

Law 604-001 | Estate Planning Seminar | Spring 2025 | 3 credits

Professor(s): Carmina Y. D'Aversa, J.D., LL.M. (Taxation)

Tues. & Thurs. 6:05-7:30 pm EST | **Final Exam:** N/A

PREREQUISITES FOR COURSE: Income Tax, Estate and Gift Taxation, Trusts and Estates

RECOMMENDED PUBLICATION

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

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*, 2024 Edition, ABA Book Publishing, ISBN 9781639054718
- **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, 2024, Wolters Kluwer ISBN 978-0-8080-6017-8

REQUIRED DOCUMENTS

- Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return (For gifts made during calendar year 2024)
- Instructions for Form 709 (For gifts made during calendar year 2024)
- Form 8892, Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax (Rev. December 2022)
- Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return (Rev. August 2019) [including schedules]
- Instructions for Form 706 (Rev. September 2023)
- 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.

OFFICE HOURS. Office hours are by appointment. Please contact me via email at cdaversa@gmu.edu.

COURSE DESCRIPTION

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.

COURSE OBJECTIVES

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

GRADING & PARTICIPATION

Students are expected to be prepared to participate in class. Consistent 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 4-4.2.

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. Also, "[a] student who is **not** present for at least 75 [seventy-five] percent of a session of the course is absent from that session." 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.

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.

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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.

Final Examination

There is no final examination.

COURSE SCHEDULE & ASSIGNMENTS

READING ASSIGNMENTS¹		
DATE	TOPIC	ASSIGNMENT
Thursday, Jan. 16	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

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. Page assignments for Model Rules, based upon the new edition, will be confirmed no later than the first day of class.

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DATE	TOPIC	ASSIGNMENT
Tuesday, Jan. 21	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.
Thursday, Jan. 23	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.
Tuesday, Jan. 28	Estate planning mechanisms. Drafting documents in general. Will: Clauses.	Reading and drafting materials to be distributed.
Thursday, Jan. 30	Will: Clauses (cont.). Drafting exercise (Will). Planning for client's disability. Drafting a power of attorney. Preparation of Form 2848.	Text, pp. 563-567. Additional reading and drafting materials to be distributed. Read Form 2848 and its accompanying instructions.
Tuesday, Feb. 4	Drafting exercise (power of attorney). Drafting an advance directive. Drafting exercise (advance directive).	Reading and drafting materials to be distributed.
Thursday, Feb. 6	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.
Tuesday, Feb. 11	Trusts: income tax structure	Text, pp. 599-616
Thursday, Feb. 13	Family trust planning	Text, pp. 131-166
Tuesday, Feb. 18	Family trust planning (continued). Trustee selection and succession.	Text, pp. 131-166 Text, pp. 167-183
Thursday, Feb. 20	Planning for couples	Text, pp. 185-318
Tuesday, Feb. 25	Planning for couples (continued).	Text, pp. 185-318
Thursday, Feb. 27	Retirement benefits	Text, pp. 411-436 Additional reading and drafting materials to be distributed.

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Tuesday, Mar. 4	Retirement benefits (continued).	Text, pp. 411-436 Additional reading and drafting materials to be distributed.
Thursday, Mar. 6	Paying estate obligations. Drafting exercise.	Text, pp. 437-484.
Tuesday, Mar. 11	No class. Spring Recess.	
Thursday, Mar. 13	No class. Spring Recess.	
Tuesday, Mar. 18	Planning for disabled beneficiaries. Planning for the education of beneficiaries.	Text, pp. 571-575 Additional reading to be distributed.
Thursday, 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.
Tuesday, Mar. 25	Life insurance	Text, pp. 357-409 Additional reading to be distributed.
Thursday, Mar. 27	Life insurance (continued).	Text, pp. 357-409 Additional reading and drafting materials to be distributed.
Tuesday, 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.
Thursday, Apr. 3	Inter vivos transfers	Text, pp. 485-549 Additional reading to be assigned.
Tuesday, Apr. 8	Inter vivos transfers (continued)	Text, pp. 485-549 Additional reading to be assigned.
Thursday, Apr. 10	Grantor retained annuity trusts. Personal residence trusts.	Reading and drafting materials to be distributed.
Tuesday, Apr. 15	Planning for couples during lifetime: spousal lifetime access trusts (SLATs)	Reading and drafting materials to be distributed.
Thursday, Apr. 17	Postmortem planning and estate administration. Preparation of Form 706 and Form 8971 for a hypothetical client.	Text, pp. 551-561
Tuesday, Apr. 22	Student presentations and class discussion of students' respective recommendations for hypothetical client.	Assignment due and to be delivered in hard copy at commencement of class.