda B.	E&G	
Horn, Jerold I.	E&G	
Hughes, Catherine V.	E&G	
Husbands, Joshua E.	BPC	

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Hutchins, Elizabeth Holland	BPC	
Hyde, Andrea	BPC	
Jensen, J. Alan	BPC	
Johnson, David Carroll	BPC	
Jolley, John M.	E&G	
Jordan McCall, Jennifer B.	E&G	
Kao, Carol K.	E&G	
Klooster, Tye J.	BPC, E&G	
Koren, Edward F.	BPC, E&G	
Kozusko, Donald D.	BPC	
Laub, Patricia D.	E&G	
Levine, Jerome L.	E&G	
Levitan, Shari A.	E&G	
Lindquist, Philip M.	E&G	
Litman, Stephen R.	BPC	
Loomis-Price, Stephanie	BPC	
LoPrete, Robert D.	E&G	
Lutrey, David M.	E&G	
Malin, Scott H.	BPC, E&G	
Mancini, Mary Ann	E&G	
Marchand, Donat C.	BPC, E&G	
Marchetti, R. David	BPC	
Markstein, Daniel H.	BPC, E&G	
Matz, Kevin	BPC	
Mauritz, D. Charles	BPC	

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McCaffrey, Carlyn S.	E&G	
McGaffey, Jere D.	BPC	
Mezzullo, Louis A.	BPC	
Michael, Jonathan W.	BPC	
Moore, Malcolm A.	BPC, E&G	
Morrill, Robert J.	BPC	
Nash, Charles Ian	BPC, E&G	
Neff, Robert C.	BPC	
Nelson, Barry A.	BPC	
Nelson, Randy S.	BPC	
Nepple, James A.	BPC	
O'Brien, Anne J.	BPC	
Olsen, Alfred J.	BPC	
Opferman, Thomas G.	E&G	
Osborne, J. Lee E.	BPC	
Parker, Raymond P.	E&G	
Peckham, Thomas E.	BPC	
Pennell, Jeffrey N.	E&G	
Phillips, T. Stephen	BPC	
Plunkett, Laura Walker	BPC	
Porter, John W.	BPC, E&G	
Pratt, David	E&G	
Provo, John W.	BPC	
Pruett, Benjamin H.	BPC	

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Raatz, Les	E&G	
Radigan, C. Raymond	E&G	
Reardon, Dennis C.	BPC	Dennis C. Reardon
Redd, Charles A.	E&G	Charles A. Redd
Richman, Lawrence I.	BPC	was in attendance
Rico, Lisa M.	BPC	
Rikoon, Jonathan J.	BPC	
Roberts, James Vincent	BPC	
Rosenberg, Paul I.	E&G	
Russell, Hollis F.	BPC	
Saalfeld, Robert J.	BPC	
Schneider, Pam H.	E&G	
Sega, A. Christopher	BPC	
Seybolt, Cameron R.	E&G	
Shapack, Richard A.	BPC	
Siegel, Anita J.	E&G	
Silvestri, Gina D.	BPC	
Skipper, J. Ronald	E&G	
Sloan, Barbara A.	E&G	
Sloan, David Scott	BPC	
Smith, Susan Kimsey	BPC, E&G	
Sojourner, David C.	BPC	
Sommer, Kurt A.	BPC	
Sparks, Brian	BPC	
Spratt, James D.	BPC	

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Stuart, Robert A.	BPC	
Sumerford, Rees M.	E&G	
Tescher, Donald R.	BPC, E&G	
Timmer, Patrick D.	E&G	
Trytten, Steven E.	BPC	
Van Haren, W. Michael	BPC	
Viehman, R. Eric	E&G	
Vito, Michael P.	E&G	
Wallace, John A.	BPC	
Warnick, John A.	BPC	
Weinig, Gregory J.	E&G	
Wells, Robert A.	E&G	
Wells, Sara A.	E&G	
Wells, Thomas O.	E&G	
Wendel, Lee A.	BPC	
Westerman, Susan S.	BPC, E&G	
Weylandt, Robert M.	E&G	
Whitty, Michael D.	BPC	
Willms, Melissa J.	E&G	
Wolf, Clinton Eugene	BPC	
Wolf, Jerome L.	E&G	
Wolff, Harry W.	E&G	
Zaritsky, Howard M.	E&G	
Zeydel, Diana S.C.	E&G	

