

New York University

School of Continuing Education

Syllabus

Estate and Gift Taxation Spring 2004 Course #X51.9587

Tuesdays February 10 through April 20

Instructor:

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Office hours:

By appointment, during regular business hours

Required Materials:

- Stephens, Maxfield, Lind and Calfee, Federal Estate & Gift Taxation, Student Edition, Eighth Edition published by Warren Gorham & Lamont, 2003
- Stephens, Lind, Calfee, Study Problems for Federal Estate & Gift Taxation
- Federal Estate and Gift Taxes, Internal Revenue Code and Regulations, published by Research Institute of America (RIA) or Commerce Clearing House (CCH)

Course Description

Federal Income Taxation of estates and gifts, including gross estate inclusions and exclusions, deductions, calculating taxable estate, gross gifts and exclusions, deductions, calculating taxable gifts; generation skipping transfer tax. There is no prerequisite for this course, although many students will have completed basic courses in accounting or estate law or taxation.

Course Objectives

To teach substantive estate and gift tax law, how to analyze an estate and gift tax situation, how to recognize estate and gift tax issues, and how to learn the applicable tax law for a situation the student has never before encountered. Students will address ethical issues in tax law as they relate to each topic.

Course requirements and grading

Exams: There will be a take home final. All exams are open book, and all students will be on the honor system.

Components of the final grade: The final exam will be 70% of the grade, and class participation will be 30% of the grade.

Penalties for late work: If you do not receive advance permission, you will lose points if you turn in the final exam late (5 points per day). My policy is to grant reasonable extensions whenever required, with the caveat that your grade will be delayed.

Attendance policy: Class attendance is vital to understand the course work. If you must miss a class, you don't have to tell me—just have a classmate tape the lecture, or loan you notes (make sure you have a friend who takes good notes).

Estate and Gift Tax Assignments:

Session 1

History of estate tax

Overview of estate and gift tax

Problem 1

Code §§2001(a)–2001(c); 2010(a); 1020(c); 2501(a)(1); 2505(a); 2505(a); 2601; 2602; 2611(a); 2622; 2641.

Regulations: [None]

Text: Preface; ¶¶1.01–1.06; 2.01.

Problem 15

Code §§2010; 2011(a), 2011(b), 2011(e), 2011(f); 2012(a), 2012(e). Skim §§2001, 2013, 2014, 2015, 2016, 2058, 6018, 6075(a).

Regulations: §§20.2013-1(a); 20.7520-3(b)(3)(i), 20.7520-3(b)(3)(ii).

Text: ¶¶2.02, 3.01, 3.02, 3.03[1], 3.03[2], 3.04 (omit ¶¶3.04[1], 3.04[2]); 3.05[1], 3.05[2], 3.05[4]. Skim ¶¶2.01; 5.09.

Session 2

Inclusions in the estate

Problem 2

Code §§2031(a); 2033; 2034; Skim §§691(a); 1014(a); 1014(); 6662; 7517; 7520

Regulations §§20.2031-1(a), 20.2031-1(b); 20.2033-1; 20.2034-1. Skim §20.2031-6.

Text: ¶¶4.01; 4.02[1], 4.02[2][a]; 4.05; 4.06.

Problem 3

Code §§2035; 2043(a), Skim §2042.

Regulations §§20.2043-1(a).

Text: ¶¶4.07 (omit ¶¶4.07[2][c][iii], 4.07[2][e], 4.07[4]); 4.15[2][a].

Problem 4

Code §§2035(a); 2036, 2043(a).

Regulations §§20.2036-1.

Text: ¶¶4.08 (omit ¶¶4.08[7][c], 4.08[9][e]).

Session 3

Retained interests

Problem 5

Code §§2035(a); 2037.
Regulations §§20.2037-1(a)–20.2037-1(e); 20.7520-3(b)(3)(ii).
Text: ¶¶4.09 (omit ¶¶4.09[7]).

Problem 6

Code §§2035(a); 2035(e); 2038.
Regulations §§20.2038-1(a), 20.2038-1(b), 20.2038-1(e).
Text: ¶¶4.07[2][c]; 4.10 (omit ¶¶4.10[10]).

