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5/19/87

Second Supplement to Memorandum 87-37

Subject: Study L-1038 - Abatement; Interest and Income Accruing During
Administration

Attached as Exhibit 1 is a report on the basic Memorandum and First Supplement by Team 4 of the State Bar Estate Planning, Probate and Trust Law Section. The staff will orally raise the points made in the report when we consider this agenda item at the meeting.

Respectfully submitted,

Robert J. Murphy III
Staff Counsel

STANTON AND BALLSUN

A LAW CORPORATION

AVCO CENTER, SIXTH FLOOR

10860 WILSHIRE BOULEVARD

LOS ANGELES, CALIFORNIA 90024-4318

(213) 474-8267

TELEX/FAX (213) 474-1248

PLEASE REFER TO
FILE NO.

KATHRYN A. BALLSUN

PAUL L. STANTON

LESLIE K. STUART

STEVEN J. HALPERN

May 13, 1987

FAX

James Quillinan, Esq.
444 Castro Street, #900
Mountain View, CA 94041

Re: Memorandum 87-37; Abatement; Interest and Income Accruing
During Administration (Study L-1038); and First Supplement
to Memorandum 87-31

Dear Jim:

On May 6, 1987, Team 4 (Harley Spitler, William Hoisington, Janet Wright, Jim Willett and I) discussed Memorandum 87-37; Abatement; Interest and Income Accruing During Administration (Study L-1038). On May 12, 1987, Team 4 discussed the First Supplement to Memorandum 87-31. Team 4's comments about the above-referenced Memoranda are as follows:

1. Division of Draft. (page 1)

Team 4 agrees with the staff's suggestion that the draft should be divided into three sections that will be placed in separate parts of the Code.

2. Abatement. (page 1)

Team 4 believes that most practitioners would consider that events occur "during" probate as opposed to "in" probate. For this reason, Team 4 suggests that revised subdivision (b) of Section 21400 be amended as follows:

(b) When distribution is made during estate administration [the suggested change is underlined; remainder of subsection (b) remains the same.]

3. Preference for Testator's "Kindred" (page 2).

Without belaboring the point, Team 4 believes that the definition of kindred should include those persons who are entitled to inherit.

James Quillinan, Esq.
May 13, 1987
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If Team 4 may be of further assistance, please do not hesitate to contact us.

Hope all is well.

Cordially,

Kathryn A. Ballsun

KATHRYN A. BALLSUN
A Member of
STANTON AND BALLSUN
A Law Corporation
KAB/kf

c: Richard Polse, Esq.
Harley Spitler, Esq.
Janet Wright, Esq.
William Hoisington, Esq.
Lloyd Homer, Esq.
Chuck Collier, Esq.
James Willett, Esq.
Irv Goldring, Esq.
Jim Devine, Esq.
Jim Opel, Esq.
Keith Bilter, Esq.