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ACTEC 2016 Fall Meeting
Charleston, South Carolina

Joint Meeting of the Estate and Gift Tax and Business Planning Committees

Saturday, October 22, 2016 ▪ 3:45pm - 6:15pm

VISITORS	SIGNATURE
Ackerly Mary M.	
Adams Frank T.	
Arnell Nathan E.	
Barczak Kenneth P.	
Bator Thomas E.	
Bawden Elizabeth A.	
Bayern Arthur H.	
Beattie Mary Beth	
Ben-Yaacov Paige K.	
Bishop MaryEllen	
Bloostein Marc J.	
Brier Kenneth P.	
Buzby-Walt Anne	
Cacy Colleen A.	
Cafferata Reynolds T.	
Candland Benjamin S.	
Caughman Rita Bragg	
Chapman BethAnn Boudah	
Christopher Mark M.	
Clark John D.	
Cohen Kimberly E.	
Conetta Tami	
Craig Tracy A.	
Crow Nancy	
Daniels Daniel L.	

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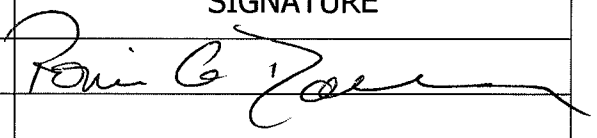
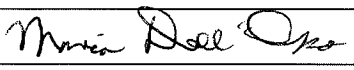
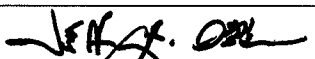
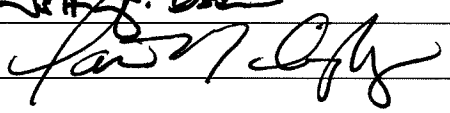
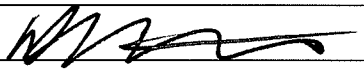
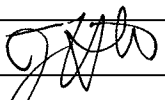
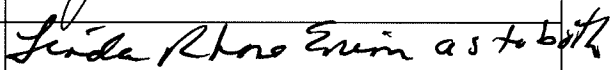
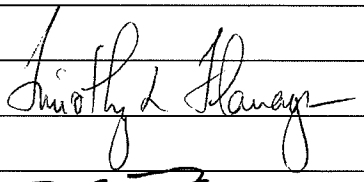
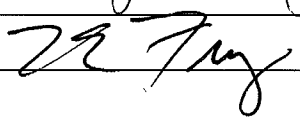
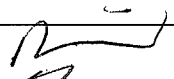
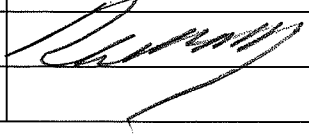
VISITORS	SIGNATURE
Davidowitz Ronni G.	
De Francisco Jeffrey C.	
Dell'Osso Monica	
DeMaio Andrew J.	
Dent Rebecca H.	
Dible Jeffrey S.	
Digby Darin N.	
Diminich Giampiero (G.P.)	
Dorsett Stuart B.	
Eckstein David	
Eichelberger Glen T.	
Ellis Jonathan H.	
Elsom Kristi N.	
Enion Linda Rhone	
Estes Tommy C.	
Flanagan Timothy L.	
Freeman Kate	
Fry Theron E.	
Gans Richard R.	
Gerstner Karen S.	
Glenday Nigel	
Goldman Robert P.	
Goodall Deborah Packer	
Gooen Michael N.	
Greenberg Richard H.	
Griffin Linda Suzzanne	

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VISITORS	SIGNATURE
Griswold Rhonda L.	
Grix Henry M.	
Hall Martin	
Harder Mark K.	
Hardin James C.	
Harpootian John M	
Hartog John A.	
Hatinen Peter S.	
Henry Miriam W.	
Herman Keith A.	
Holbrook Dan W.	
Holzman Susan M.	
Horowitz William Neal	
Howard Nancy E.	
Hyche J. Tod	
Ivimey John R.	
Jenson Benetta P.	
Johnson Emily F.	
Jones Christopher J. C.	
Kanyuk Amy K.	
Kaufman Beth Shapiro	
Kaufman Michael L.	
Kelly Laura A.	
King Charles E.	
Kinyon Richard S.	
Klomparens Robin L.	

