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Frank E. Henke

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Biography

Frank E. Henke concentrates his practice in the areas of estate and trust planning, tax and business succession planning, probate estate and trust administration, business and corporate law, and nonprofit organizations. He is the Chair of the firm's Trusts and Estates Administration Subpractice Group.

Practices

- Business and Corporate Services
- Business Start-Ups and Early Round Financing
- Closely Held Businesses
- Tax Law
- Trusts and Estates
- Estate Settlement and Trust Administration
- Family Business and Succession Planning
- Fiduciary Representation
- Fundamental Estate Planning
- Tax Planning

Education

- University of Detroit Mercy J.D. 1994 cum laude
- Grand Valley State University B.A. 1991 cum laude

Representative Experience

- **Estate and Trust Planning / Tax and Business Succession Planning.** Represents individuals, business owners, executives, physicians and other professionals in developing their estate plans and their business succession plans. This includes:

- creating trusts and wills to provide for the management and transfer of assets at death to heirs and other beneficiaries
- establishing gifting plans through the use of trusts and other strategies in order to transfer assets during lifetime to younger generations in a tax advantaged manner
- developing plans to transfer closely held family businesses and other assets during lifetime to the next generation in a tax advantaged manner, while at the same time maintaining a stream of income for the transferor. This may involve the use of grantor retained annuity trusts (GRATS) or other types of trusts, sales to grantor trusts, and other techniques
- recapitalizing businesses into voting and nonvoting interests, establishing buy-sell agreements and deferred compensation arrangements, and preparing employment contracts and other agreements, for the purpose of transitioning ownership of a business to the next generation
- forming family limited partnerships (FLPs) and family limited liability companies (FLLCs) in order to provide for the management of assets, and to provide for the transfer of assets to one's heirs or other beneficiaries in a tax advantaged manner
- creating life insurance trusts for the purpose of providing liquidity to pay estate taxes, while at the same time providing for the exclusion of the subject life insurance proceeds from one's estate for estate tax purposes
- creation of multi-generation trusts to preserve assets for future generations, and to protect those assets from estate taxation and creditors
- developing asset protection trusts and plans
- developing agreements to pass the family cottage or family vacation property to future generations
- counseling clients in connection with transferring IRAs and other retirement plans to heirs in a tax advantaged manner
- preparing prenuptial and postnuptial agreements
- creating special needs trusts for disabled individuals in order to protect their inheritances and lawsuit settlement proceeds, and to maintain their eligibility for governmental benefits
- creating gifting plans, qualified domestic trusts (QDOTS) and other types of trusts for married persons (one of whom is not a U.S. citizen) in order to eliminate or minimize estate and gift tax liabilities

- **Probate Estate and Trust Administration.** Represents fiduciaries and beneficiaries in the area of trust estates and probate estates. This includes:
  - commencing decedent estates in probate court, and counseling personal representatives in administering probate estates in probate court

    - assisting individuals in being appointed as guardian or conservator for minors, incapacitated persons, or disabled persons, and counseling guardians and conservators in administering guardianship and conservatorship estates in probate court
    - representing and counseling trustees in administering trusts
    - representing trustees, personal representatives and beneficiaries in trust and will disputes
    - preparing estate and gift tax returns
    - representing fiduciaries in IRS audits of estate and gift tax returns
- **Business and Corporate Law**
    - forming corporations, limited liability companies, partnerships and joint ventures, and representing those entities with respect to legal issues and tax issues that arise in the course of business
    - preparing buy-sell agreements, shareholder agreements, stock-restriction agreements, employment agreements, leases, deferred compensation agreements, non-compete agreements and confidentiality agreements
    - providing legal and tax representation to individuals and entities in selling their businesses, including asset sales and stock sales
- **Nonprofit Organizations**
    - forming nonprofit organizations, and representing those organizations with respect to legal and tax issues that arise in the course of their activities
    - assisting nonprofit organizations in obtaining approval of 501(c)(3) tax exemption and other tax exemptions from the Internal Revenue Service
    - assisting nonprofit organizations in obtaining solicitation licenses and other licenses

Honors & Awards

- *Best Lawyers in America*, Trusts and Estates Law, 2018-Present
- Named as one of the Top 50 Michigan Consumer Super Lawyers, 2015
- Named to Michigan Super Lawyers, 2012-Present
- Named a Top Lawyer in Tax Law and Trusts and Estates by *DBusiness* 2012-2013, 2020-2021
- Associate Editor, *University of Detroit Mercy Law Review*, 1992-1994
- Graduate, Leadership Macomb VII

Publications

- Tax Changes Create New Estate & Gift Planning Opportunities, 1/20/2011
- Estate Taxes On the Rise?, 11/3/2010

Professional Involvement

- McLaren Macomb Healthcare Foundation
  Member of Board of Trustees
- Financial and Estate Planning Council of Metropolitan Detroit
- Financial and Estate Planning Council of Macomb County

Community Involvement

- Leadership Macomb VII
- Macomb Charitable Foundation, Legal Counsel
- Macomb County Chamber of Commerce, Legal Counsel
- Macomb Township Community Foundation, Legal Counsel
- Sterling Heights Community Foundation, Legal Counsel

Bar Associations

- State Bar of Michigan
  Probate and Estate Planning Section; Taxation Section, Chairperson, Estates and Trusts Committee (2011-2013); Taxation Section, Council Member (2013-Present)
- Macomb County Bar Association
- Macomb County Probate Bar Association

Speaking Engagements

- Speaker for Institute of Continuing Legal Education (ICLE) on Irrevocable Life Insurance Trusts (ILITs), December 10, 2013
- Speaker for McLaren Macomb Healthcare Foundation physicians, Who is Protecting Your Practice and Other Assets, November 20, 2013
- Speaker for St. John Providence Health System physicians, Protecting Your Most Valuable Asset, October 10, 2013
- Webinar presenter for Crain's Detroit Business, It's All Relative: Key Issues in Succession Planning for the Family Business, September 19, 2013
- Speaker for Institute of Continuing Legal Education (ICLE), Hot Topics in Estate & Gift Tax, February 5, 2013
- Speaker for St. John Providence Health System physicians, Estate Planning in an Uncertain Tax Environment, October 9, 2012
- Speaker for St. John Providence Health System physicians, Guidance on Personal and Professional Planning, September 25, 2012
- Speaker for Institute of Continuing Legal Education (ICLE), Irrevocable Life Insurance Trusts, November 29, 2011

- Webinar presenter for Crain's Detroit Business on estate, gift and generation-skipping tax matters, March 10, 2010
- Has presented numerous seminars in the areas of estate planning, estate and gift tax planning, retirement planning and estate and trust administration with Fortune 500 and other companies and financial institutions, and for various groups and organizations, including the Macomb County Probate Bar Association, the Financial and Estate Planning Council of Macomb County and employees of Fortune 500 and other companies

Courts

- U.S. Court of Appeals, Sixth Circuit
- U.S. District Court, Eastern District of Michigan
- U.S. Tax Court

Admitted

- 1994, Michigan