

# **Estate and Gift Taxation**

## **A Complete Guide**

### **Course Description**

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This presentation integrates federal taxation with overall financial planning, with a special emphasis on estate and gift taxation. The course will explore tax strategies relating to the central financial tactics of wealth building, capital preservation, and estate distribution. The result is a unified explanation of tax-economics that will permit the tax professional to locate, analyze, and solve financial concerns. Designed to improve the quality of services to clients and the profitability of engagements, this program projects the accountant into the world of financial planning. This course will give the participant practice in analyzing problems, developing solutions, and presenting final personal financial plans to clients.

The course surveys wills, living trusts, gifts, marital property, and probate avoidance. Will and trust forms are explored along with living wills, durable powers of attorney, and nominations of conservator. Designed to eliminate estate problems and death taxes, the emphasis is on practical solutions that are cost effective.

**Completion Deadline & Exam:** This course, including the examination, must be completed within one year of the date of purchase. In addition, unless otherwise indicated, no correct or incorrect feedback for any exam question will be provided.

**Course Level:** Overview. This program is appropriate for professionals at all organizational levels.

**CPE Credits:** 35 (CPA, EA)

**Category:** Taxation

**Prerequisite:** General understanding of estate and gift taxation.

**Advanced Preparation:** None

### **Course Learning Objectives**

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#### **Chapter 1: Financial Tax Planning**

After reading the chapter, participants will be able to:

1. Identify short-term financial goals and investment purposes, recognize the importance of defining, listing and prioritizing realistic goals noting how investing allocation changes with age.
2. Determine the tax consequences of title holding methods by:

- a. Specifying ways to hold title to assets starting with the simplest and most direct way to hold property;
  - b. Cite the tax benefits and drawbacks of co-tenancies, corporations (both C & S), partnerships, qualified retirement plans, and trusts particularly as they relate to a client's after-tax investment return; and
  - c. Identifying custodianship under the uniform acts and determining how an estate can be tax beneficial to taxpayers.
3. Recognize the impact of retirement planning postponement noting the importance of early planning using the author's suggested step process, specify a balance sheet method to plan retirement, determine how to diversify portfolios by balancing liquid and nonliquid assets, and identify the purpose of savings noting strategies to save.

## **Chapter 2: Building an Estate**

After reading the chapter, participants will be able to:

1. Identify money management noting income types, recognize causes of increased taxable income for itemizing taxpayers, and specify taxable income types and their proper reporting.
2. Determine the distinctions between tax-free municipal bonds from fringe benefits in generating tax-free income, cite the benefits of tax deferral, and identify tax-deferred investments.
3. Specify ways to shelter income noting how income sheltering amplifies investment return.
4. Recognize the budgeting of income into cash by containing expenditures with the author's step process and discretionary income development, identify a client's negative outlook on budgeting and counter strategies, determine how to convert income into assets by purchasing investments, and specify asset acquisition rules.
5. Specify tax-advantage investments noting management rules, and determine the economic impact of accelerating deductions, postponing tax liability, and leveraging.

## **Chapter 3: Preservation of Wealth**

After reading the chapter, participants will be able to:

1. Identify spending habits noting how to design a budget to increase discretionary income, determine net worth using a balance sheet, and select assets and liabilities for an inventory on which to base financial goals.
2. Specify why individuals should take primary responsibility for the investment planning including necessary self-education, determine the allocation of financial resources among investments to maximize return, and recognize the impact of inflation, risk versus return, and basic income tax planning tactics.

## Chapter 4: Deferral

After reading the chapter, participants will be able to:

1. Identify the benefits of tax deferral, recall the former use of tax deferral under §1034, and cite the tax deferral advantage under §1031 noting its elements.
2. Specify the related party §1031 restrictions identifying prohibited parties or entities and permissible disposition exceptions, cite recommendations for the protection of exchange participants, and recognize the history of the personal and multiple property regulations noting the unique personal property like-kind and netting requirements for multiple asset exchanges.
3. Recall the evolution of delayed exchanges noting allowable transfers, determine how to select qualified replacement property, specify constructive receipt safe harbors & methods to secure exchange party performance, cite the §1031 partnership underlying asset rule, identify retirement plan design, identify popular methods for providing for retirement, and select near retirement investments.
4. Specify the requirements for an installment sale, determine how to elect out of the installment method, identify the variables affecting §453 availability, and determine how to use a property option to receive income and postpone tax.