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VISITORS	SIGNATURE
Knebel Jeffrey Thomas	
Kohn Stuart J.	
Kroch Carol G.	
Lamm James D.	
Lane William R.	
Langa Melissa	
Law Lester Bernard	
Lee T. James	
Lentz Marguerite M.	
Lewis David T.	
Lunger William H.	
Maddox James M.	
Magowan Stephen P.	
Marone Richard A.	
McBride Katarinna	
McCabe David J.	
McCray Miranda	
McCue Howard M.	
McLaughlin Lisa D.	
Meck John F.	
Millard Kevin D.	
Miller Richard J.	
Monihan M. Elizabeth	
Montgomery Janet Rae	
Moore Lee	
Morf Paul P.	

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VISITORS	SIGNATURE
Morris Walter R.	
Mott Peter T.	
Nammacher Scott	
Nelson Scott M.	
Newlon Jeanne L.	
Nostro Louis	
Ottaway Cynda C.	
Overbey Thomas L.	
Paddison Jane	
Parks Charles T.	
Pasternak N. Alfred	
Pharies S. Andrew	
Pierson Elizabeth T.	
Pietrucci Theresa	
Prouty Erin L.	
Rawson Jennifer L.	
Rhodes Anne-Marie	
Rizzo Elisa Shevlin	
Rogers Marjorie A.	
Rosenbloom Anita S.	
Rothschild Gideon	
Rothstein Andrew D.	
Roush Nancy Schmidt	
Rusch Wendy S.	
Russell Deborah L.	
Sassin Lynn B.	

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VISITORS	SIGNATURE
Shannon David J.	
Shea Matthew J.	
Sheehan Robert W.	
Sherby Kathleen R.	
Shirley Janet A.	
Simon Gregg M.	
Smith Constance D.	
Snyder Susan D.	
Snyder William A.	
Spitz Jennifer M.	
Springs Clare H.	
Stanton Lois Ann	
Stautberg Lee M.	
Stephens Marjorie J.	
Stone Bruce	
Swain Scott A.	
Sweeney Thomas P.	
Temmerman Robert E.	
Thomas Karen Hudson	
Van Houten Margaret	
Vann Robert D.	
Vryhof John C.	
Walsh Suzanne Brown	
Welber Nancy H.	
Will Henry G.	
Williams H. Randolph	

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Wilson Wayne F.	
Woods Richard D.	
Young Dan C.	
Young Robert C.	
Zorn William V.A.	
Carol Warnick	
Robert Spoor	
Deborah Tedford	
Karen Boxx	
Elizabeth Bowden	
Patrick Goetzinger	
Jeffrey Wolken	
CURTIS R. KIMBALL	
Christopher H. Gadsden	
Richard Franklin	
JOHN A. TERRILL	
BRUCE BEIKEDAHL	
ALAN ROTHSCHILD	
JANET Shirley	
Mike Ogline	
Jayne M. Kurzman	
Katherine P. Ahearn	
John Randolph	
JACK SAWYER	
BETH CHAPMAN	
Randall Lee	

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VISITORS	SIGNATURE
R. HUGH MAGILL	
BILL KIRCHICK	
Leonard Martin	
Katherine McBride	
TOM WOMACK	
RHONDA BRUNK	
Kathleen Sherby	
ART BAYERN	
KERRI MAST	
Stephen Mazowan	
George Cushing	
Charles King	
Kristi Elsom	
Karen Gerstner	
Virginia Palmer	
Susan Gary	
Chuck Coyle	
Eileen Day	
GERALD CARP	
William R Lane, J.	
Nancy McLaughlin	
Colleen Cacy	
Tracy Craig	
Rhonda griswold	
John Rooky	
Rich Hayes	

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WILLIAM L. HINDS, JR. William L. Hinds, Jr (Only October 23, 2016)

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VISITORS	SIGNATURE
LINDA Griffin	
JAMES A. WILLIAMS	
[illegible]	
Weston Kirk	Weston Kirk
Tommy Estes	Tommy Estes
Mary Beth Beattie	
MICHAEL SHIBIN	
E. Diane Thompson	E Diane Thompson
Stanley C. Kent	
LEONARD PARKER	
	Marcia Fyan
Gloria Rothschild	
Karen Stockmal	
LINDA J. RETZ	
David L. Sigler	
Rudy Ogburn	
Randall Yee	
Rhonda griswold	Rhonda Gould
Stan Foster	
Janet Shirley	
James Walker	

