

LAW 604-001
ESTATE PLANNING SEMINAR
SPRING 2023

Monday and Wednesday, 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:** Jeffrey N. Pennell, *Estate Planning And Drafting*, Third Edition, West Academic Publishing, ISBN-13 9781647086596
- **Model Rules of Professional Conduct:** *Model Rules of Professional Conduct*, 2022 Edition, ABA Book Publishing, ISBN 9781639051281
- **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 2022*, Wolters Kluwer [Publication date: April 8, 2022], ISBN 9780808057192

RECOMMENDED PUBLICATION

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

REQUIRED DOCUMENTS

- Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return (For gifts made during calendar year 2022)
- Instructions for Form 709 (For gifts made during calendar year 2022)
- Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return (Rev. August 2019) [including schedules]
- Instructions for Form 706 (Rev. September 2022)
- Form 712, Life Insurance Statement (Rev. April 2006)
- Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent (January 2016)
- Instructions for Form 8971 and Schedule A (Rev. September 2016)
- 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.

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 a basic 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

READING ASSIGNMENTS¹		
DATE	TOPIC	ASSIGNMENT
Wednesday, Jan. 18	Introduction Client’s assets and liabilities Client’s objectives Initial client interview	Text, pp. 1-21 Text, pp. 23-32
Monday, Jan. 23	Professional responsibility Model rules/Circular 230 Preparation of engagement letter	Text, pp. 33-96

¹ 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.

DATE	TOPIC	ASSIGNMENT
Wednesday, Jan. 25	Estate planning mechanisms. Drafting documents in general. Will: Clauses	Reading materials to be distributed.
Monday, Jan. 30	Drafting a power of attorney. Preparation of Form 2848. Drafting an advance directive.	Text, pp. 563-567 Read Form 2848 and its accompanying instructions. Additional reading materials to be distributed.
Wednesday, Feb. 1	Use of trusts in estate planning. Drafting a revocable trust, and its coordination with other estate planning documents.	Text, pp. 97-129 Additional reading materials to be distributed.
Monday, Feb. 6	Family trust planning	Text, pp. 131-166
Wednesday, Feb. 8	Family trust planning	Text, pp. 131-166
Monday, Feb. 13	Trustee selection and succession	Text, pp. 167-183
Wednesday, Feb. 15	Planning for couples	Text, pp. 185-318
Monday, Feb. 20	Planning for couples	Text, pp. 185-318
Wednesday, Feb. 22	Planning for couples	Text, pp. 185-318
Monday, Feb. 27	Trusts: income tax structure	Text, pp. 599-616
Wednesday, Mar. 1	Trusts: income tax structure	Text, pp. 599-616
Monday, Mar. 6	Retirement benefits	Text, pp. 411-436 Additional reading to be announced.
Wednesday, Mar. 8	Retirement benefits	Text, pp. 411-436 Additional reading to be announced.
Monday, Mar. 13	No class. Spring Recess.	
Wednesday, Mar. 15	No class. Spring Recess.	
Monday, Mar. 20	Planning for disabled beneficiaries. Planning for the education of beneficiaries.	Text, pp. 571-575 Additional reading to be announced.
Wednesday, Mar. 22	Planning for the education of beneficiaries. Preparation of Form 709 for hypothetical client.	Additional reading to be announced. Read Form 709 and accompanying instructions.
Monday, Mar. 27	Life insurance	Text, pp. 357-409 Additional reading to be announced.
Wednesday, Mar. 29	Life insurance	Text, pp. 357-409 Additional reading to be announced.
Monday, Apr. 3	Planning for charity Charitable gift annuities	Text, pp. 319-355 Text, pp. 519-526
Wednesday, Apr. 5	Paying estate obligations	Text, pp. 437-484
Monday, Apr. 10	Paying estate obligations	Text, pp. 437-484
Wednesday, Apr. 12	Other inter vivos transfers	Text, pp. 485-549
Monday, Apr. 17	Other inter vivos transfers	Text, pp. 485-549

DATE	TOPIC	ASSIGNMENT
Wednesday, Apr. 19	Postmortem planning and estate administration	Text, pp. 551-561
Monday, Apr. 24	Student presentations and class discussion of students' respective recommendations for hypothetical client. Preparation of Form 706 and Form 8971 for the hypothetical client of the student assignment.	Assignment due and to be delivered in hard copy at commencement of class.

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 and/or per the instructor's directions, 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 and practical inquiry. The student then 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%

The writing requirement is due, in hard copy, at the commencement of the last class of the semester. During the last class, the student is expected to participate in class discussion regarding the student's recommendations for the hypothetical client.

NO FINAL EXAMINATION. There is no final examination.