## Chapter 5: Reduction

After reading the chapter, participants will be able to:

1. Identify tax credits noting qualified computational expenses, limitations and restrictions.
2. Recognize the estimated tax rules and procedures including payment deadlines, underpayment penalties and the economics of overpaying estimated taxes, and specify the nondeductible interest types.
3. Determine the deductibility of investment interest, prepaid interest, points, and prepayment penalties noting the offset of passive income with rental property mortgage interest.
4. Identify business vehicle operating costs using (or switching between) the actual cost method or the standard mileage rate, recognize the importance of expense and mileage records, and specify depreciation traps when purchasing a vehicle.
5. Recall the requirements for business expenses to meet the directly related test, cite the elements of the associated test, identify the business expense statutory exceptions, and recognize the application of R.R. 90-23 and R.R. 99-7 to the deduction of transportation costs to a temporary work location.
6. Determine business asset depreciation using both ACRS and MACRS recovery classes, identify sources of §172 net operating losses (NOLs) noting carryback and carryover rules, specify tax breaks for nonitemizing taxpayers, recognize the advisability of filing an amended return,

determine how to avoid audits by claiming refunds for provable items noting which return amendments are safest.

## **Chapter 6: Income Splitting**

After reading the chapter, participants will be able to:

1. Recognize formats for income splitting, determine the tax treatment of employee and self-employed business expenses particularly home-office expenses noting the two non-exclusive use exceptions and the income limitation, cite changes made to home office deduction under TRA '97, and recognize the ability of self-employed to make annual deductible contributions to a Keogh plan.
2. Identify the tax opportunities available to an unincorporated business including retirement plans, the hiring of family members, travel expenses, casualty losses, bad debts, and self-employment tax.
3. Determine the uses and tax characteristics of regular and S corporations by:
  - a. Citing circumstances when incorporation is desirable,
  - b. Recognizing the taxation of these entities including their ability to split income; and
  - c. Specifying initial §351 formation and capitalization issues and identifying appropriate tax form filings for each entity.
4. Recognize the use of partnerships to split income among partners including the use of §704(e) family partnerships and the consequences of gifting a partnership interest to a child or to another family member.
5. Identify the use of a custodianship to split income and contain the “kiddie tax” noting initial planning considerations and good investments for children, recognize deductions and credits for childcare, education, children, and §7872 loans, and specify the income and later estate tax benefits of gifts.

## **Chapter 7: Elimination**

After reading the chapter, participants will be able to:

1. Identify tax elimination techniques by:
  - a. Recognizing the current §121 home sale exclusion noting its differences with prior tax law;
  - b. Determining qualifications for tax-free state or local obligations including private activity bonds; and
  - c. Specifying the tax elimination aspects of family transactions such as gifts, bequests, inheritances, life insurance, and even divorce.

2. Recognize employer deductions as a means to increase tax-free incentive-based compensation for employees by:
  - a. Specifying rules for excluding fringe benefits under §132 and their proper reporting on the W-2; and
  - b. Identifying popular employee fringe benefits including employer paid accident & health coverage, meals or lodging, cafeteria plan benefits, §127 education assistance, achievement awards, group life insurance and dependent care assistance.
3. Determine how to value fringe benefits according to IRS regulations, identify how to comply with ERISA requirements, specify the proper reporting of reimbursed and unreimbursed business expenses under accountable and nonaccountable plans, determine the substantiation of auto expenses using a fixed and variable rate, and specify eligible retirement benefits exempt from social security taxes.

## **Chapter 8: Asset Protection**

After reading the chapter, participants will be able to:

1. Identify the goals and purposes of asset protection noting the objections some people have about shielding assets from creditors by:
  - a. Citing reasons for asset protection and situations that can unexpectedly put assets and financial security at stake;
  - b. Specifying sources of lawsuits and the author's concept of exploding and imploding liability; and
  - c. Determining asset protection using the primary concepts of insurance, asset placement and statutory protections.
2. Recognize the importance of creditor types associated with asset protection and fraudulent transfers.
3. Specify fraudulent transfer laws noting badges of fraud, define statutes of limitation, criminal penalties, and permissible asset transfers.
4. Recognize the degree and necessity of asset protection using net worth and asset values under a balance sheet.
5. Identify the ways that insurance and buy-sell agreements can offer asset protection by:
  - a. Citing the asset protection elements of homeowner's, automobile and disability insurance;
  - b. Specifying the parties under a life insurance contract noting potential reasons for establishing an irrevocable life insurance trust; and
  - c. Determining what constitutes entity purchase and cross purchase buy sell agreements.