Annuities

Problem 7

Code: §§2039. Sim §§72(b)(2), 72(b)(3); 2035, 2505
Regulations: §§20.2039-1(a), 20.2039-1(b)(1), 20.2039-1(c).
Text: ¶4.11 (omit ¶4.11[7]).

Session 4

Joint interests in property

Problem 8

Code: §§2040; 2056(d)(1)(B).
Regulations: §20.2040-1.
Text: ¶4.12 (omit ¶4.12[11]).

Powers of appointment

Problem 9

Code: §§2041(a)(1), 2041(a)(2), 2041(b); 2046. Skim §2518
Regulations: §§20.2041-1(a)–20.2041-1(c)(2), 20.2041-1(d), 20.2041-1(e);
20.2041-3(a)–20.2041-3(d).
Text: ¶¶4.13 (omit ¶¶4.13[4][b], 4.13[8], 4.13[10]); 4.17. Skim ¶10.07

Insurance

Problem 10

Code: §2042. Skim §2035
Regulations: §§20.2031-8(a); 20.2042-1. Skim §25.2512-6(a).
Text: ¶4.14 (omit 4.14[10]).

Session 5

Family business interests

Problem 11

Code: §§2031 (omit 2031(c)); 2032(a), 2032(c), 2032(d); 2032A(a), 2032A(b),
2032A(c)(1)–2032A(c)(5), 2032A(e)(1), 2032A(e)(2), 2032A(e)(7), 2032A(e)(8);
2703. Skim the remainder of §§2032A; 1014(a), 1014(c); 1016(c); 6662; 7517;
7520.
Regulations: §§20.2031-1(b); 20.2032-1; 20.6151-1(c); 25.2703-1(a), 25.2703-
1(b).
Text: ¶¶4.02 (omit ¶4.02[7]); 4.03; 4.04[1], 4.04[2], 4.04[5]–4.04[6], 4.04[7][a],
4.04[7][c][i], 4.04[7][f], 4.04[7][h]; 19.04

Problem 12

Code: §§642(g); 2043(b); 2051; 2053 (omit §2053(d)); 2054. Skim §§163(k); 213(c); 641(b); 691(b); 2516.
Regulations: §§1.642(g); 20.2032-1(g); 20.2053-1, 20.2053-3, 20.2053-4, 20.2053-6, 20.2053-7, 20.2053-8(a); 20.2054-1.
Text: ¶¶5.03 (omit ¶¶5.03[8], 5.03[9]); 5.04

Charitable remainder trusts

Problem 13

Code: §§170(f)(3)(B); 642(c)(5); 664(a), 664(d), 664(e); 2031(c); 2032(b); 2044 (omit §2055(e)(3)). Skim §2518
Regulations: [none]
Text: ¶¶4.02[7]; 5.05 (omit ¶¶5.05[1][c], 5.05[8]).

Session 6

Marital deduction

Problem 14

Code: §§2044;2056; 2207A. Skim §§2010; 2046; 2056A; 2518; 2519
Regulations: §§20.2056(a)-1(a), 20.2056(a)-1(b), 20.2056(b)-1, 20.2056(b)-3, 20.2056(b)-4, 20.2056(b)-5(a); 20.2056(b)-7(a)–20.2056(b)-7(d); 20.2056(c)-1.
Text: ¶¶4.16; 5.06 (omit ¶5.06[10]; 8.07. Skim ¶5.07

Gift Tax

Problem 23

Code: §§2001(c); 2502; 2504; 2505; 2513
Regulations: §§25.2504-1; 25.2513-1, 25.2513-4
Text: ¶¶9.03; 9.05; 9.06; 10.03.

Problem 24

Code: §§2001; 2010, 2210(a); 2502; 2505. Skim §§2035; 2503(b)
Regulations: [None]
Text: Skim ¶¶2.01; 3.02; 8.10[1], 8.10[5]; 9.03; 9.05

Session 7

Transfers to trusts

Problem 21

Code: §§2035(e); 2503; 6019(a); 2075(b).
Regulations: §§25.2503-1; 25.2503-3; 25.2503-4, 25.2503-6.
Text: ¶9.04.

