

# Financial Problems

## *Key Tax Issues*

### Course Description

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This course will teach participants how to apply, implement, and evaluate the strategic tax aspects of bankruptcy, property settlements, debt cancellation, and foreclosure. Current perspectives on asset protection, repossession, and bad debts are examined with an emphasis on planning considerations. The cancellation of indebtedness income inclusion rules are examined in the context of debt forgiveness and property foreclosure. Emphasis is given to the exceptions from income inclusion contained in §108. The tax treatment of property repossession under §1038 is explored with detail given to the calculation of gain and received property basis. Finally, eldercare and estate planning are reviewed and detailed.

**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:** 19 (CPA, EA)

**Category:** Taxation

**Prerequisite:** General understanding of federal income taxation.

**Advanced Preparation:** None

### Course Learning Objectives

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#### Chapter 1: Bankruptcy

1. Determine how the 2005 Bankruptcy Act changed procedures, qualifications and tax law, and identify the most common bankruptcy types recognizing their influence on how an individual or business “goes bankrupt.”
2. Specify the rules for automatic stay and levy identifying their impact on “freezing” creditor activity, tax assessment, and collection.
3. Identify the differences between preferential and nonpreferential payments specifying the priority of creditor claims.

4. Recognize when debt is discharged under various bankruptcy types and identify how to establish an individual bankruptcy estate determining its taxable income and filing requirements.
5. Identify partnership and corporate bankruptcies, specify debts covered under homesteading, and determine permissible garnishment amounts and special garnishment rules.

## **Chapter 2: Transfers Incident to Divorce**

1. Identify types of marital property and their likely division in marital property settlements and specify five legal principles used in dividing assets and providing support on divorce or separation.
2. Determine the benefits of premarital agreements and the requirements and permissible provisions for a valid and comprehensive agreement under the Uniform Premarital Act.
3. Specify the position of U.S. v. Davis on interspousal transfers recognizing the changes made by §1041, and identify the requirements of §1041 and the scope of its application.
4. Identify factors that determine whether a property transfer is incident to divorce and how to meet these factors or avoid §1041 altogether when desired.
5. Determine the application of §1041 to transfers in trust under §1041(e) and to third party transfers on behalf of a spouse or former spouse.
6. Recognize deferred tax liability by identifying property basis for the transferor spouse and transferee spouse under §1041 after a property settlement.
7. Specify the application of §1041 to property transfers where the transferee assumes liabilities encumbering the property, and choose the holding period for an asset transferred between spouses or former spouses incident to divorce.
8. Recall the dangers of purchasing a former spouse's interest in property particularly a marital residence and its tendency to create deferred tax liability.
9. Determine tax effects of purchasing an interest in personal or real property used in a business or held for investment, recognize potential recapture and identify the use of an exchange to dispose of low-basis property received in a §1041 transfer.
10. Specify common disposition alternatives available on divorce, recall the home sale exclusion requirements, and identify the tax treatment and use of installment obligations under §453 in divorce.
11. Recognize sale, redemption, recapitalization, liquidation and third-party transfers as methods of dividing a business in a marital settlement citing unique provisions under §302, §736 and §754.
12. Identify whether gain or loss on a sale of real or personal property is capital or ordinary, recognize the tax treatment of such gain or loss and recall the role and tax treatment of life insurance in property settlements.

13. Specify popular methods of dividing retirement benefits in a divorce or separation action identifying the requirements and tax consequences of a “qualified domestic relations order (QDRO).
14. 14. Choose an overall tax and economic strategy for the division of pension benefits in a marital settlement by:
  - a. Specifying the pros and cons of deferred, present, and alternate property division arguments;
  - b. Determining the treatment of IRAs at divorce considering the IRA deduction limit and rollovers;
  - c. Identifying strategies for retirement planning after divorce;
  - d. Recognizing the Social Security benefits, military pensions, civil service pensions, or railroad pensions that may be available to a former spouse; and
  - e. Selecting which debts incurred during a divorce are dischargeable in bankruptcy.

### **Chapter 3: Asset Protection**

1. Recognize the goals and purposes of asset protection and the objections about shielding assets from creditors by:
  - a. Specifying reasons for asset protection and situations that can unexpectedly put assets and financial security at stake;
  - b. Identifying common sources of lawsuits and the concepts of exploding and imploding liability; and
  - c. Determining how insurance, asset placement and statutory protections can help achieve asset protection.
2. Identify the types of creditors associated with asset protection and fraudulent transfers.
3. Determine fraudulent transfer identifying badges of fraud, statutes of limitation and criminal penalties, and specify permissible asset transfers.
4. Recognize the necessity of asset protection identifying net worth under a balance sheet, and determine asset values in the preparation of a balance sheet.
5. Identify how insurance and buy-sell agreements can offer asset protection by:
  - a. Determining the asset protection elements of homeowner's, automobile and disability insurance;
  - b. Specifying the parties under a life insurance contract listing and 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. Citing the use of individual ownership and corporate ownership in an asset protection plan, the importance of S corporations and their estate tax planning advantages;
  - b. Identifying testamentary trusts, living trusts, their subcategories and asset protection elements;
  - c. Specifying the types of co-tenancy and their asset protection dangers, and identifying types of partnerships and their variation from limited liability companies; and
  - d. Recognizing the unique asset protection qualities of retirement plans, custodianship, and estates as asset protection tools.

