

TABLE OF CONTENTS

PREFACE	V
TABLE OF CASES.....	XIX
TABLE OF RULINGS.....	XXV

PART 1. INTRODUCTION

Chapter 1. Introduction to Federal Transfer Taxation	3
Introduction	3
A. Historic Context	3
B. Basic Structure of the Federal Estate, Gift, and GST Taxes	8
C. Role of State Law	10
Commissioner v. Estate of Bosch	11
Notes and Questions	14
Chapter 1 Study Questions.....	15

PART 2. ESTATE TAX

Inclusion in the Gross Estate: An Overview of Chapters 2–7	19
Chapter 2. Property Interests Held at Death: Section 2033	21
Introduction	21
A. All Property	22
First Victoria National Bank v. United States.....	22
Estate of V. C. Andrews v. United States	28
Notes and Questions	31
B. To the Extent of the Interest Therein.....	33
Technical Advice Memorandum 9152005	34
Notes and Questions	38
C. At the Time of His Death	40
Estate of Moss v. Commissioner.....	40
Connecticut Bank and Trust Company v. United States	43
Notes and Questions	44
Chapter 2 Study Questions.....	45

Chapter 3. Valuation: Sections 2031, 2032, 2032A, 2701–2704.....	49
Introduction	49
A. When to Value the Decedent's Assets	50
1. At the Time of His Death	50
Goodman v. Granger	51
Estate of McClatchy v. Commissioner	53
Notes and Questions	56
2. Alternate Valuation Date.....	57

Flanders v. United States	58
Kohler v. Commissioner	60
Notes and Questions	64
B. How to Value	65
1. Fair Market Value	65
a. Reasonable Knowledge of Relevant Facts	66
United States v. Simmons	66
Notes and Questions	69
b. Which Market?	70
United States v. Cartwright	70
Notes and Questions	74
Technical Advice Memorandum 9152005	75
Notes and Questions	77
c. Is Family Attribution Relevant?	79
Estate of Bright v. United States	79
Notes and Questions	83
2. Special Use Value	85
Finfrock v. United States	86
3. Deemed Value—Chapter 14	91
a. Section 2701 and Transfers of Corporate or Partnership Interests	92
b. Section 2702 and Transfers of Interests in Trusts	94
c. Section 2703 and Buy-Sell Agreements	96
Estate of Blount v. Commissioner	97
Notes and Questions	102
d. Section 2704 and Lapsing Rights and Restrictions	103
Estate of Rankin Smith v. United States	103
Notes and Questions	111
Chapter 3 Study Questions	112
Chapter 4. Powers of Appointment: Section 2041	115
Introduction	115
A. Having an “Exercisable” Power	116
Estate of Alperstein v. Commissioner	117
Estate of Kurz v. Commissioner	123
Notes and Questions	126
B. Meaning of General Power: Definition and Exceptions	130
1. Donee as Object of the Power	130
Private Letter Ruling 201229005	130
2. Ascertainable Standards	132
Brantingham v. United States	132
Notes and Questions	135
3. In Conjunction with	138
Estate of Janice McNear Towle v. Commissioner	138
Notes and Questions	141
Chapter 4 Study Questions	144

Chapter 5. Joint Interests and Survivors Annuities: Sections 2040 and 2039.....	147
Introduction	147
A. General Rule—Proving Consideration.....	148
<i>Estate of Concordia v. Commissioner</i>	148
Notes and Questions	153
B. Qualified Joint Interests of Spouses	156
<i>Gallenstein v. United States.....</i>	157
Notes and Questions	161
C. Survivors Annuities	161
<i>Estate of Bahen v. United States</i>	162
Notes and Questions	167
Chapter 5 Study Questions.....	168
 Chapter 6. Life Insurance and Transfers Within 3 Years: Sections 2042 and 2035	 171
Introduction	171
A. Receivable by the Executor.....	172
B. Incidents of Ownership	173
<i>Commissioner v. Estate of Noel</i>	173
<i>United States v. Rhode Island Hospital Trust Company</i>	176
Notes and Questions	180
<i>Estate of Skifter v. Commissioner.....</i>	182
Notes and Questions	185
C. Transfers Within Three Years of Death	186
<i>Brown v. United States.....</i>	188
Notes and Questions	195
Chapter 6 Study Questions.....	198
 Chapter 7. Will Substitutes: Sections 2036, 2037, and 2038	 201
Introduction	201
A. Transfer.....	203
<i>United States v. Estate of Grace</i>	203
<i>Estate of Green v. United States.....</i>	207
Notes and Questions	209
B. Requisite Time Periods	211
C. Retaining an Interest Under the Transfer	211
<i>Estate of McNichol v. Commissioner</i>	212
<i>Estate of Maxwell v. Commissioner</i>	214
<i>Estate of Stewart v. Commissioner</i>	221
Notes and Questions	230
<i>Rev. Rul. 79-109.....</i>	234
D. Indirect Interests and Retentions	235
<i>Estate of Gokey v. Commissioner.....</i>	236
<i>Hays' Estate v. Commissioner.....</i>	238
<i>Estate of Wly v. Commissioner.....</i>	239
Notes and Questions	246

