

**MAROKO AND LANDAU**

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**CHECKLIST**

**ESTATE ADMINISTRATION AGENDA**

ATTORNEYS FOR ESTATE/TRUST

PERSONAL

1. Identify heirs
  - A. Address
  - B. Date(s) of Birth
2. Death Certificate

WILL/TRUST/IRREVOCABLE TRUST

ASSETS

1. Gifts over \$12,000/person/year (2008)
  - A. Gift tax paid? Return filed?
  - B. Election to split gifts – by 4/15 plus extension
  - C. Attach Gift Tax Returns
2. Valuation
  - A. Alternative Valuation
  - B. Special Use Valuation for business real estate
3. Sole owner

4. Business Assets
  - a. Attach buy/sell agreements
5. Joint
  - A. Amount Excludable?
  - B. Pre-1977 spousal joint interest - contribution rule
6. Receivables (Loans to others)
  - A. Tax Refunds – Schedule F
  - B. Advancements
7. Life Insurance
8. IRA/Qualified Plan/Annuities
9. Tax Favored Medical Account?
10. Power of Appointment
  - A. Beneficiary of Trust
11. Death Certificate
12. Appraisal
  - A. Discounts
13. Safe Deposit Box
14. Bonds
  - A. EE Bonds - Government table
  - B. H or HH Bonds - face plus accrued interest
  - C. Elect to Report Income on Final Return?
15. Vehicles
16. Social Security

17. Personal Property
18. Obtain past 3 years income tax returns (omitted assets)

LIABILITIES (See attached)

1. Funeral Bill
2. Taxes
  - A. Income
  - B. Real Estate
3. Medical
4. Litigation
5. Claims/Debts
6. Interest
7. Estate administration expenses - management (do not reduce marital deduction) or transmission
8. Protective claim for refund if expense or claim deduction is unascertainable.

PROBATE

1. Notice of Spousal Election/Homestead Allowance/Exempt Property/ Family Allowance
2. Claims Notice
3. Conservator/Guardian?
4. Inventory

ESTATE TAX - Michigan/Federal

1. 9 months to pay/file
  - a. 6 month automatic extension to file. Form 4768 – file before due date.

- b. Up to 12 months extension upon reasonable cause to pay. Form 4768. File by due date.
  - 2. Extension to pay? Extension to file?
    - A. 15 year deferral? IRC 6166
  - 3. Who is responsible for the tax?
  - 4. File discharge from personal liability – 9 months
  - 5. File Request for Prompt Assessment (18 months vs. 3 years). Form 4810
- ESTATE TAX – State (Resident?)

- 1. Michigan
- 2. Other States
  - A. Check location of property (real and personal)
- 3. IRS – 25% credit (2004). 2005 - deduction

INCOME TAX

- 1. Individual
- 2. Trust
  - A. Full trust: Election: Trust taxed as estate
  - B. Marital
  - C. Family
  - D. Sprinkle Income to lower Bracket Beneficiary
- 3. Estate
- 4. Income tax deduction for estate tax. IRC 691(c)
  - A. Dividends, interest – accrued (not yet paid)
  - B. Assets sold (capital gain) – not yet received
- 5. SS-4

6. Fiscal year
  - A. Distribution 65 days after year end, take on current year?
  - B. Planning: cut off year to defer income
7. Termination of estate/trust
  - A. Beneficiaries benefit - excess deductions/capital loss
  - B. Trustee/Personal Representative protection
8. Step-up in Basis

#### ADMINISTRATION OF TRUST

1. Personal Representative/Trustee
  - A. Delegate authority?
  - B. Appointment/Resignation?
2. Marital
3. Family Trust
  - A. Special Power of Appointment
4. Principal or Income?
5. Expenses
6. Personal Property (Will)
7. Incontestability
8. Protect Inheritance
9. Special Needs
10. Trustee Fees
11. Notice to Beneficiaries (see attached)
  - A. Income and principal

