Required Materials:


Supplementary materials as needed (this should be negligible).

Grading:
Ninety–five (95) points of the final course grade will be based on a 3 – 3 1/2 hour written final examination. The following materials will be permitted in the exam: Casebook; Code and Regulations (both of the preceding items can be annotated as you wish); any TWEN materials or emails from me; an outline written by you; a simple calculator. All other materials are prohibited, including, but not limited to, treatises, commercial outlines, study aids, hornbooks, old exams, and Internet or computer based archives, databases, or search tools. The remaining five (5) points will be based on class attendance and performance.

Optional Paper:
If there are fewer than thirty-five (35) students enrolled in the course, the law school rules require that I offer an optional writing project. If the enrollment is below 35 students, then the optional paper, if a student so chooses, would supplant fifteen (15) of the final examination points, such that the final examination would be worth eighty (80) points. The optional paper would require a written analysis, typewritten, not to exceed 15 pages, double-spaced, analyzing a proposed planning structure involving a gift of raw land.

Office Hours:
My office is 403 in Wolf and my telephone number is 303–492–7013. My office hours are Tuesdays and Thursdays, 11 AM-noon. I am also available by appointment. If I am not in, leave a note or email me proposing a time. Please feel free to discuss questions via e–mail. My address is wayne.gazur@colorado.edu.

FEDERAL ESTATE & GIFT TAXATION
Assignments

OVERVIEW

§§ 2001, 2002, 2010, 2501, 2502, 2504, 2505, 2601, 2602, 2611, and 2612 (these are relatively short sections). There is a lot to digest in the reading, and we are just trying to get the gist of the material at this point, as one would expect for an overview. Would an annual wealth tax (a percentage of personal wealth) be constitutional? If not, why are the wealth transfer taxes constitutional? Read text, pp. 26–31 and look at my solution (on TWEN at Course Materials) to the problem on pp. 29-30 (you don’t have the exemption amounts for prior years necessary to complete the problem). If necessary, reacquaint yourselves with I.R.C. §§ 1014 & 1015. We will spend most of the time with the constitutionality of the taxes, Estate of Bosch, considering the case for and against estate and gift taxation, and reviewing the computational problem at pp. 29-30.

THE GIFT TAX


4. (September 6, 2007) Has a Gift Occurred, and, If So, of What? Read text, pp. 70-83 (omitting ¶4043) and Treas. Reg. § 25.2511–1(d)–(h), 25.2511–2, and 25.2512–5. Skim I.R.C. §§ 671–678 (grantor trust rules)). Do the problems on pp. 82-83, determining the gift effects. We will later deal with how one would value the various interests.


GIFT TAX EXCLUSIONS AND DEDUCTIONS
7. (September 18, 2007) The Annual Exclusion. Read text, pp. 111-113. You should know how there isn’t an aggregate amount of wealth that one can pass free of tax that exceeds $2,000,000 (i.e., it is not $3,000,000). Read text, pp. 113-122, up to ¶7039. Read I.R.C. §§ 2503, 2514(e), 678 and Treas. Reg. § 25.2503–3. Do the problems on pp. 116-117.

8. (September 20, 2007) Crummey Powers. Read text, pp. 122–145 and do the problems on pp. 144-145. Crummey is probably the most important gift tax case impacting the structure of irrevocable trusts.


10. (September 27, 2007) Gift Tax Return Mechanics; Introducing the GSTT. Read text, pp. 163–166 and I.R.C. §§ 6019 and 2513. We won’t complete the gift tax problem on pp. 165-166. However, take a look at Form 709 on pp. 956-959 to see what information the form generally contains. Indeed, note that the GSTT occupies some portion of the form. The GSTT will be our almost exclusive focus of this day, except for the gift splitting election mentioned in the gift tax chapter. Read text, pp. 726-734, and I.R.C. §§ 2601, 2602, 2611(a), 2612, 2613, 2631, 2642(a)(1) & (2), 2642(c), 2651, 2652(a)(2), 2653(a). This is a complex statute; don’t expect to understand everything.


