

rm15  
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

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PLEASE REFER TO  
FILE NO.

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*

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