12. Accounting (see attached)
13. Publish claims - reduces statute of limitations from 3 years to later of 4 months after publication or 28 days after actual notice
14. Early distribution
  - A. Survivorship – wait "90" days
  - B. Loan
  - C. Advancements or Gifts?
15. Distribution - Receipt and Release
  - A. When?
  - B. Foreign Beneficiaries – Withhold? Tax? Reporting?
  - C. Hold back \$ in escrow?
16. Bonded?
17. Delegate authority?
18. Investment strategy

#### AUDIT AND PROTECTION

1. Investment – 3 years
2. Accounting – 3 years
3. Indemnification?
4. Umbrella policy

#### TAX ELECTIONS

1. QTIP
  - A. Elect/No elect/Protective Election
  - B. Reverse QTIP

- C. Elect IRA as QTIP?
- 2. QDOT
- 3. GSKIP
  - A. Qualified Severance – any time before due date of return (plus extension)
- 4. DISCLAIMER - 9 months
- 5. EXPENSES - Estate or Income Tax Return (file waiver)
  - A. Medical expenses paid within 12 months after death = administration expense.
- 6. PLANNING FOR IRA/QUALIFIED PLAN
  - A. Minimum Required Distribution - Provide certification by 10/31 of year after death
  - B. A 60-day rollover may be waived (spouse only)
  - C. Designated Beneficiary – 9/30 of year after death. Review older beneficiaries and charities. Pay expenses.
    - (1) Disclaim
    - (2) Distribute
    - (3) Reform
  - D. Separate Accounts - 12/31 of year after death
  - E. Elect IRA as QTIP
- 7. Qualified Subchapter S Trust (QSST)/ESBT
  - A. Elect by 2 ½ months from date of transfer
- 8. 754 Partnership/LLC election
- 9. Trust taxed as estate
  - A. By due date of estate first income tax return
- 10. Alternate Valuation Date

- A. Protective Election
- 11. Credit for prior transfers
- 12. IRC 303 stock redemption

## FUNDING

- 1. Review marital deduction clause
  - A. Pecuniary (up front or reverse?) (True worth, fairly representative or minimum worth?)
  - B. Fractional
- 2. Revalue
- 3. Distribute assets or sell and distribute cash?
  - A. Specific bequests
  - B. Residuary beneficiaries
    - (1) Interest gain on assets in kind? Elect IRC 643(e)
  - C. Income carried out?
  - D. Interest on pecuniary devise – 1 year
- 4. Pick and choose assets
  - A. Less growth in marital
  - B. Investments
  - C. IRA - to Marital or Credit Shelter Trust?
- 5. Tax upon funding? Fund Pecuniary Amount
  - A. Capital gain or loss (disallowance)?
  - B. Acceleration of income tax
  - C. Carryout DNI

- (1) Fund specific bequest with assets in kind
- 6. Effect of administration expenses
  - A. Estate tax or income tax deduction?
    - (1) 2% floor
  - B. Estate transmission or management
    - (1) First Death. Find estate management expenses and deduction on Income tax return. Marital share reduced but not marital deduction.
- 7. When to Fund
  - A. Estate tax filing or acceptance (difficult to value assets)
- 8. Closing

#### SPECIAL USE VALUATION

#### SPECIAL LICENSES/CONSENTS

- 1. Liquor
- 2. Lottery
- 3. Franchise
- 4. Landlord
- 5. Other

#### FEES

- 1. Agreement to heirs

#### PLANNING FOR SURVIVOR

- 1. PROBATE

2. TAX
3. REVIEW/DOCUMENT UPDATE
4. INSURANCE
5. LONG-TERM CARE

## LIABILITIES

### **ADMINISTRATION EXPENSES/DEBTS:**

1. Funeral Expenses, including tombstone, mausoleum, burial plot, honoraria, perpetual care costs, clergy, travel costs (1 person) to burial site (please supply copies of receipts) (**Debt – estate only**)
2. Trustee/Personal Representative Fees (please keep a journal of activity):
3. Attorney Fees:
4. CPA Fees:
5. Appraisal Fees:
6. Court Costs:
7. Legal Notices and Publications Costs:
8. Costs of Preserving Estate Assets:
9. Costs of Selling Assets (allowable if sale necessary to pay taxes, debts, expenses, or to effect an orderly disposition):
  - A. Broker's commission and title insurance
10. Estate Tax Interest (Actual):
11. Medical Expenses (Please provide documentation):
12. Accrued Personal Income Taxes (both State and Federal): (**Debt – estate only**)
13. Accrued Alimony-Marital Settlement Obligations: (**Debt – estate only**)

