

LAW 219-001
ESTATE AND GIFT TAXATION
FALL 2023

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, Trusts and Estates

REQUIRED PUBLICATIONS

- **Casebook:** Paul R. McDaniel, et al., Federal Wealth Transfer Taxation Case and Materials, Foundation Press, Seventh Edition, ISBN 9781609300098
- **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

REQUIRED DOCUMENTS

- 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 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)

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.

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

- a theoretical and practical understanding of the federal transfer (i.e., estate, gift, and generation-skipping transfer) tax system operating in the United States and the interaction of each type of transfer tax,
- specific knowledge of the relevant Internal Revenue Code (Code) provisions, Treasury regulations, caselaw, and IRS guidance
- the ability to use this specific knowledge to prepare basic transfer tax calculations and to prepare a Form 706 return and a Form 709 return
- skills in statutory construction and interpretation of the relevant Code provisions so later changes in the transfer tax law also can be understood and implemented

- the ability to apply analytically pertinent Internal Revenue Code provisions, Treasury regulations, caselaw, and other guidance to distinct factual circumstances

READING ASSIGNMENTS¹				
DATE	TOPIC	ASSIGNMENT	CODE SECTION	RETURN
Tuesday, Aug. 22	General Overview Of The U.S. Federal Transfer Tax System; Coordinating The Computation Of The Estate And Gift Taxes	Casebook, pp. 3-35, pp. 65-81	2001, 2010, 2035(b), 2504(c), 2505, 6501(c)(9)	Form 706
Thursday, Aug. 24	The Role Of State Law Gross Estate Contrast With Gross Income	Casebook, pp. 83-98 Casebook, pp. 101-124 Additional opinion: <i>Commissioner v. Glenshaw Glass Company</i> , 75 S.Ct. 473 (1955). ²	2033 61	Form 706, Schedules A, B, C, F
Tuesday, Aug. 29	Gross Estate (continued)	Casebook, pp. 101-124	2033	Form 706, Schedules A, B, C, F
Thursday, Aug. 31	Gross estate: Transfers With Retained Life Estates, Or Retention Of Other Economic Benefits	Casebook, pp. 247-300	2036	Form 706, Schedule G
Tuesday, Sept. 5	Gross estate: Transfers With Retained Powers To Alter, Amend, Revoke, Or Terminate	Casebook, pp. 301-315	2038	Form 706, Schedule G

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.

² I will distribute the opinion by email before the commencement of the semester. Of course, the opinion is available on Westlaw or Lexis.

Thursday, Sept. 7	Gross estate: Transfers With Retained Reversionary Interests	Casebook, pp. 317-326	2037	Form 706, Schedule G
Tuesday, Sept. 12	Gross estate: The 'Adequate And Full Consideration' Exception For §§ 2036-2038	Casebook, pp. 327-345	2036-2038	Form 706, Schedule G
Thursday, Sept. 14	Gross estate: Annuities and Employee Benefits	Casebook, pp. 369-384	2039	Form 706, Schedule I
Tuesday, Sept. 19	Gross estate: Joint Interests In Property	Casebook, pp. 385-397	2040	Form 706, Schedule E
Thursday, Sept. 21	Gross estate: Powers of appointment	Casebook, pp. 403-421	2041	Form 706, Schedule H
Tuesday, Sept. 26	Gross estate: Life Insurance	Casebook, pp. 427-458 Additional opinion: <i>Helvering v. LeGierse</i> , 61 S.Ct. 646 (1941) ³	2042	Form 706, Schedule D; Form 712
Thursday, Sept. 28	Valuation Methods; Alternate Valuation	Casebook, pp. 205-225; pp. 233-243; pp. 703-709	2031; 7520; 2032	
Tuesday, Oct. 3	Estate Tax Deductions	Casebook, pp. 547-583.	2053-2054	Form 706, Schedules J, K, L
Thursday, Oct. 5	Charitable Deduction	Casebook, pp. 597-614	2055	Form 706, Schedule O
Tuesday, Oct. 10	NO TUESDAY CLASSES			
Thursday, Oct. 12	Marital Deduction	Casebook, pp. 625-658	2056	Form 706, Schedule M
	Exclusion Amount; Portability	Casebook, pp. 585-595	2001(a)-(c), 2010	
Tuesday, Oct. 17	Preparation of Form 706	Hypothetical facts will be distributed during class.		

³ I will distribute the opinion by email before the commencement of the semester. Of course, the opinion is available on Westlaw or Lexis.

Thursday, Oct. 19	The Scope Of The Gift Tax: Intervivos transfer of property; When Is The Transfer Completed?	Casebook, pp. 125-143; pp. 144-165	2501; 2511	
Tuesday, Oct. 24	The Scope Of The Gift Tax: What Is A "Gift"?	Casebook, pp. 166-179	2512(b)	
Thursday, Oct. 26	Gift Tax Annual Exclusion	Casebook, pp. 499-546		Form 709
Tuesday, Oct. 31	Gift Tax Charitable Deduction Gift Tax Marital Deduction; Split gifts	Casebook, pp. 597-614 Casebook, pp. 658-660;660-661	2522 2523	Form 709 Form 709
Thursday, Nov. 2	Gift Taxation Of Powers Of Appointment; Gift Taxation Of Joint Interests In Property	Casebook, pp. 421-425 Casebook, pp. 398-401	2514 2511(a)	
Tuesday, Nov. 7	Disclaimers Gross estate: Transfers Made Within Three Years of Death	Casebook, pp. 485-495 Casebook, pp. 467-484	2518 2035	 Form 706, Schedule G
Thursday, Nov. 9	Preparation of Form 709	Hypothetical facts will be distributed during class.		
Tuesday, Nov. 14	The Generation-Skipping Transfer Tax: Definitions	Casebook, pp. 675-688	2601; 2611; 2612; 2613; 2651; 2652	Form 706, Schedule R
Thursday, Nov. 16	The Generation-Skipping Transfer Tax: Exemption, Applicable Rate, Estate Exclusion Period	Casebook, pp. 691-697	2631; 2632; 2641; 2642(a)-(d). 2642(f)	
Tuesday, Nov. 21	Review			
Wednesday, Nov. 29	Examination			

CLASSROOM PARTICIPATION. Students are expected to be prepared to participate in class. In accordance with the law school's academic regulations, course grades may be subject to "classroom

participation adjustments,” in the form of a “discretionary single-increment adjustment either upward or downward “(e.g., from B to B+ or from A- to a B+).” *See* AR 4-3.2.

STUDENT ATTENDANCE. As a reminder, academic regulations require “[r]egular and punctual attendance and class preparation...to earn academic credit.” *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 is prohibited except as directed by the instructor for course purposes.

FINAL EXAMINATION. All students are required to take a final examination. The final examination will be a limited open book examination, and will consist of a number (to be decided) of fact patterns requiring the student to determine the applicable estate, gift, and/or generation-skipping transfer tax consequences. Students will be allowed to access Examplify software, but will be prevented from accessing anything else on their computer. Students also will be allowed to bring their casebook, student prepared outline, and Code and regulations book to the examination site.

EXAM CONFLICTS. According to academic regulations, “[e]xcuses and requests for permission not to sit for an examination when scheduled must be presented, with appropriate documentation, to the Director, Student Academic Affairs. Except in emergencies, such requests should be presented no later than two weeks before the date of the examination.” *See* AR 4-4.1(a).