

**LAW 604-001**  
**ESTATE PLANNING SEMINAR**  
**SPRING 2024**

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](mailto: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*, 2023\_Edition, ABA Book Publishing, ISBN 9781639052998
- **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 1, 2023, Wolters Kluwer ISBN 978-0-8080-5926-4

**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 8892, Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax
- 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 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generations-Skipping Transfer Transfer) Taxes (Rev. February 2020)
- Instructions for Form 4768 (Rev. February 2020)
- 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 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

<b>READING ASSIGNMENTS<sup>1</sup></b>		
<b>DATE</b>	<b>TOPIC</b>	<b>ASSIGNMENT</b>
Wednesday, Jan. 17	Introduction. Client’s assets and liabilities. Client’s objectives. Client questionnaire. Initial client interview/simulated initial client interview.	Text, pp. 1-21 Text, pp. 23-32
Monday, Jan. 22	Professional responsibility. Model rules/Circular 230. Preparation of engagement letter.	Text, pp. 33-96 Model Rules, pp. 7-58, pp. 263-267 Circular No. 230, pp. 2-27. Additional materials will be distributed.

<sup>1</sup> 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.

<b>DATE</b>	<b>TOPIC</b>	<b>ASSIGNMENT</b>
Wednesday, Jan. 24	Professional responsibility (cont.). Model rules/Circular 230 (cont.).  Preparation of engagement letter. Drafting exercise.	Text, pp. 33-96 Model Rules, pp. 7-58, pp. 263-267 Circular No. 230, pp. 2-27. Additional materials will be distributed.
Monday, Jan. 29	Estate planning mechanisms. Drafting documents in general. Will: Clauses.	Reading and drafting materials to be distributed.
Wednesday, Jan. 31	Will: Clauses (continued). Drafting exercise.  Drafting a power of attorney. Preparation of Form 2848.	Reading and drafting materials to be distributed. Text, pp. 563-567 Read Form 2848 and its accompanying instructions.
Monday, Feb. 5	Drafting a power of attorney. Drafting exercise.  Drafting an advance directive. Drafting exercise.	Text, pp. 563-567  Additional reading and drafting materials to be distributed.
Wednesday, Feb. 7	Use of trusts in estate planning. Drafting a revocable trust, and its coordination with other estate planning documents. Drafting exercise.	Text, pp. 97-129 Additional reading and drafting materials to be distributed.
Monday, Feb. 12	Family trust planning	Text, pp. 131-166
Wednesday, Feb. 14	Family trust planning (continued).	Text, pp. 131-166
Monday, Feb. 19	Trustee selection and succession	Text, pp. 167-183
Wednesday, Feb. 21	Planning for couples	Text, pp. 185-318
Monday, Feb. 26	Planning for couples (continued).	Text, pp. 185-318
Wednesday, Feb. 28	Retirement benefits	Text, pp. 411-436 Additional reading to be distributed.
<b>Monday, Mar. 4</b>	<b>No class. Spring Recess.</b>	
<b>Wednesday, Mar. 6</b>	<b>No class. Spring Recess.</b>	
Monday, Mar. 11	Retirement benefits (continued).	Text, pp. 411-436 Additional reading and drafting materials to be distributed.
Wednesday, Mar. 13	Paying estate obligations	Text, pp. 437-484
Monday, Mar. 18	Planning for disabled beneficiaries. Planning for the education of beneficiaries.	Text, pp. 571-575 Additional reading to be distributed.
Wednesday, Mar. 20	Planning for the education of beneficiaries (continued). Preparation of Form 709 for hypothetical client.	Additional reading to be distributed.  Read Form 709 and accompanying instructions.
Monday, Mar. 25	Life insurance	Text, pp. 357-409 Additional reading to be distributed.
Wednesday, Mar. 27	Life insurance (continued).	Text, pp. 357-409 Additional reading and drafting materials to be distributed.

<b>DATE</b>	<b>TOPIC</b>	<b>ASSIGNMENT</b>
Monday, Apr. 1	Planning for charity. Charitable gift annuities. Donor advised funds.	Text, pp. 319-355 Text, pp. 519-526 Additional reading and drafting materials to be distributed.
Wednesday, Apr. 3	Trusts: income tax structure	Text, pp. 599-616
Monday, Apr. 8	Inter vivos transfers	Text, pp. 485-549 Additional reading to be assigned.
Wednesday, Apr. 10	Grantor retained annuity trusts. Personal residence trusts.	Reading and drafting materials to be distributed.
Monday, Apr. 15	Planning for couples during lifetime: spousal lifetime access trusts (SLATs)	Reading and drafting materials to be distributed.
Wednesday, Apr. 17	Postmortem planning and estate administration	Text, pp. 551-561
Monday, Apr. 22	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.