14. Mortgages in which the decedent is personally liable: (**Debt – estate only**)
15. Interest expenses accrued at date of death:
16. Post death interest (if loan used to pay tax):
17. Personal guarantees if called prior to date of death:
18. Losses from damaged/destroyed assets:
19. Other Debts existing at the time of death:
20. Unrecovered investment in annuity contract – final year return

**Note: Deliver within 28 days after death/acceptance of trust (28 days after acceptance if irrevocable trust). Should be sent by return receipt mail.**

**NOTICE TO INTERESTED TRUST BENEFICIARY**

1. **NAME** died on \_\_\_\_\_.
  
2. **You are an interested trust beneficiary of the TRUST NAME** ("Trust"), as defined in M.C.L.A. § 700.1105(d).
  
3. The Trust is **not registered with any court/registered at the** \_\_\_\_\_ **County Probate Court, located at** \_\_\_\_\_.
  
4. The Trustee(s) of the Trust **is/are: TRUSTEE NAME AND ADDRESS**
  
5. Upon request, you have a right to receive a copy of the portion of the Trust that describes your interest, and relevant information about the Trust property.

\_\_\_\_\_  
**TRUSTEE NAME**, Trustee

Received: \_\_\_\_\_ Date: \_\_\_\_\_  
By:

**This notice must be sent to all of the following beneficiaries who are considered “Interested Trust Beneficiaries”:**

- 1. Life Estate**
- 2. A beneficiary who receives a mandatory or discretionary distribution by the trustee of income or principal – current beneficiary**
- 3. A beneficiary who would receive a mandatory or discretionary distribution by the trustee of income or principal if the rights of a beneficiary under 1 or 2 above are terminated – first contingent beneficiary**
- 4. An individual who presently holds an exercisable or testamentary general or special power of appointment**

**The notice must be sent in the following time periods:**

- 1. Revocable Trust. Within 28 days of the later of trustee acceptance or grantor’s death.**
- 2. Irrevocable Trust. Within 28 days of the trustee’s acceptance.**

**Should we do a proof of service?**

Distribution Form – Qualified Assets

**REQUIRED DISTRIBUTIONS COMMENCING AFTER DEATH**

(Provide to Plan Administrator/IRA Custodian by 10/31 of year after death –  
Alternative A or Alternative B)

To Plan Administrator/IRA Custodian:

**ALTERNATIVE A - CERTIFICATION**

1. (A) The Employee/Participant, \_\_\_\_\_, died on  
Name  
\_\_\_\_\_.  
Date

(B) I am the Successor Trustee of the revocable living trust created by  
Employee/Participant identified as follows:

\_\_\_\_\_, or his/her successor, under the  
Trustee Name  
\_\_\_\_\_ Trust dated \_\_\_\_\_.  
Trust Name

(C) Enclosed is a final list of all the beneficiaries as of 9/30 of year after  
death.

(List contingent and remainder beneficiaries with a description of their conditions on their entitlement.  
Example: Identify children, and then grandchildren who would receive if child predeceases.)

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(D) To the best of my knowledge:

(1) this list is correct and complete

(2) the Trust is valid under state law

(3) the Trust is irrevocable upon death of Employee/Participant

(4) the beneficiaries are identifiable from the Trust instrument

(E) I agree to provide a copy of the Trust instrument to the Plan  
Administrator/IRA custodian upon demand.

