

MEMORANDUM

TO: Trust Decanting Study Committee
FROM: Stan Kent, Chair
SUBJECT: Study Committee Questions
DATE: May 4, 2012

As we know, our mission is to determine whether there is a need for, and the feasibility of, state legislation on trust decanting either as an amendment to the UTC or as a free standing act.

This is my first opportunity to serve on a study committee, so I have drawn on the ULC "Project Proposal Guidelines" to formulate the following questions for discussion during our first telephone conference.

Surely there are additional and better questions that will be put forward by others on the committee.

In the meantime, in preparation for our telephone conference on May 7th, please consider:

1. Is uniformity of law governing trust decanting desirable? Will a uniform act produce significant public benefits through reduction of the:
 - (a) uncertainty about the legal basis for trust decanting, and when and how trust decanting can be effected;
 - (b) risk of adverse income and transfer tax consequences; and
 - (c) risk of conflicts of law issues?

As to 1 (b), it seems reasonable to conclude that working in close coordination with the IRS as it prepares pronouncements on trust decanting will be crucial.

2. Is a uniform trust decanting act feasible? Apparently it is because some 15 states have enacted decanting statutes and other states are in some stage of study and drafting their own decanting statutes.

Will the number and variety of state decanting statutes already on the books serve as an impediment to broad enactment of a uniform statute? Or, notwithstanding this, will a uniform act, especially as an amendment to the UTC, promote uniformity over time? Will a uniform act written in coordination with IRS pronouncements on income and transfer tax implications of decanting foster uniformity by stimulating compliance amendments of state decanting statutes already on the books?