ISBA – TRANSMUTATION AND COMMINGLING

1.) Account Tracing
   a. Establish timeline
   b. All transactions (in-flows and out-flows) – time horizon
   c. Example 401k (can marital and non-marital deposits be separated)
      i. Rates of return on M vs. NM columns
   d. Example – investment accounts
      i. Continuous buy/sell transactions with monies coming in from marital vs. non-marital accounts

2.) Entity Tracing - Business
   a. Establish timeline
   b. Corporation Documentation
      i. Incorporation Documents
      ii. Operating / Partnership Agreements
      iii. Stockholder Agreements
      iv. Minutes
      v. Stock certificates
   c. Account tracing – needed documentation
      i. All transactions including –
         1. General Ledgers
         2. Financial statements
         3. Tax Returns (business and personal)
         4. Bank statements, investment statements, etc.
         5. Copies of checks and deposits, wires, etc.
         6. Shareholder loans
         7. Asset purchases
         8. Closing statements

3.) Personal Efforts – Reasonable Compensation
   a. Minimal payment for personal efforts during marriage
      i. Contribution argument vs. Transmuted Asset
   b. Determining Reasonable Compensation
      i. W-2s, Schedule K-1s, 1099s
TRANSMUTATION AND COMMINGLING:
IDENTIFYING AND ADDRESSING ISSUES RAISED BY
750 ILCS 5/503(C)

PANEL DISCUSSION

I. What is commingling?

II. Transmutation of commingled assets under 750 ILCS 5/503(c)(1)((A)&(B).
   A. Special treatment of retirement assets-750 ILCS (b)(2).
   B. Is IRMO: Phillips, 229 Ill.App.3d 809 (2nd Dist., 1992) dead?
   C. Tracing non-marital retirement benefits under the “new” statute.
      1. Shifting burden.
   D. Special treatment of stock options under 750 ILCS 5/503(b)(3).

III. Contribution and Tracing.
   A. Contribution of Personal Efforts.
   B. Identifying Personal Efforts.
   C. Defining Reasonable Compensation.