

ESTATE PLANNING
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PROBLEM SET 3

Before answering the following questions, carefully study the following sections of the Internal Revenue Code: 2035, 2036, 2037, and 2038.

A

What are the estate tax consequences of the following transfers? If any such consequences are negative, what alterations to the terms of the transfers would effect positive tax results?

1. Sid transfers stock in GM to BankTwo as trustee, income payable to Sid for life, remainder to friend Max.
2. Sid transfers his house in trust and reserves the right to live in the house for his life.
3. Sid transfers a sum in trust with income payable to his son for life, remainder to his grandchildren living at the death of Sid's son. Sid's son is a minor.

What if the trust terms provided that the income shall be payable to son for life if necessary for his health, education, maintenance or support?

4. Dad transfers a remainder in his collection of eighteenth century American paintings to his son and reserves a right to use the paintings for life. In the alternative, Dad places the paintings in trust, and authorizes the trustee to store the paintings in Dad's home for safe-keeping; the beneficiaries of the trust are various minor relatives of Dad.
5. Sue transfers property in trust. Income is payable to Ralph for life, then to Sue for life, and the remainder to the American Red Cross.
6. Sue sells a third party a remainder interest in her farm. Sue retains a life estate. Sue dies five years later.
7. June transfers property in trust to friend Ralph for life, remainder to Ralph's children who survive him. June dies before Ralph.
8. June transfers property in trust to friend Ralph for life, remainder to June, but if June dies before Ralph, then to Ralph's surviving children. June dies before Ralph.

B

Earnest transfers assets in trust to an independent trustee, who is given the discretion to make income distributions to Earnest for life. Upon his death, the remainder is distributable to Earnest's good friend, Vern. Discuss the estate tax consequences of Earnest's death arising from this trust.

C

April is given an income interest for life under a trust established by her father. When April dies, does her gross estate include the value of the income interest immediately before her death? What if April's income interest were a retained interest in a trust that she settled herself? (I.e., April transfers property to a trustee, income payable to April for life, remainder to some other beneficiary.)

D

Ben and Jennifer Smith, husband and wife, each create a trust providing that trust income shall be payable for life to the other, remainder to whomever such beneficiary shall appoint by will (other than the beneficiary's estate or creditors of the beneficiary or of his/her estate). The trust created by Ben (which benefits Jennifer) is called the "Ben Smith Trust." The trust created by Jennifer (which benefits Ben) is called the "Jennifer Smith Trust." Jennifer dies in 2005, when the Ben Smith Trust is worth \$5 million, and the Jennifer Smith Trust is worth \$10 million. What are the estate tax consequences of her death?

E

Which of the following transfers result in property being included in the gross estate of the transferor? What amount (if any) is included in the transferor's gross estate?

1. Dad transfers \$100,000 to son and incurs gift tax of \$50,000. Dad dies four years later.

What if Dad dies two, rather than four, years later?

2. Same facts as in 1, except that son agrees to pay any gift tax resulting from Dad's \$100,000 transfer to son. Assume a gift tax rate of 50%.

3. On January 1, 2001, Mom transferred \$100,000 in trust, naming a bank as trustee. Mom reserved an income interest in the trust for life. Upon Mom's death, principal shall be distributed to her niece. On January 1, 2002, Mom gave her income interest to her son, when the actuarial determined value thereof is \$10,000. Mom dies five years later.

What if Mom dies one, rather than five, years later?

What if Mom sells her income interest to her son for its actuarially determined value of

\$10,000, and then Mom dies one year later?

F

What are the estate tax consequences of the following transfers?

1. April transfers property in an irrevocable trust, income payable to friend June for life, remainder to Uncle Ben. The trustee, an independent bank, is given the power to distribute trust corpus currently to June in its absolute discretion. April dies before June.
2. Same facts as in 1, except April reserves the right to appoint the remainder in trust upon the death of June.
3. Same facts as in 1, except April is the trustee.
4. Same facts as in 1, except April and the bank are co-trustees.
5. Same facts as in 1, except April has the power to remove the bank as trustee and appoint herself trustee. What if April can appoint herself trustee only if the trustee resigns? What if April can remove the trustee, but cannot appoint herself trustee?
6. Bob transfers property in an irrevocable trust, with income payable to son Sam for twenty years, remainder payable to Sam upon the termination of the income interest. The trustee is given the power to distribute income currently or accumulate it and add it to principal. An independent bank is trustee.
7. Same facts as in 6, except Bob can remove the trustee and appoint himself trustee.
8. Same facts as in 6, except the trust is silent as to Bob's power to revoke the trust.
9. Same facts as in 8. One year later, Bob amends the trust to make it expressly irrevocable. Bob dies seven months thereafter.
10. Same as in 7, except that the accumulation of current income by the trustee requires the consent of Sam.
11. Mike transfers property in an irrevocable trust, income payable to Pearl and Lizzy in such portions as the trustee shall determine annually in its discretion. Remainder is payable to Sue. Mike is the trustee.
12. Same facts as in 11, except that the trustee can distribute more income to one income beneficiary of the trust only if the other income beneficiary consents.
13. Same facts as in 11, except that income is distributable to each income beneficiary as necessary for such beneficiary's health, education, maintenance or support, as determined

by the trustee.

14. Same facts as in 11, except that an independent bank is trustee. Mike has the power to remove the bank as trustee and appoint himself trustee. What if Mike can appoint himself trustee only if the trustee resigns? What if Mike can remove the trustee, but cannot appoint himself trustee?
15. Fawn transfers property in an irrevocable trust, income payable to Terry for twenty years, after which the principal shall be distributed to Terry. Fawn is the trustee. The trustee shall have the right to terminate the trust, at which time the principal would be distributable immediately to the income beneficiary.
16. Same facts as in 15, except that Fawn's husband is the trustee. In addition, Fawn's husband transfers property in an irrevocable trust under the same terms as those governing the trust that Fawn created, except that Fawn is named as trustee of such additional trust.
17. Eunice executes an irrevocable declaration of trust of 3,000 shares of voting stock in her controlled corporation. Trust income is payable to her children for life, remainder to her descendants living at the time of her death, share and share alike.