## **Chapter 4: Medical, Charitable and Casualty**

1. Identify deductible §213 medical care expenses for federal tax purposes by:
  - a. Recognizing the potential inclusion of spousal and dependent expenses, medical insurance premiums, meals and lodging, transportation expenses, cosmetic surgery, permanent home improvements and life-time care payments;
  - b. Determining what constitutes medical savings accounts and their differences with health savings accounts, and citing the benefits and qualifications of HSAs including their relationship with high deductible health plans; and
  - c. Specifying the mechanics of prescription drug plans, and identifying the accelerated death benefits exclusion and the health insurance deduction for self-employed individuals.
2. Cite variables that impact the deductibility of §170 charitable contributions recognizing qualified organizations and limitations for these purposes, and identify the types of contributions that can be made, their tax treatment, and substantiation requirements.
3. Determine what constitutes a §165 casualty or theft and the former and current rules for taking a deduction for all or part of each loss.

## **Chapter 5: Debt Cancellation & Foreclosure**

1. Recognize the effect that debt cancellation has on net worth and potential income inclusion from cancellation of indebtedness income, and identify exceptions to the general income inclusion rule and their tax effect.
2. Specify the reduction of tax attributes on cancellation identifying any special basis reduction rules, recognize the depreciable property election, and determine what constitutes individual, partnership and S corporation bankruptcies and the variables used in characterizing shares as nominal or token.

3. Determine gain or loss resulting from foreclosure or repossession including its timing and character, identify reporting and filing requirements of such items, and specify the tax danger of acquiring one's own debt at a discount.

## **Chapter 6: Repossession**

1. Select which §1038 repossession rules apply to a transaction, and determine basis and gain or loss resulting from repossession of personal property using installment method and the non-installment method sales.
2. Identify the distinctions between the rules, calculations and effects of repossessions of personal and real property, and specify when a §166 bad debt deduction may be taken if the seller repossesses real property.

## **Chapter 7: Bad Debts**

1. Determine bad debt categories , their tax treatment and effect on accounting and reporting by:
  - a. Recognizing the concepts of worthlessness and true debt specifying the unique characteristics of deductible nonbusiness bad debt;
  - b. Identifying the treatment of bad debts related to political debts, mechanics' liens and secondary liabilities on home mortgages; and
  - c. Specifying the forms used to report bad debts and the tax treatment of recovered amounts.
2. Identify the qualifications for §166 tax treatment of business bad debts by:
  - a. Recognizing the tax treatment of business credit transactions, loan guarantees, accounts receivable or notes receivable including the tax treatment of accounts receivable in a sale and specifying the various forms on which a bad debt deduction should be taken based entity type;
  - b. Determining the tests to be met by an accrual method business in taking a bad debt deduction for a political debt and specifying the tax consequences of the insolvency of a partner when a partnership terminates with debts owed; and
  - c. Identifying methods that can be used by businesses to treat uncollectible amounts and the rules that apply to each.

## **Chapter 8: Elderly & Disabled Planning**

1. Specify ways to manage an incompetent person's estate, recognize joint tenancy and its benefits, and identify the levels of conservatorship that can influence assistance in management and protection of an estate and/or personal care.
2. Recognize durable powers and funded revocable living trusts and their uses and limitations in elderly and disabled planning.

3. Identify the eldercare benefits of Medicare and Medicaid, countable income and asset groupings under Medicaid.
4. Determine available health care decisions such as having a living will, identify the distinctions between Supplemental Security Income and Social Security disability benefits, determine SSI asset groups, and specify requirements for SSI and Social Security disability benefits.

## **Chapter 9: Estate Planning**

1. Determine what constitutes estate planning for clients by:
  - a. Identifying the elements of estate tax planning that have remained unchanged by recent legislation;
  - b. Recognizing the unlimited marital deduction and its effect on the gross estate of the value of property; and
  - c. Specifying the applicable exclusion amounts for various years of death.
2. Identify the concepts of “stepped-up basis” and “modified carryover basis” for estate tax purposes.
3. Specify estate-planning goals, and recall the benefits and drawbacks of the primary dispositive plans.
4. Identify various types of estate trusts and the family documents that every taxpayer should consider, and determine the advantages and disadvantages of the former private annuity format.