13. Estate Freezes; Misc.
   b. (October 11, 2007) Trusts. Read text, pp. 241-247, I.R.C. § 2702, and do the problems on p. 247. On your own, lightly skim Chapter 13 and I.R.C. § 2032A (so that you know there is a special valuation method for closely held businesses where
land is the value driver—principally agriculture), but read Chapter 14, pp. 254-255 (omitting ¶¶14,007-14,015) and 260-263 (omitting ¶14,027), and I.R.C. § 6662, 7517, and 7491.

THE ESTATE TAX – INCLUSIONS


b. Incidents of Ownership. Read text, pp. 318-334; I.R.C. §§ 2042, 2206, 101, 677(a)(3), and Treas. Reg. § 20.2042–1. Can you reconcile the result in Rhode Island Hospital Trust Co. with that in Morton? After reading p. 331, do you see the importance of Crummey?

c. Miscellaneous Issues. Read text, pp. 334-337 (omitting ¶¶17,090-17,097) and 340-343. Do problems 1-6 on pp. 343-344.


19.  (November 1, 2007) Powers to Alter, Amend, Revoke or Terminate–Section 2038.


d. **Misc.** Read text, pp. 439-440 (omitting the balance of the chapter). Read I.R.C. § 2035 again.

e. **Problems.** Do the problems on pp. 448-449.

20. (November 6, 2007) **Another Curse of the Uninformed Scrivener: Section 2037 (We might omit this assignment).**

a. **The Provision.** Read text, pp. 450-454 (omitting ¶ 20,021 through the end of the chapter), I.R.C. § 2037, and Treas. Reg. § 20.2037–1. (The examples in the Regulations will help you learn to identify the trademarks of a problem clause.)

b. **Problems.** Do problems 1-7 on pp. 461-462. This is an obscure section that, all the future interest haze aside, applies only if the settlor retained a reversion. I would speculate that 70% of law professors skip this section. Avoid the reversion and one avoids the brain damage of these problems. Because these problems will, hopefully, be the only time you will ever see section 2037 in application, let’s take a stab at them and move on. The regulations’ examples are very helpful.


22. (November 13, 2007) **Powers of Appointment – Section 2041-Part I.**


23. (November 15, 2007) **Powers of Appointment- Part II; Transfers Within Three Years of Death.**

a. **Joint Powers Exception.** Read text, pp. 522-524.

b. **Problems.** Do the problems on p. 525.

c. **Section 2035.** Read text, pp. 526-537 (omitting ¶¶ 23,067-23,092) & 543-547, and I.R.C. § 2035. The principal impact of section 2035 is on ILITs. Is I.R.C. § 1014(e) a restriction or an opportunity? Do problems 1-4 on pp. 546-547.

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**FALL BREAK**

**ESTATE TAX EXCLUSIONS AND DEDUCTIONS**

24. (November 27, 2007) **Expenses, Debts, Claims.** Read text, pp. 571-578 (including ¶ 25,039) and text, pp. 809-812; I.R.C. §§ 2053, 2054, 213(c), 642(g), Treas. Reg. § 1.642(g)–1, 1.642(g)–2.
(November 27, 2007) **Charitable Transfers.** Read text, pp.586-587, 598-601, 603-606, and ¶¶ 26,120, 26,123, 26,131, 26,133, 26,138, & 26,141. This is a technical area for which we don’t have adequate time. Read I.R.C. § 2055. Read I.R.C. § 2522 again. How does I.R.C. § 170 fit into the picture?

25. (November 29, 2007) **Marital Deduction Part I.**

   a. **Overview; The Terminable Interest Rule.** Read I.R.C. §§ 2044, 2056, 2056A, 2207A, Treas. Reg. § 20.2056(b)–1, (b)–2, (b)–3, and 20.2056(c)–1, (c)–2 and (c)–3, and text, pp. 614-621 (omitting ¶ 27,091-27,094) & 625-634. Do the problems on pp. 617 & 628.

   b. **The “Estate Trust.”** Read text pp. 634-637 and read Treas. Reg. § 20.2056(c)–2(a) and (b).


26. (December 4, 2007) **Marital Deduction Part II.**


   b. **2056(b)(8).** Read text pp. 686.


29. (On Your Own for General Knowledge—Just Get the Gist of this Material) **Payment of Estate Taxes.** Read pp. 708-715 & ¶¶ 28,061-28,073.

**TAX ON GENERATION SKIPPING TRANSFERS-Part II**