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Glen Eichenberger

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SECRETARY Melissa Williams Members: 107, Visitors 133

Members		Signature
Berry, Turney P. Chair, Estate and Gift Tax	E&G	
Burns, Ann B. Chair, Business Planning	BPC, E&G	
Akers, Stephen R. Member and EC Liaison	BPC, E&G	
Aghdami, Farhad	BPC	
Akins, David J.	E&G	
Albright, Christine L.	E&G	
Allevato, John F.	BPC, E&G	
Ambrecht, John W.	BPC	
Armstrong, Robert E.	BPC	
Aucutt, Ronald D.	BPC, E&G	
Baldwin, Michael J.	BPC	
Barrick, Gregory N.	BPC	
Bart, Susan T.	E&G	
Barulich, Paul J.	BPC	
Barwick, Donna G.	E&G	
Basile, Paul L.	E&G	
Baskett, Richard M.	BPC, E&G	
Bayard, Alton E.	BPC	
Belcher, Dennis I.	BPC, E&G	
Benford, Norman J.	E&G	
Bergner, John F.	E&G	
Berry, A. Franklin	BPC	

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Berry, Turney P.	E&G	
Bertles, James B.	E&G	
Bjelland, Gary W.	E&G	
Blackburn, Michael D.	BPC	
Blackman, John C.	BPC	
Blattmachr, Jonathan G.	E&G	
Boring, James L.	BPC	
Bourland, Michael V.	BPC	
Bozell, Douglas Allen	BPC	
Brown, William O.	BPC	
Bucher, Elaine M.	E&G	
Burnside, Benjamin J.	BPC	
Carp, Gerald I.	BPC	
Cavataio, Lorraine K.	BPC	
Chae, Chang H.	E&G	
Chomakos, Andrea C.	BPC	
Chorney, Marc A.	BPC	
Coleman, J. Grant	BPC	
Comiter, Richard B.	BPC	
Conaty, F. Peter	E&G	
Conway, Mark A.	BPC	
Crabbe, Cheryl Cain	BPC	
Craig, Richard D.	BPC	
Culler, M. Patricia	E&G	
Dalvano, Barbara Ann	E&G	

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Members		Signature
D'Amato, Jennifer R.	BPC, E&G	
Daniels, C. Fred	BPC, E&G	
Davidson, M. Katharine	BPC	
Davis, Lora G.	BPC	
Davis, Mickey R	BPC, E&G	
Dees, Richard L.	BPC	
Detzel, Lauren Y.	E&G	
Dickinson, James G.	BPC	
Dickinson, Tasha K.	BPC, E&G	
Donaho, Stephanie E.	E&G	
Draneas, John H.	BPC, E&G	
Dudley, Bruce K.	BPC	
Dyer, Stephen T.	E&G	
Eastland, S. Stacy	BPC	
Edgar, Christopher L.	BPC	
Edwards, David F.	BPC	
Fahrner, Karen	BPC	
Fitzsimons, Dana G.	BPC	
Fletcher, Derek L.	E&G	
Fox, Charles D.	E&G	
Frankel, Craig M.	BPC	
Frankel, Michael I.	BPC	
Gadarian, Gregory V.	BPC	
Gagliardi, Elaine Hightower	E&G	
Galant, Jeffrey A.	BPC	

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Members		Signature
Gaslowitz, Adam R.	BPC	
Gerson, Michael C.	E&G	
Gissel, L. Henry	E&G	
Godwin, Michael H.	BPC	
Golden, Alvin J.	E&G	
Goldsmith, Donald A.	E&G	
Goodman, Joe M.	BPC	
Gordon, Michael M.	E&G	
Gordon, Peter S.	BPC	
Gorin, Steven B.	BPC	
Graf, William R.	BPC, E&G	
Graham, Michael L.	BPC	
Green, Patrick J.	BPC	
Grove, T. Randall	BPC	
Hallenberg, Robert L.	BPC	
Harrington, Carol A.	E&G	
Harrington, Ellen M.	E&G	
Harris, T. Randolph	E&G	
Harrison, Ellen K.	E&G	
Harrison, Louis S.	BPC	
Hesch, Jerome M.	E&G	
Hirschson, Linda B.	E&G	
Horn, Jerold I.	E&G	
Hughes, Catherine V.	E&G	
Husbands, Joshua E.	BPC	