Transfers subject to gift tax

Problem 18

Code: §2512. Skim §§2503(e), 7517.
Regulations: §§25.2512-1, 25.2512-8.
Text: ¶10.02.

Marital dissolution transfers

Problem 20

Code: §§2043(b); 2516; 2518. Skim §§2034; 2053(c)(1)(A).
Regulations: §§25.2516-1, 25.2516-2; 25.2518-2(a)–25.2518-2(c)(4)(i), 25.2518-2(c)(5) Ex. 2, 25.2518-3(d) exs. 2 and 21
Text: ¶¶4.15[1]; 10.06; 10.07.

Session 8

Generation skipping transfer tax—skip person

Problem 26

Code: 2613; 2651; 2652(a)91), 2652(b), 2652(c). Skim §§2601; 2611(a); 2612.
Regulations: §§26.2612-1(d); 26.2652-1(b).
Text: ¶¶1.04; 12.01; 13.03; 17.01; 17.02[1][a], 17.02[1][b], 17.02[3][a],
17.02[3][b].

Generation skipping transfer tax—skip transactions

Problem 27

Code: §§2611; 2612; 2651(c); 2653(a); 2654(b)(2). Skim §§2613; 2651;
2652(a)(1).
Regulations: §§26.2612-1(a); 26.2612-1(b)(1)(i); 26.2612-1(f) Exs. 2, 6, 7, 13;
26.2653-1(b)(Ex. 1.
Text: ¶¶13.01; 13.02 (omit ¶¶13.02[2][e], 13.02[4][d]); 17.03[1]; 17.04[2].

Generation-skipping transfer tax—miscellaneous

Problem 28

Code: §2515; 2601; 2602; 2603; 2621; 2622; 2623; 2624; 2631; 2632; 2641;
2642(a), 2642(c), 2642(g); 2652(a)92); 2653(b)91); 2662. Skim §2513.
Regulations: §§26.2632-1; 26.2662-1(c).
Text: ¶¶10.05; 12.02; 12.03[1]1; 12.04; 14.01; 14.02[1]; 14.03[1]; 14.04[1];
14.05[1], 14.05[3]; 15.01; 15.02; 15.03[1]; 16.01; 16.02[1], 16.02[2][a]–
16.02[2][b][iii], 16.02[2][c], 16.02[3]; 17.02[1][c][ii]; 17.03[2][a]; 18.02[1]–18.02[4].

Session 9

Chapter 14 of the Code; special valuation for estate freezes

Problem 25

Code: §§2701 (skim §§2701(d), 2701(e)(3), 2701(e)(7); 2704; 6501(c)(9).
Regulations: §§25.2701 (omit §§25.2701-1(b)(2)(ii); 25.2701-3(b)–25.2701-3(d);
25.2701-4; 25.701-5; 25.2701-6; 25.2701-7; 25.2704 (omit §§25.2704-1(f);
25.2704-2(d)). Skim Reg. §§25.2701-5(a)(1), 25.2701-5(b).
Text: ¶¶19.02, 19.05

Session 10

Wrap-up

This course also covers the following ethical considerations. I am providing this information for CLE purposes.

Chapter 4, The Gross Estate

Ethical considerations: advising clients to avoid under-valuation; IRS sanctions for undervaluation; attorney's responsibility to disclose incorrect valuations to the IRS

Chapter 5, The Taxable estate

Ethical considerations: accepting client's information, and when tax practitioner must question the information provided

Chapter 9, Gift Tax: Determination of Liability

Ethical considerations: when intra-family transactions must be reported

Chapter 10, Gift Tax: Transfers Subject to Tax

Ethical considerations: tax planning versus creating evidence

Chapter 11, Gift Tax Deductions

Ethical considerations: charitable gifts giving rise to both income tax and gift tax deductions

Chapter 19, Special Valuation Rules

Ethical considerations: the tax planner's effect on business transactions