

DRAFT October 19, 2017

ESTATE PLANNING

Professor William P. Streng

**University of Houston
Law Center**

Syllabus

Spring Semester 2018

ESTATE PLANNING

Professor William P. Streng

1. Class sessions: Monday & Wednesday at 10:30 AM (until 11:45AM).
2. Required course materials:
 - a) Commerce Clearing House (CCH), "Federal Estate and Gift Taxes: Code and Regulations, Including Related Income Tax Provisions" (March 1, 2017 version).
 - b) Streng, "Fundamentals of Estate Planning and Wealth Preservation: Materials, Issues & Planning Techniques - 2018," estate planning materials. The initial segments will be available in printed form from Professor Streng at the beginning of the Spring Semester 2018. Those segments and the remaining portion of these materials will be available for downloading from Professor Streng's UH Law Center website (Estate Planning webpage).
 - c) Various supplemental materials, to be provided periodically.
3. Grading/assessment process: The grade in this course will be dependent upon the following:
 - a) The preparation of one short estate planning memorandum, to be approximately 10 pages (double-space) in length. This memorandum is to be structured to address a specific, targeted estate planning question (i.e., not to constitute a comprehensive estate planning project for a client). During late February or early March, 2018 a non-exclusive list of possible topics for this memorandum will be provided. This paper will be due during mid-April, 2018. The paper will count towards one-third of the total grade for this course.
 - b) A final examination, which will count for the remaining two-thirds of the grade. That examination will occur according to the prescribed examination schedule. A copy of the exam in this course from a prior semester will be provided early during the semester so that the student is aware of the probable structure and

scope of this forthcoming examination.

4. Attendance requirement: Consistent with university policy, 80 percent class attendance is required at class sessions during the semester. An attendance list will be circulated at each class session. Those individuals not satisfying the attendance requirement will be automatically reported to Law Center administrative officials for appropriate action.

5. Powerpoint slides. To enable the identification of the most important items for discussion in the class sessions Powerpoint slide presentations will be regularly used by Professor Streng. These slides are available at the following Internet site:

www.law.uh.edu/faculty/williamstreng/homepage/presentations

The Powerpoint slides presently posted at that website for the Estate Planning course are those used during the Spring Semester 2017 class sessions in this course. These Powerpoint slides will be revised during the Spring Semester 2018. The revised Spring Semester 2018 slides will be posted on Mr. Streng's website (ordinarily not until after the relevant class session).

6. Objective of this Estate Planning course. The 27 class sessions will each consist of a discussion of the estate planning materials and the pertinent provisions of the Internal Revenue Code. This is fundamentally (but certainly not exclusively) a federal tax course (i.e., including income tax, estate tax, gift tax and the generation skipping transfer tax). The non-tax components of this course will include various personal wealth planning considerations which involve the following general subject areas: property law, trusts & wills, insurance law, marital property law, conflict of laws, business organization laws, and federal and state jurisdiction questions. The classroom discussion will include coverage of various estate planning situations as presented in the materials.

The student will find that many of the answers to the fundamental problems presented during the class discussions can be identified in Professor Streng's Bloomberg BNA Tax Management, Inc. "Estate Planning" portfolio (which is identified on the attached listing). This portfolio is both (i) on reserve in print form in the UH Law Library and (ii) available electronically through sources such as BloombergLaw and Westlaw.

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7. Anticipated Learning Outcomes. As a result of active participation (including thorough preparation) in this class students should achieve the following results:

- 1) A fundamental understanding of the basic federal transfer tax rules and the income tax rules relevant to gift and estate transfers.
- 2) Develop a capacity to read and interpret difficult statutory material.
- 3) Develop an appreciation for the importance of tax policy and legislative alternatives in the appropriate structuring of a transfer tax system.
- 4) Understand that practicing attorneys have a substantial responsibility in enabling their clients to structure and plan transactions to appropriately maximize tax savings.
- 5) Understand the ethical responsibilities which are pertinent in advising clients about appropriate tax planning.

8. Questions to professor. If you have questions concerning matters involving this Estate Planning course, Professor Streng can be contacted at Room 226, Bates Law Building (TU-1); Telephone: 713-743-2148; Email: WStreng@uh.edu

The attached schedule identifies the order of the discussion (and approximate allocation of time) during this semester for the various class sessions.

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ESTATE PLANNING COURSE

ANTICIPATED 2018 SPRING SEMESTER SCHEDULE

| <u>Session Number</u> | <u>Subject Matter Matter</u> | <u>Materials Chapter</u> | <u>Supplemental Materials</u> (to come) |
|---------------------------|---|------------------------------|--|
| 1 | The “estate planning” process | 1 | |
| 2 | The Federal Estate and Gift Tax Structure | 2 | |
| 3 | Continued | 2 | |
| 4 | Structuring Last Wills | 3 | |
| 5 | Structuring Trusts | 4 | |
| 6 | Lifetime Irrevocable Trusts | 5 | |
| 7 | Fiduciary income tax planning considerations | 6 | |
| 8 | Gifts during lifetime | 7 | |
| 9 | Specific types of gifts | 8 | |
| 10 | continued | 8 | |
| 11 | Using powers of appointment | 9 | |