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Hutchins, Elizabeth Holland	BPC	
Hyde, Andrea	BPC	
Jensen, J. Alan	BPC	
Johnson, David Carroll	BPC	
Jolley, John M.	E&G	
Jordan McCall, Jennifer B.	E&G	
Kao, Carol K.	E&G	
Klooster, Tye J.	BPC, E&G	
Koren, Edward F.	BPC, E&G	
Kozusko, Donald D.	BPC	
Laub, Patricia D.	E&G	
Levine, Jerome L.	E&G	
Levitan, Shari A.	E&G	
Lindquist, Philip M.	E&G	
Litman, Stephen R.	BPC	
Loomis-Price, Stephanie	BPC	
LoPrete, Robert D.	E&G	
Lutrey, David M.	E&G	
Malin, Scott H.	BPC, E&G	
Mancini, Mary Ann	E&G	
Marchand, Donat C.	BPC, E&G	
Marchetti, R. David	BPC	
Markstein, Daniel H.	BPC, E&G	
Matz, Kevin	BPC	
Mauritz, D. Charles	BPC	

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McBryde, Neill G.	BPC	
McCaffrey, Carlyn S.	E&G	
McGaffey, Jere D.	BPC	
Mezzullo, Louis A.	BPC	
Michael, Jonathan W.	BPC	
Moore, Malcolm A.	BPC, E&G	
Morrill, Robert J.	BPC	
Nash, Charles Ian	BPC, E&G	
Neff, Robert C.	BPC	
Nelson, Barry A.	BPC	
Nelson, Randy S.	BPC	
Nepple, James A.	BPC	
O'Brien, Anne J.	BPC	
Olsen, Alfred J.	BPC	
Opferman, Thomas G.	E&G	
Osborne, J. Lee E.	BPC	
Parker, Raymond P.	E&G	
Peckham, Thomas E.	BPC	
Pennell, Jeffrey N.	E&G	
Phillips, T. Stephen	BPC	
Plunkett, Laura Walker	BPC	
Porter, John W.	BPC, E&G	
Pratt, David	E&G	
Provo, John W.	BPC	
Pruett, Benjamin H.	BPC	

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Raatz, Les	E&G	
Radigan, C. Raymond	E&G	
Reardon, Dennis C.	BPC	
Redd, Charles A.	E&G	
Richman, Lawrence I.	BPC	
Rico, Lisa M.	BPC	
Rikoon, Jonathan J.	BPC	
Roberts, James Vincent	BPC	
Rosenberg, Paul I.	E&G	
Russell, Hollis F.	BPC	
Saalfeld, Robert J.	BPC	
Schneider, Pam H.	E&G	
Sega, A. Christopher	BPC	
Seybolt, Cameron R.	E&G	
Shapack, Richard A.	BPC	
Siegel, Anita J.	E&G	
Silvestri, Gina D.	BPC	
Skipper, J. Ronald	E&G	
Sloan, Barbara A.	E&G	
Sloan, David Scott	BPC	
Smith, Susan Kimsey	BPC, E&G	
Sojourner, David C.	BPC	
Sommer, Kurt A.	BPC	
Sparks, Brian	BPC	
Spratt, James D.	BPC	

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Members		Signature
Stone, Dale B.	BPC	
Stuart, Robert A.	BPC	
Sumerford, Rees M.	E&G	
Tescher, Donald R.	BPC, E&G	
Timmer, Patrick D.	E&G	
Trytten, Steven E.	BPC	
Van Haren, W. Michael	BPC	
Viehman, R. Eric	E&G	
Vito, Michael P.	E&G	
Wallace, John A.	BPC	
Warnick, John A.	BPC	
Weinig, Gregory J.	E&G	
Wells, Robert A.	E&G	
Wells, Sara A.	E&G	
Wells, Thomas O.	E&G	
Wendel, Lee A.	BPC	
Westerman, Susan S.	BPC, E&G	
Weylandt, Robert M.	E&G	
Whitty, Michael D.	BPC	
Willms, Melissa J.	E&G	
Wolf, Clinton Eugene	BPC	
Wolf, Jerome L.	E&G	
Wolff, Harry W.	E&G	
Zaritsky, Howard M.	E&G	
Zeydel, Diana S.C.	E&G	

