

LAW 604-001
ESTATE PLANNING SEMINAR
SPRING 2022

Tuesday and Thursday, 6:05 p.m.-7:30 p.m.
three credit hours

INSTRUCTOR. Carmina Y. D’Aversa, J.D., LL.M. (Taxation)

OFFICE HOURS. Office hours are by appointment. Please contact me via email at cdaversa@gmu.edu.

PREREQUISITES FOR COURSE. Income Tax, Estate and Gift Taxation, Trusts and Estates

REQUIRED PUBLICATIONS

- **Text:** John R. Price and Samuel A. Donaldson, *Price on Contemporary Estate Planning*, 2022 edition, CCH Publications (Wolters Kluwer), ISBN 9780808056645
- **Model Rules of Professional Conduct:** *Model Rules of Professional Conduct*, 2021 Edition, ABA Book Publishing, ISBN 9781641058599
- **Circular No. 230 [“Circular 230”]:** Treasury Department Circular No. 230 (Rev. 6-2014), available at <https://www.irs.gov/pub/irs-pdf/pcir230.pdf>
- **Code and regulations:** *Federal Estate & Gift Taxes: Code & Regulations (Including Related Gift Tax Provisions) As of March 2021*, Wolters Kluwer [Publication date: April 9, 2021], ISBN 9780808055969

RECOMMENDED PUBLICATION

- Terri Morrison, Wayne A. Conaway, *Kiss, Bow, Or Shake Hands*, Second edition, Adams Media, 2006, ISBN 9781593373689

REQUIRED DOCUMENTS

- Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return (Rev. August 2019) [including schedules]
- Instructions for Form 706 (Rev. September 2021)
- Form 712, Life Insurance Statement (Rev. April 2006)
- Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States (Rev. June 2019)
- Instructions for Form 706-NA (Rev. September 2021)
- Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b) (Rev. December 2021)
- Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent (January 2016)
- Instructions for Form 8971 and Schedule A (Rev. September 2016)

- Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return (For gifts made during calendar year 2021)¹
- Instructions for Form 709 (For gifts made during calendar year 2021)
- Form 2848, Power of Attorney and Declaration of Representative (Rev. January 2021)
- Instructions for Form 2848 (Rev. September 2021)

These forms and instructions also are available on the Internal Revenue Service (IRS) website at <https://www.irs.gov/forms-instructions>. The website allows the user to retrieve the most recent form or instruction by typing in the form or instruction number in the search box. I also expect to distribute these documents during the first class.²

COURSE FORMAT: By use of hypothetical client circumstances, this experiential course is designed to give the student the opportunity to apply his or her substantive knowledge acquired in the prerequisite courses (i.e., Income Tax, Estate and Gift Taxation, Trusts and Estates). Substantive lectures with a practical emphasis will be followed by supervised student application, including, but not limited to, simulated client interviews, in-class drafting exercises, and preparation of tax returns.

STUDENT LEARNING OUTCOMES. By the conclusion of the course, I expect the student to:

- possess a foundational and practical understanding of the objectives of estate planning and the relevant documents, including but not limited to wills, specific types of trusts, powers of attorney, and advance directives
- possess a foundational and practical understanding of the professional rules of conduct most often impacting the estate planning process
- possess a foundational and practical understanding of the conduct of an interview of an estate planning client with or without international connections
- be able to gather, ascertain, and evaluate pertinent facts, information, and documentation for a client's estate plan
- have gained familiarity and developed a foundational, practical skill level in drafting estate planning documents
- be able to undertake an assessment of the U.S. Federal transfer and income tax implications of an estate plan
- possess a foundational and practical understanding of the impact of a planning device on the preparation of a pertinent tax return
- be able to undertake the preparation of specific U.S. Federal transfer tax returns and certain related forms
- possess a foundational and practical understanding of the applicable rules of conduct for practice before the Internal Revenue Service

¹ As of this writing, the Form 709 for gifts made during calendar year 2021 is not available. I expect it to be available no later than February 2022.

² See note 1.