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| <u>Session Number</u> | <u>Subject Matter Matter</u> | <u>Materials Chapter</u> | <u>Supplemental Materials</u> |
|---------------------------|----------------------------------|------------------------------|-----------------------------------|
| 12 | Marital deduction planning | 10 | |
| 13 | continued | 10 | |
| 14 | continued | 10 | |
| 15 | Generation skipping planning | 11 | |
| 16 | Jointly owned property | 12 | |
| 17 | Community property | 12 | |
| 18 | Life insurance planning | 13 | |
| 19 | Employee benefits | 14 | |
| 20 | Alternatives to Gift Transfers | 15 | |
| 21 | continued | 15 | |
| 22 | continued | 15 | |
| 23 | Charitable transfers | 16 | |
| 24 | continued | 16 | |
| | (omitting Chapter 17) | | |

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| <u><i>Session Number</i></u> | <u><i>Subject Matter Matter</i></u> | <u><i>Materials Chapter</i></u> | <u><i>Supplemental Materials</i></u> |
|----------------------------------|---|-------------------------------------|--|
| 25 | Estate planning recapitalizations/ freezes | 18 | |
| 26 | Buy-sell agreements | 19 | |
| 27 | Valuation | 20 | |
| 28 | Post-mortem planning; Final Summary | 21-24 | |

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Suggested Additional Reading & Research Materials

Students are particularly alerted to **Professor Streng's Bloomberg BNA Tax Management Portfolio No. 800-3rd (2013) entitled "Estate Planning."** Copies of this portfolio are on reserve in the UH Law Center's Law Library. This Tax Management portfolio (and other Bloomberg BNA Tax Management portfolios concerning estate and gift tax planning subjects) can also be accessed electronically through the UH Law Library website at (1) Bloomberg BNA Tax and Accounting Center and (2) Westlaw (see, e.g., TMFEDPORT No 800, at database TM-ALLPORT).

Further useful references include:

1. ALI-CLE (and, formerly ALI-ABA), various outline books for various CLE estate planning programs.
2. ABA Real Property, Probate and Trust Law Section, printed materials from various CLE estate planning programs.
3. Averill and Radford's, "Uniform Probate Code - in a Nutshell," Sixth Edition, West Group (2010).
4. Begley & Hook, "Representing the Elderly or Disabled Client: Forms and Checklists with Commentary," RIAG/Warren, Gorham & Lamont (Checkpoint electronic version available), see Estate Planning Practice area.
5. BNA Tax Management, "Estate, Gifts and Trusts Journal" (bi-monthly review) and "Financial Planning Journal" (monthly analysis). See website: www.bnatax.com

6. Casner, "Estate Planning," Six Volumes, Little, Brown & Co.
7. CCH, U.S. Master Estate and Gift Tax Guide (annual revisions).
8. Esperti, Peterson & Keebler, "Irrevocable Trusts: Analysis with Forms," RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).
9. Frolik & Brown, "Advising the Elderly or Disabled Client," RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).
10. Harrington, Plaine & Zaritsky, "Generation Skipping Transfer Tax", RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).
11. Henkel, "Estate Planning and Wealth Preservation: Strategies and Solutions," RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).
12. Kasner, Strauss & Strauss, "Post Mortem Tax Planning," RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).
13. Kess, "CCH Financial and Estate Planning Guide," Commerce Clearing House (annual revisions).
14. Lynn & McCouch, "Introduction to Estate Planning in a Nutshell", 5th Edition, West (2004).
15. McNulty & McCouch, "Federal Estate and Gift Taxation - in a Nutshell", 8th Edition, West Academic Publishing (2016).

16. Peschel & Spurgeon, "Federal Taxation of Trusts, Grantors & Beneficiaries," RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).
17. Price, "Price on Contemporary Estate Planning," CCH - Wolters-Kluwer (2015).
18. Shaffer, Mooney & Boettcher, "The Planning and Drafting of Wills and Trusts," Fifth Edition, Foundation Press (2007).
19. Stephens, Maxfield, Lind, Calfee & Smith, "Federal Estate & Gift Taxation," Ninth Edition, RIAG/Warren, Gorham & Lamont (2013), (Checkpoint electronic version available, see Estate Planning Practice area).
20. Streng & Davis, "Retirement Planning: Tax and Financial Strategies," RIAG/Warren, Gorham & Lamont, 2017 (RIAG Checkpoint electronic version available, annual paperback revision through 2009; updated versions available online, see Estate Planning Practice area). See, also Westlaw database: wgl-retire).
21. Streng/Spielman, "U.S. International Estate Planning," Warren, Gorham & Lamont (RIAG Checkpoint electronic version available with replacement author, see Estate Planning Practice area).
22. Tax Management Portfolios (BNA), particularly the "Estates, Gifts and Trusts" Series. See note above concerning accessibility of these portfolios through Westlaw.
23. University of Miami, "Institute on Estate Planning," annual published volumes of the proceedings.
24. Westfall & Mair, "Estate Planning: Law and Taxation," Third Edition, RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).

25. Zaritsky & Aucutt, "Structuring Estate Freezes Under Chapter 14 - Analysis with Forms," RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).
26. Zaritsky, Lane & Danforth, "Federal Income Taxation of Estates and Trusts," RIAG/Warren, Gorham & Lamont (RIAG Checkpoint electronic version available, see Estate Planning Practice area).

As noted, the various RIAG/Warren, Gorham & Lamont treatises (noted above) are available electronically through the Law Library website at Thomson-Reuters RIAG Checkpoint. Some also may be electronically available through Westlaw. This listing is not fully inclusive of all these RIAG-Checkpoint estate planning treatises.

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NOTE CONCERNING MANAGING LAW SCHOOL STRESS

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus.

See http://www.uh.edu/caps/outreach/lets_talk.html