



California Wills & Trusts

January 2019

(v.19.01)

Legal Developments

Increased Federal Tax Exemptions (effective January 1, 2019)

Applicable Exclusion Amount: \$11,400,000 (up from \$11,180,000)
GST Exemption Amount: \$11,400,000 (up from \$11,180,000)
Gift Tax Annual Exclusion Amount: \$15,000 (no change from 2018)

Decanting Statute Enacted

Effective January 1, 2019, California has enacted a decanting statute. Decanting is a means by which the trustee of an irrevocable trust can transfer the assets (subject to certain limitations) to another irrevocable trust for the benefit of beneficiaries who are substantially the same. The limitations include the requirement of authority to decant in the existing trust and notice to affected parties. Lawgic has refined its optional decanting powers to conform to the new statute.

Updated Product Features

Decanting Provision Revised in Special Discretionary Powers

In response to the new legislation mentioned above, the decanting powers provision was revised. *Question 786 and New Questions 796 and 797 (CA Wills & Trusts); Question 432 and New Questions 440 and 441 (CA Irrevocable Trusts)*

Special Trusts Revised – New Options Added

The following revisions were made to the special needs trusts:

- New “Trustees Broader Discretion” question added giving trustees broader discretion to provide for support needs. If selected, a new subsection (b) was added to the ‘Discretionary Distributions’ provision. *New Question 667 (CA Wills & Trusts); Question 334 (CA Irrevocable Trusts)*
- New “Trustee Appointment” subsection (d) is automatically added to the ‘Discretionary Distributions’ provision. There is no related question.

- In the POWERS OF TRUSTEES article a new “Modifying or seeking reformation of special needs trust” choice and related provision was added. *Question 806 (CA Wills & Trusts) and Question 450 (CA Irrevocable Trusts)*
- The term ‘Medicaid’ trust was replaced with ‘Special Needs’ trust throughout the program.

New Managing Creative Property Option Added

A new option to manage creative property was added to the POWERS OF TRUSTEES article. *Question 806*

New Exercise of Power of Appointment Option Added

New Questions were added to the revocable inter vivos trust to allow the trust settlor to exercise a power of appointment over a trust created under another instrument. *New Questions 1011-1013*

New RIT General Provisions Options Added

The following new choices and related provisions were added to the RIT General Provisions menu. *Question 1022*

- Management of professional corporation shares
- Consideration of Resources Provision

Other

- New language was added to the "Consultation with Legal Counsel" provision in the PROTECTION PROVIDED TRUSTEES article to avoid the result in *Harris v. Shine*, in which the court prohibited the Trustee from obtaining an order allowing him to use Trust funds during the course of litigation to defend his actions as Trustee because there was no authorizing language in the Trust. *Question 752 (CA Wills & Trusts) and Question 398 (CA Irrevocable Trusts)*
- The ‘To Litigate’ provision was revised when ‘Actions and proceedings’ is selected at the Powers of Trustees menu – *Question 806 (CA Wills & Trusts) and Question 450 (CA Irrevocable Trusts)*
- Text relating to minors that used to be in the GIFTS OF MONEY AND OTHER PROPERTY article has been moved to the GENERAL TRUST PROVISIONS article for trusts and the GENERAL PROVISIONS article for wills. In addition, a new ‘Minor Beneficiaries’ heading has been added to the text.
- The ‘Law_Surf’ file has been replaced with a new ‘Sample’ file. You may delete the ‘Law_Surf’ file if you wish.

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To view those questions that are new in this update, or where **Law & Strategy**, choices, or default answers have changed, use the "**Up_1901**" 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_1901**" 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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