E.	Relinquishing the Interest.....	248
	United States v. Allen	248
	Notes and Questions	250
F.	Powers Held over Transferred Property	251
	Lober v. United States	251
	Old Colony Trust Company v. United States	253
	United States v. Byrum	255
	Notes and Questions	259
G.	In Conjunction with	261
	Helvering v. City Bank Farmers Trust Co.	262
	Estate of Tully v. United States	264
	Notes and Questions	269
H.	Family Limited Partnerships “FLP”	271
	Kimbell v. United States.....	272
	Strangi v. Commissioner.....	279
	Notes and Questions	287
I.	Transfers with Reversionary Interests	289
	Estate of Roy v. Commissioner.....	289
	Notes and Questions	291
	Chapter 7 Study Questions.....	292
Deductions from the Gross Estate: Overview of Chapters 8–10		295
Chapter 8. Deductions for Expenses, Debts, Losses, and Taxes:		
	Sections 2053, 2054, and 2058	297
	Introduction	297
A.	Administration Expenses.....	298
	Hibernia Bank v. United States	298
	Estate of Graegin v. Commissioner.....	303
	Notes and Questions	306
B.	Claims Against the Estate	309
	Estate of Algerine Smith v. Commissioner	309
	Notes and Questions	315
C.	Deducting Taxes	317
	Notes and Questions	319
	Chapter 8 Study Questions.....	319
Chapter 9. Charitable Transfers: Section 2055		321
	Introduction	321
A.	Eligible Recipients.....	322
	1. Transfers for Public Purposes—Section 2055(a)(1).....	322
	2. Transfers to Charitable Corporations—Section 2055(a)(2)	322
	Mellon Bank, N.A. v. United States	323
	Notes and Questions	326
	3. Transfers to Trustees—Section 2055(a)(3)	327
	Buder v. United States.....	328
	Notes and Questions	330

B.	4. Transfers to Veterans' Organizations—Section 2055(a)(4)	331
	Qualifying Transfers	332
	Flanagan v. United States	332
	Notes and Questions	335
C.	Split-Interest Gifts	337
	Galloway v. United States	337
	Notes and Questions	341
	Chapter 9 Study Questions.....	345
Chapter 10. Marital Deduction: Sections 2056 and 2056A		347
	Introduction	347
A.	History and Purposes of the Marital Deduction	348
B.	Basic Requirements	349
	United States v. Windsor	350
	Notes and Questions	353
C.	Terminable Interest Rule	355
	1. General Rule	355
	Jackson v. United States.....	355
	Meyer v. United States	358
	Notes and Questions	362
	2. Exceptions to the Terminable Interest Rule.....	364
	a. Section 2056(b)(3): Survivorship Conditions	364
	b. Section 2056(b)(5): Life Estate with General Power	366
	Estate of Opal v. Commissioner.....	367
	Notes and Questions.....	369
	c. Section 2056(b)(6): Proceeds of Life Insurance, Endowments, and Annuity Contracts with Power of Appointment Involving Spouse.....	373
	d. Section 2056(b)(7): Qualified Terminable Interest Property ("QTIP")	373
	Estate of Shafter v. Commissioner	374
	Notes and Questions.....	380
	e. Section 2056(b)(8): Marital-Charitable Remainder Trust	384
D.	Additional Limitations on Marital Deduction	384
	1. Charges on a Spousal Share: Section 2056(b)(4)	384
	United States v. Stapf	385
	Lurie v. Commissioner	387
	Notes and Questions	391
	2. Unidentified or Tainted Assets: Section 2056(b)(2)	392
	3. QDOT and Noncitizen Surviving Spouse: Sections 2056(d) and 2056A.....	393
	4. Ascertainability of Marital Amount: Rev. Proc. 64-19	394
	Revenue Procedure 64-19, 1964-1 C.B. 682	394
	Notes and Questions	396
E.	Marital Deduction in Practice	398
	1. Two Trust Plan	399
	2. Portability	402