6. Recognize the asset protection advantages and disadvantages of ownership formats and entities by:
  - a. Determining the use of individual ownership and corporate ownership in an asset protection plan including the importance of S corporations and their estate tax planning advantages;
  - b. Identifying testamentary trusts, living trusts and subcategories of trusts noting asset protection elements;
  - c. Specifying the various types of co-tenancy, noting their asset protection dangers, and several types of partnerships citing their variation from limited liability companies; and
  - d. Recognizing the unique asset protection qualities of retirement plans, custodianship, and estates as asset protection tools.
7. Identify the formats that courts typically follow if a couple does not have an enforceable premarital agreement, and determine what constitutes post-nuptial and premarital agreements noting how they relate to divorce settlements and divisions.

## **Chapter 9: Estate Planning**

After reading the chapter, participants will be able to:

1. Identify basic estate planning elements noting the importance of well-drafted legal documents and specify the key team participants including their roles in estate planning process.
2. Determine the major steps in the probate process, identify ways to make transfers outside the probate system including the use of a trust, specify estate tax techniques that save death taxes while retaining maximum control, and select categories estate-planning facts.

## **Chapter 10: Estate & Gift Taxes**

After reading the chapter, participants will be able to:

1. Identify potential death taxes including federal estate tax as it applies to various size estates, specify the principal taxes that impact death taxation, and determine the expiration of the death tax credit.
2. Determine what constitutes a taxable estate under §2501 noting what assets are included in a gross estate using basic categories of property and transfers.
3. Specify estate deductions allowed under federal estate tax law noting their tax advantages and disadvantages.
4. Determine the value a decedent's assets using permitted elections, recognize the use of the Form 706 to pay any estate tax due, select the tax basis of estate assets noting how common transactions affect property basis under §1014.

5. Recall the advantages of gift planning including estate reduction noting the impact of the GST, specify the steps to compute gift tax identifying the gift tax exclusion amount, and determine the value of gifts including those that are split.
6. Identify the various gift tax exclusions, specify the tax treatment of below-market loans, recall the gift tax marital deduction requirements, determine the tax consequences of giving various assets noting factors to consider when gifting, and recognize the use of the Form 709 to compute and pay federal gift tax.

## **Chapter 11: Wills & Probate**

After reading the chapter, participants will be able to:

1. Specify types of wills noting functions a will can perform, identify types of bequests, determine the duties of executors and guardians, and recall ways to hold title and their tax ramifications.
2. Identify advantages of a properly drafted will, determine the distribution flow of simple wills, and specify the pros and cons of probate proceedings.

## **Chapter 12: Trusts**

After reading the chapter, participants will be able to:

1. Identify the relationship of parties in a trust, reasons to establish a trust, and types of trusts noting their estate planning function.
2. Specify recommended living trust provisions, identify the application of gift and income tax including the use of a grantor trust and an unlimited marital deduction, and determine what constitutes an "A-B" and "A-B-C" trust format.

## **Chapter 13: Entity & Title**

After reading the chapter, participants will be able to:

1. Recognize basic tax and legal title formats noting the advantages and disadvantages of holding property in a sole proprietorship, a corporation, or an S corporation .
2. Identify the title holding benefits of trusts, co-tenancy, partnerships, and limited liability companies and the tax characteristics of each, recognize the types of retirement plans used to provide lifetime benefits to a business owner and to employees, and specify the tax treatment of custodianships and a probate estate.

## **Chapter 14: Life Insurance, Annuities & Buy-Sell Agreements**

After reading the chapter, participants will be able to:

1. Specify persons in which rights are placed by life insurance and reasons to purchase life insurance.
2. Identify the tax treatment of life insurance proceeds by:
  - a. Determining the treatment of premiums for personally owned life insurance and related benefits and specifying exceptions to this treatment including the transfer for value rule;
  - b. Select variables that influence whether life insurance is taxable for federal estate tax purposes; and
  - c. Recalling the gift tax associated with transfer of life insurance policies.
3. Determine the pros and cons of life insurance policy types and specify estate tax planning reasons for establishing an irrevocable life insurance trust.
4. Recognize the differences between deferred annuities and private annuities and determine what constitutes an entity purchase agreement and a cross purchase agreement noting tax and legal advantages.