**ALTERNATIVE B - ENCLOSE TRUST**

1. (A) The Employee/Participant, \_\_\_\_\_, died on \_\_\_\_\_.  
Name  
Date

(B) I am the Successor Trustee of the revocable living trust created by Employee/Participant identified as follows:

\_\_\_\_\_ Trustee, under the  
Trustee Name  
\_\_\_\_\_ Trust dated \_\_\_\_\_.  
Trust Name

(C) Enclosed is a copy of the actual Trust document named as beneficiary as of the Employee's/Participant's date of death.

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Trustee

STATE OF \_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a Notary Public in and for said County, personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the above Certification, and acknowledged the same to be \_\_\_ free act and deed.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires:

**Receipt**

\_\_\_\_\_  
Plan Administrator/IRA Custodian  
Dated: \_\_\_\_\_

Distribution Form – Qualified Assets  
**REQUIRED DISTRIBUTIONS COMMENCING BEFORE DEATH**  
(Provide to Plan Administrator/IRA Custodian by Required Beginning Date –  
Alternative A or Alternative B)

**Note on use:** (1) spouse sole beneficiary of trust; (2) spouse more than 10 years younger than Participant; (3) use actual joint life expectancy

To Plan Administrator/IRA Custodian:

**ALTERNATIVE A - ENCLOSE TRUST**

1. (A) I am the Grantor of a revocable living trust identified as follows:

\_\_\_\_\_, or his/her successor, under the  
Trustee Name  
\_\_\_\_\_ Trust dated \_\_\_\_\_.  
Trust Name

(B) Enclosed is a copy of the Trust.

(C) I agree that if the Trust instrument is amended at any time in the future, I will, within a reasonable time, provide to the Plan Administrator/IRA Custodian a copy of each such amendment.

**ALTERNATIVE B - CERTIFICATION**

1. (A) I am the Grantor of a revocable living trust identified as follows:

\_\_\_\_\_, or his/her successor, under the  
Trustee Name  
\_\_\_\_\_ Trust dated \_\_\_\_\_.  
Trust Name

(B) A list of all the beneficiaries of the Trust are as follows:  
(List contingent and remainder beneficiaries with a description of their conditions on their entitlement. Example: Identify children, and then grandchildren who would receive if child predeceases.)

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- (C) To the best of my knowledge:
    - (1) this list is correct and complete
    - (2) the Trust is valid under state law
    - (3) the Trust will be irrevocable upon my death
    - (4) the beneficiaries are identifiable from the Trust instrument
  - (D) I agree, within a reasonable time, to provide corrected certifications to the extent that an amendment changes any information previously certified.
  - (E) I agree to provide a copy of the Trust instrument to the Plan Administrator/IRA Custodian upon demand.

WITNESS:

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_, Participant

STATE OF \_\_\_\_\_)  
 COUNTY OF \_\_\_\_\_)

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a Notary Public in and for said County, personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the above Certification, and acknowledged the same to be \_\_\_ free act and deed.

\_\_\_\_\_  
 Notary Public, \_\_\_\_\_ County, \_\_\_\_\_  
 My Commission Expires:

**RECEIPT**

\_\_\_\_\_  
 Plan Administrator/IRA Custodian  
 Dated:\_\_\_\_\_

**ANNUAL ACCOUNT**

Name \_\_\_\_\_

Period \_\_\_\_\_

**BEGINNING MARKET VALUE**

<b>Receipts</b>	<b>I. Receipts</b>	<b>Income</b>	<b>Principal</b>
A. Interest/Items			
B. Dividends/Corporate Disbursements			
C. Interest			
D. Sale Proceeds			
E. Rents, Royalties and Liquidating assets			
F. Investment Deferred Compensation			
G. IRAs and Qualified Plan Distributions			

**II. Disbursements Total**

A. Administrative Expense		<b>Income</b>	<b>Principal</b>
B. Expenses of Sale			
C. Taxes			
D. Real Estate Expenses			
E. Liabilities			
F. Distribution to Beneficiaries			

**TOTAL**

**SUMMARY**

- A. Income
- B. Principal
- C. Change in Market Value

**ENDING MARKET VALUE**

APPROVED	DATE
_____	_____
_____	_____
_____	_____
_____	_____