Chapter 10 Study Questions	404
PART 3. GIFT TAX	
Chapter 11. Meaning of Gift: Sections 2501 and 2518	409
Introduction	409
A. Donative Intent or Consideration?	410
<i>Commissioner v. Wemyss</i>	410
<i>Estate of Anderson v. Commissioner</i>	412
Notes and Questions	415
B. Disguised Gifts: Loans and Installment Sales	418
<i>Dickman v. Commissioner</i>	418
<i>Selsor R. Haygood v. Commissioner</i>	423
Notes and Questions	427
C. Disclaimer	430
<i>Kennedy v. Commissioner</i>	430
Notes and Questions	434
D. Net Gifts	437
<i>Steinberg v. Commissioner</i>	437
Notes and Questions	443
Chapter 11 Study Questions	445
Chapter 12. Exclusions and Deductions: Sections 2503, 2522, and 2523.....	447
Introduction	447
A. Annual Exclusion	448
<i>Hackl v. Commissioner</i>	449
Notes and Questions	452
B. Right to Withdraw as a Present Interest	456
<i>Crummey v. Commissioner</i>	457
<i>Estate of Cristofani v. Commissioner</i>	462
Notes and Questions	466
C. Section 2503(c) Minor's Trust	468
<i>Ross v. United States</i>	469
Notes and Questions	473
D. Transfers for Education and Medical Services	475
<i>Priv. Ltr. Rul. 200602002</i>	476
Notes and Questions	478
E. Deductions for Charitable and Marital Gifts	479
1. Gift Tax Charitable Deduction	479
2. Gift Tax Marital Deduction	480
Chapter 12 Study Questions	481
Chapter 13. When Is the Gift?	485
Introduction	485
A. Checks	486
<i>Metzger v. Commissioner</i>	486

Notes and Questions	490
B. Revocable Trusts and Retained Powers.....	492
<i>Sanford's Estate v. Commissioner</i>	493
Notes and Questions	497
C. Open Transaction	498
<i>Estate of DiMarco v. Commissioner</i>	498
Notes and Questions	504
Chapter 13 Study Questions.....	504

PART 4. GENERATION-SKIPPING TRANSFER TAX

Chapter 14. Generation-Skipping Transfer Tax: Sections 2601–2663.....	509
Introduction	509
A. Origins of GST Tax.....	510
B. Basic Definitions	511
1. Transferor	511
2. Trust	513
3. Interest.....	514
4. Skip Person and Non-Skip Person	515
5. Generation Assignment	515
C. Generation-Skipping Transfers.....	517
1. Taxable Termination	517
2. Taxable Distribution	518
3. Direct Skip	518
D. Exceptions and Exclusions	518
1. Predeceased Ancestor Exception: The 90-Day Rule.....	519
2. Ed-Med Exclusion.....	519
3. Certain Transfers Subject to Prior GST Tax	520
4. Nontaxable “Annual Exclusion” for Certain Direct Skips	520
5. Effective Dates and Grandfathered Trusts.....	521
E. <i>Norman Peterson Marital Trust v. Commissioner</i>	522
Notes and Questions	527
E. GST Exemption	528
1. In General	528
2. Allocating the Exemption.....	529
F. Computing the GST Tax	532
<i>Robertson v. United States</i>	533
Notes and Questions	535
Chapter 14 Study Questions.....	536

PART 5. ADMINISTRATION

Chapter 15. Tax Returns and Payments	541
Introduction	541
A. Estate Tax.....	541
1. Tax Return Requirements	541

United States v. Boyle.....	542
Notes and Questions	546
2. Extensions of Time to Pay Tax	547
3. Section 303 Redemption.....	550
4. Tax Apportionment	550
B. Gift Tax	551
1. Tax Return Requirements	551
2. Adequate Disclosure	552
C. Generation-Skipping Tax.....	554
1. Tax Return Requirements	554
2. Section 9100 Relief	555
D. Credits.....	556
1. Unified Credit—Section 2010	556
2. Credit for Gift Taxes Before 1977—Section 2012.....	557
3. Credit for Estate Taxes on Prior Transfers—Section 2013	558
<i>Estate of Lucien J. Le Caer v. Commissioner</i>	559
Notes and Questions	563
4. Credit for Foreign Death Taxes—Section 2014	564
Chapter 15 Study Questions.....	566
AUTHOR INDEX	569
INDEX.....	573