## **Chapter 15: Special Business Issues**

After reading the chapter, participants will be able to:

1. Identify reasons why a business interest must be valued in an estate that is subject to federal estate tax, specify factors used to determine the net value of a business under the regulations, and recall the valuation factors in R.R. 59-60 noting their impact.
2. Determine how tangible assets are normally valued identifying those assets whose valuation is based on values other than book value, and specify the steps in R.R. 68-609's valuation formula for intangible assets noting the effect such amount can have on the total value of a business.
3. Identify special business valuation issues including redemptions under §303 by:
  - a. Determining what constituted the now repealed qualified family-owned business estate tax deduction;
  - b. Recalling the terms of the election that allows clients to exclude from their taxable estate 40% of the value of land subject to a qualified conservation easement;
  - c. Determining the value of a minority stock interest and fractional interests in order to obtain applicable valuation discounts, and
  - d. Citing the §303 exception to the dividend treatment of redemptions noting qualifications.
4. Determine the tax consequences in leaving an estate to a surviving spouse, specify the elements of buy sell agreements, stock redemptions, and stock recapitalizations in order to dispose of business interests before death, and identify deferred compensation agreements noting their estate planning impact.



## Chapter 16: Estate Tax Freeze Rules

After reading the chapter, participants will be able to:

1. Determine the benefits of an estate freeze and its ability to reduce the value of a business interest, identify transactions to which Chapter 14 rules apply and terminology used in the Chapter 14 valuation rule that applies to corporations and partnerships, and specify exceptions to §2701.
2. Identify the “zero value” rule under §2701 by:
  - a. Recalling the qualified payment exception and the consequence of being excepted;
  - b. Specifying variables that impact the application of §2701 noting how to avoid taxable events when valuing a distribution right;
  - c. Determining the transfer tax when a taxpayer fails to make a qualified payment on time noting the election into or out of qualified payment treatment when appropriate; and
  - d. Specifying a junior equity interest according to §2701 rules and determining the value of other rights held together with an extraordinary payment right.
3. Determine the application of §2701 provisions by:
  - a. Recalling the treatment of a capital contribution, a redemption, or a recapitalization under §2701;
  - b. Identifying when an individual is deemed the owner of an interest that is held indirectly through a corporation, partnership, trust or other entity based on the §2701 attribution rules;
  - c. Specifying when transfer tax adjustments will be made to transfers or inclusions in the gross estate;
  - d. Identifying the split of an applicable retained interest allowing value to be given to a participating feature of a participating preferred interest; and
  - e. Specifying the stepped computation under the subtraction method to determine an amount of a gift resulting from a transfer to which §2701 applies.
4. Recall the terms used in §2702 concerning transfers of interests in trust, identify the application of the zero value rule to a transfer of interest in trust, and specify exceptions to §2702, determine the transfer of an interest in property when there is one or more term interests as a transfer of an interest in a trust, and specify the treatment of joint purchases.
5. Recognize the requirements and exceptions of §2703 to insure property is valued appropriately, identify lapses as a transfer by gift or as includible in the decedent’s gross estate under §2704, recall the key terminology of §2704 under the evaluation rules, specify the amount of the transfer noting which lapses or restrictions qualify as an applicable restriction.

## **Chapter 17: Elderly & Disabled Planning**

After reading the chapter, participants will be able to:

1. Recall estate management techniques for the elderly and disabled by:
  - a. Identifying joint tenancy and the benefits and drawbacks of using such a method for asset management;
  - b. Specifying levels of conservatorship that can influence management and protection of an estate and/or personal care and disadvantages of this tool; and
  - c. Determining what constitutes a durable power noting advantages of establishing a revocable living trust as a way to manage assets in an estate.
2. Cite the eldercare benefits of Medicare, Medicaid, and Supplemental Security Income, identify disadvantages of the Medicaid program noting how to determine income into asset groups, specify the dangers and benefits of gifting to family members, including how individuals might use private insurance on catastrophic illness.
3. Identify tools that can allow patients to refuse treatment even when incompetent, determine Supplemental Security Income noting how it relates to elderly and disability planning, and specify the requirements that must be met in order to receive disability benefits.

## **Chapter 18: Post-Mortem Planning & Tax Return Requirements**

After reading the chapter, participants will be able to:

1. Determine post-mortem estate planning action in the face of funeral and administrative expenses using elections and disclaimers.
2. Cite the due dates of post-mortem federal forms, specify the filing requirements of a decedent's estate tax return, and identify exceptions to the general rule of estate tax payment.
3. Determine the processes and procedures necessary in preparation and filing of the Form 706.
4. Identify the filing requirements for estate income tax and decedent's final income tax returns by:
  - a. Determining the estate income tax under available tax accounting methods and tax years; and
  - b. Specify the use of Form 1310 for a decedent or a joint return for a decedent and their surviving spouse.
5. Determine total income to be included on the decedent's final income tax return using available exemptions or deductions.
6. Identify how to avoid penalties when filing a gift tax return, recognize gift splitting to reduce gift taxes, and recall special gift applications and traps noting ways to avoid their tax consequences.