



South Carolina Wills & Trusts

January 2024

(v.24.01)

Legal Developments

Distribution Changes

Lawgic allows for residuary distributions in a number of ways; one common way if no other family is to receive the balance was to name individuals or charities as ultimate beneficiaries. Based on customer feedback, we made this section clearer and more efficient.

Corporate Transparency Act language

Language has been added in the Provisions Governing Trustees article to address the new requirements imposed by the recently enacted Corporate Transparency Act, taking effect in 2024. The Trustee will sometimes be required to provide information on trust beneficiaries (and even powerholders) under the new law, and this new language (i) authorizes the Trustee to release that information; (ii) gives the Trustee power to withhold distributions if a beneficiary refuses to provide personal data; and (iii) exonerates the Trustee from liability and provides for repayment of fines and penalties. While denominated as a means to acquire ownership information on business entities (to aid in preventing money laundering), the provisions of the law are expected to impact trusts as well.

Program Updates

The tax numbers within the program have been updated to reflect the 2024 Inflation Adjustments recently released by the IRS.

We updated the Sample file that ships with each program to be more generic and consistent. As described in the September newsletter, the Sample file contains a full set of answers and allows you to poke about and look at language or produce sections of a document to insert into another one.

Various spelling and grammatical anomalies were also corrected.

Other Wording Changes

GST Exempt Trusts were differentiated by whether they were held for children only or for descendants more broadly. Sometimes the references to “child” were confusing when other descendants were also seen as beneficiaries, so we changed all references for such trusts to “beneficiary.” We also corrected an erroneous reference to a later trust when using a Dynasty Trust.

Our version of the statutory form of the South Carolina Durable Power of Attorney recites certain important powers that are required to be enumerated in the power of attorney (under statute Section 62-8201) for them to be effective. Under an older concept, these powers include a spot for the client to initial each power to be granted; the initialing, though good evidence of intent, was not statutorily required. Customer feedback was that this was cumbersome and disrupted the execution process. Before we eliminated the initialing—and thus granted the protected powers as a matter of course—we polled several practitioners about which powers were routinely included. We discovered a lack of consensus about which to use, suggesting that needs varied and a flexible approach was best. Therefore, we retained the spots to initial for those special powers, but added at the end of the list an “All of the Above” choice so that tedious initialing can be avoided if all powers are desired. If some of the powers are not needed or desired but not all, the others can be initialed one by one as before. We feel this is the best compromise between thoroughness and convenience.

Based on a customer request, we expanded the exception for the age cutoff on adopted children to include a child’s biological parent (in case the parents are not married at the child’s birth). While we did not see this as a conflict in our definition of descendants, this will avoid questions.

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To view the questions that have revised **Law & Strategy** use the “Up_2401” flag file. From inside Lawgic, open any existing answer file; on the **Flags** menu, click **Open Flags**, select the appropriate Title (click **OK**), and next select the “Up_2401” flag file (and click **OK**). To view all flagged questions, click **Expand All** on the **Answers** menu and scroll the Navigator. Flagged questions will be indicated with **blue bold** text.

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