

ESTATE PLANNING
Professor Johnny Rex Buckles
Fall 2024

PROBLEM SET 11

A

Explain the nature and advantages of, and the requirements for using, special use valuation.

B

Read I.R.C. § 2518. Discuss the effect of the following disclaimers for federal transfer tax purposes.

1. Jill is the residuary beneficiary under the will of Jack. The will provides that if Jill predeceases Jack, the residuary beneficiary shall be Joanna. On January 1, 2002, Jack died in a tragic mountain-climbing accident. Jill took a fall as well, but was not critically injured. On July 1, Jill disclaims her interest in the residue in writing and delivers the writing to the executor of Jack's estate.
2. Same facts as in 1, except that Jill disclaims her interest in the residual estate of Jack on October 21st, and delivers her written disclaimer to the executor on the same day.
3. Same facts as in 1, except that Jill's disclaimer reads as follows:

"I hereby disclaim any and all interest that I would otherwise have or to which I would otherwise be entitled in the residuary estate of Jack, and hereby direct that the interest subject to this disclaimer shall pass to my children, Jane and Jason."
4. Melissa creates an irrevocable trust on January 1, 2002, pursuant to which income is to be paid to Myron for life, and on the death of Myron, principal is to be paid to Tanya. Myron dies on January 1, 2005. Tanya wants to disclaim her interest one month thereafter. What advice do you give Tanya?
5. Eurasia creates an irrevocable trust on January 1, 2002. Under the trust instrument, income is payable to Millie for life, remainder to Pearl. The trust instrument also provides that Fern shall have the testamentary power to appoint 1/2 of the trust principal to whomever she wishes during the term of the trust. Fern dies on March 1, 2003, leaving a will appointing 1/2 of the trust principal to her daughter, Dora. Dora comes to you for advice as to how (if at all) she can respectfully decline to take the property with no adverse tax consequences to her.
6. Same facts as in 5, except that the trust instrument provides that Fern shall have the testamentary power to appoint 1/2 of the trust principal to her issue during the term of the trust.

7. Yolanda, a Texas resident, creates a trust (which is silent as to Yolanda's right to alter, amend, or revoke the trust) by which she names her best friend Beatrice as the income beneficiary for her life. Upon Beatrice's death, the trust principal is to be distributed to Gilbert. The trust is created on January 1, 2002. Beatrice dies on January 1, 2003. Yolanda dies on March 1, 2003. Gilbert comes to you on March 2, 2003, for advice concerning how to disclaim his interest, if it is possible to do so.
8. Same facts as in 7, above, except that Yolanda dies on March 1, 2002.
9. Charles creates an irrevocable trust on 1/01/02, naming Ben as the income beneficiary for life (or for the term of the trust, if shorter), and providing that Ben shall receive 1/2 of the principal at age 35 and the remainder of the principal at age 50. In July of the same year, Ben receives his first income distribution (which he uses to buy a stereo). In August, Ben tells you that he wants to disclaim both his income interest and his rights to trust principal because he does not want to be treated as having any rights to the same for federal transfer tax purposes. What do you tell Ben?
10. Karl's will provides for certain specific bequests to various persons, and devises the residuary estate to his son, Lonnie. Karl dies unmarried, and is survived by Lonnie and Karl's mother, Maude. Lonnie executes and secures notarization of a written disclaimer of his residuary devise, files it in the proper probate court, and delivers a copy to the executor of Karl's estate. What are the consequences of these actions (i) under Texas law, and (ii) under the federal estate tax laws?
11. Oren's will leaves a farm in Nebraska to Mildred. Mildred is rather advanced in years, and suggests that she simply disclaim a remainder interest in the farm, thereby retaining a life estate in the farm. What advice would you give Mildred?

C

Discuss some of the major uses of disclaimers in estate planning.