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ACTEC
THE AMERICAN COLLEGE OF TRUST AND ESTATE COUNSEL

ACTEC 2016 Fall Meeting
Charleston, South Carolina

Joint Meeting of the Estate and Gift Tax and Business Planning Committees

Sunday, October 23, 2016 ▪ 8:00am - 10:30am

VISITORS	SIGNATURE
Ackerly Mary M.	
Arnell Nathan E.	
Barczak Kenneth P.	
Bayern Arthur H.	
Beattie Mary Beth	
Ben-Yaacov Paige K.	
Bishop MaryEllen	
Brier Kenneth P.	
Buzby-Walt Anne	
Cacy Colleen A.	
Cafferata Reynolds T.	
Candland Benjamin S.	
Caughman Rita Bragg	
Chapman BethAnn Boudah	
Christopher Mark M.	
Conetta Tami	
Crow Nancy	
Daniels Daniel L.	
Davidowitz Ronni G.	
De Francisco Jeffrey C.	
Dell'Osso Monica	
DeMaio Andrew J.	
Dent Rebecca H.	
Dible Jeffrey S.	
Digby Darin N.	

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VISITORS	SIGNATURE
Diminich Giampiero (G.P.)	
Eckstein David	
Eichelberger Glen T.	
Elsom Kristi N.	
Enion Linda Rhone	
Flanagan Timothy L.	
Foster Stanbery	
Fry Theron E.	
Fujimoto Marcia K.	
Gans Richard R.	
Gerstner Karen S.	
Goetzinger Patrick G.	
Goldman Robert P.	
Goodall Deborah Packer	
Gooen Michael N.	
Greenberg Richard H.	
Grix Henry M.	
Hall Martin	
Harder Mark K.	
Harpootian John M.	
Hartog John A.	
Hatinen Peter S.	
Herman Keith A.	
Hinds William L.	
Holbrook Dan W.	
Holzman Susan M.	

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Horowitz William Neal	
Howard Nancy E.	
Howland Kinnaird	
Hyche J. Tod	
Ivimey John R.	
Jenson Benetta P.	
Jones Christopher J. C.	
Kaufman Beth Shapiro	
Kaufman Michael L.	
King Charles E.	
Kinyon Richard S.	
Kirchick William D.	
Klomparens Robin L.	
Kohn Stuart J.	
Kroch Carol G.	
Lamm James D.	
Langa Melissa	
Law Lester Bernard	
Lee T. James	
Lentz Marguerite M.	
Magowan Stephen P.	
Marone Richard A.	
Mast Kerri L.S	
McBride Katarinna	
McCabe David J.	
McCray Miranda	

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McCue Howard M.	
Meck John F.	
Miller Richard J.	
Monihan M. Elizabeth	
Moore Janet Wilson	
Moore Lee	
Morf Paul P.	
Morris Walter R.	
Nammacher Scott	
Nelson Scott M.	
Nostro Louis	
Ottaway Cynda C.	
Overbey Thomas L.	
Paddison Jane	
Parks Charles T.	
Pasternak N. Alfred	
Pharies S. Andrew	
Pierson Elizabeth T.	
Prouty Erin L.	
Retz Linda J.	
Rosenbloom Anita S.	
Rothstein Andrew D.	
Roush Nancy Schmidt	
Rusch Wendy S.	
Sassin Lynn B.	
Shannon David J.	

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Shea Matthew J.	
Sherby Kathleen R.	
Shirley Janet A.	
Sigler David L.	
Simon Gregg M.	
Smith Constance D.	
Smith Eddy R.	
Snyder Susan D.	
Spitz Jennifer M.	
Springs Clare H.	
Stanton Lois Ann	
Stautberg Lee M.	
Stephens Marjorie J.	
Stone Bruce	
Swain Scott A.	
Sweeney Thomas P.	
Temmerman Robert E.	
Thomas Karen Hudson	
Turner Ralph T.	
Van Houten Margaret	
Vann Robert D.	
Vryhof John C.	
Welber Nancy H.	
Will Henry G.	
Wilson Wayne F.	
Woods Richard D.	

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VISITORS	SIGNATURE
Young Dan C.	
Young Raymond H.	
Young Robert C.	
Zorn William V.A.	

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