READING ASSIGNMENTS³		
DATE	TOPIC	ASSIGNMENT
Tuesday, Jan. 18	Introduction Professional responsibility Preparation of engagement letter	Chapter 1, Text
Thursday, Jan. 20	Client's assets and liabilities, Client's objectives Initial client interview Alternative to Wills	Chapter 1, Text Chapter 3, Text, pp. 3003-3037
Tuesday, Jan. 25	Will: Clauses	Chapter 4, Text, pp. 4014-4079
Thursday, Jan. 27	Powers of attorney clauses Preparation of Form 2848 Preparation of advance directive	Chapter 4, Text, pp. 4079-4104 Please also read Form 2848 and instructions.
Tuesday, Feb. 1	Trusts: types, trust structure, trust administration Trusts: income tax structure	Chapter 4, Text, pp. 4045-4056; Chapter 10, Text, pp. 10,005-10,026 Chapter 10, Text, pp. 10,105-10,133
Thursday, Feb. 3	Trusts: drafting a revocable trust	Chapter 10, Text, pp. 10,031-10,045
Tuesday, Feb. 8	Trusts: marital deduction planning	Chapter 5, Text, pp. 5004-5040
Thursday, Feb. 10	Trusts: marital deduction planning	Chapter 5, Text, pp. 5040-5081
Tuesday, Feb. 15	Trusts: marital deduction planning	Chapter 5, Text, pp. 5081-5108
Thursday, Feb. 17	Trusts: charitable remainder trust, charitable lead trust Donor advised fund	Chapter 8, Text, pp. 8039-8098
Tuesday, Feb. 22	Trusts: charitable remainder trust, charitable lead trust Donor advised fund	Chapter 8, Text, pp. 8039-8098
Thursday, Feb. 24	Lifetime transfers: gifts to minors	Chapter 7, Text, pp. 7047-7076
Tuesday, Mar. 1	Lifetime transfers: tax strategies for education	Chapter 7, Text, pp. 7076-7082 Additional materials to be announced.
Thursday, Mar. 3	Lifetime transfers: irrevocable lifetime trusts	Chapter 10, Text, pp. 10,046-10,069 Chapter 10, Text, pp. 10,070-10,105
Tuesday, Mar. 8	Lifetime transfers: irrevocable lifetime trusts	Chapter 10, Text, pp. 10,046-10,069 Chapter 10, Text, pp. 10,070-10,105
Thursday, Mar. 10	Life insurance Irrevocable life insurance trust (ILIT)	Chapter 6, Text, pp. 6006-6024 Chapter 6, Text, pp. 6084-6092 Chapter 6, Text, pp. 6028-6048
Tuesday, Mar. 15	No class. Spring Recess.	
Thursday, Mar. 17	No class. Spring Recess.	
Tuesday, Mar. 22	Life insurance Irrevocable life insurance trust (ILIT)	Chapter 6, Text, pp. 6006-6024 Chapter 6, Text, pp. 6084-6092 Chapter 6, Text, pp. 6028-6048

³ The timing of topics and reading assignments may be subject to change as the semester progresses. If a change is necessary, I will make the announcement before the conclusion of a class so one can prepare for the next class. I also may assign additional materials of interest for review.

Thursday, Mar. 24	Alternatives to gifts	Chapter 9, Text, pp. 9003-9044
Tuesday, Mar. 29	Grantor retained annuity trust (GRAT) Grantor retained unitrust (GRUT)	Chapter 9, Text, pp. 9067-9087
Thursday, Mar. 31	Qualified personal residence trust (QPRT)	Chapter 9, Text, pp. 9087-9094
Tuesday, Apr. 5	Closely held businesses	Chapter 11, Text, pp. 11,003-11,044 Chapter 11, Text, pp. 11,075-11,092
Thursday, Apr. 7	Closely held businesses	Chapter 11, Text, pp. 11,003-11,044 Chapter 11, Text, pp. 11,075-11,092
Tuesday, Apr. 12	Preparation of Form 709	Chapter 2, Text, pp. 2029-2033 Also please read form and instructions.
Thursday, Apr. 14	Preparation of Form 706	Chapter 2, Text, pp. 2033-2040 Also please read form and instructions.
Tuesday, Apr. 19	Preparation of Form 8971	Chapter 2, Text, pp. 2056-2057 Also please read form and instructions.
Thursday, Apr. 21	Preparation of Form 706-NA The elusive Form 708	Please read Form 706-NA and instructions. Also please read chapter 2, Text, pp. 2123-2124 Additional reading materials to be announced. Chapter 2, Text, pp. 2124; Also review IRC § 2801.

CLASSROOM PARTICIPATION. Students are expected to be prepared to participate in class. In accordance with the law school’s academic regulations, classroom participation will be used “to increase or reduce a final course grade (e.g., from a B to a B+ or from an A- to a B+).” See AR 4-3.2.

STUDENT ATTENDANCE. As a reminder, Law School regulations “[r]equire regular and punctual class preparation and attendance for academic credit to be earned.” See AR 4-1. “If a student is absent for any reason for more than 20 [twenty] percent of the sessions of a course, the student is not eligible for credit in that course.” See AR 4-1.1.

CLASSROOM POLICIES. No portion of a class or an examination may be preserved by means of a recording device (including but not limited to an audio recording device or a camera). Internet usage during class, except for accessing the IRS website, is prohibited.

WRITING REQUIREMENT. Students will be assigned a hypothetical client with a hypothetical fact situation, and be required to recommend an estate plan for the client. The student’s recommendation must include a detailed explanation of the estate plan, demonstrating an understanding of relevant law and estate planning techniques, and be supported with thorough legal and tax research. Finally, the student is required to draft his or her recommended estate planning documents for his or her assigned case. For purposes of grading, each portion of the writing requirement will be given equal weight as follows:

- estate plan-50%
- preparation of documents-50%

NO FINAL EXAMINATION. There is no final examination.