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Estate Planning (May 1970)

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Problem I

George Smith died in Richmond, Virginia on February 13, 1970, at age 40. Under his will he left "$1.00 and my love and affection" to his wife, Julia. All the rest and residue he left to his close friend, Oscar Jones. The following facts have been established:

1. On November 15, 1969, George wrote a letter to Oscar Jones enclosing 1,000 shares of IBM stock duly assigned to Jones. The letter read, "Dean Oscar: I have read a book on how to avoid probate. I am making you trustee of the shares enclosed and want you to pay me the income from the stock until I die. Don't sell the stock without consulting me. Unless I change my mind and provide otherwise in a later letter, when I die you can keep one-half of the stock and give the other half to the American Cancer Society. I believe I have cancer. I'm sure my wife will remarry when I die. (signed) George Smith." You may assume the stock was worth $300,000.

2. Prior to his death, George and Julia had created a joint bank account, into which George had deposited $10,000. This had grown to $12,000 at the time of George's death.

3. At his death, George's remaining assets consisted of $100,000 in real estate and $8,000 in personalty.

4. On May 19, 1970 Julia gave birth to a premature infant and has been advised that while the child will live, it is apt to be retarded.

Julia, although she is independently wealthy, is angry over George's obvious preference to Oscar and believes that he had been unfair to her, considering her devotion as a wife. She also believes that a father, even though deceased, should have to support his children. She consults you for advice as to her rights. Julia is also executor of George's estate. Advice Julia of her rights and of the estate's probable Federal Estate Tax liability.
Problem 2

John Hill, age 49, is a very successful corporate executive. He is married to Jane, age 43, and they have two sons who are 13 and 11. John owns personalty worth $1,200,000, and Jane owns personalty worth $300,000. John also owns real estate worth $100,000 and carries life insurance having a cash surrender value of $20,000 and a face value of $100,000. John has children by a previous wife, from whom he was divorced, and has made taxable gifts to them in the aggregate amount of $250,000 and has used up his life time exemption. These children are grown and John feels no responsibility to them. John makes $60,000 a year and can retire at age 60 on an employer-financed pension of $35,000 a year for life if he is the sole beneficiary, or for $20,000 a year for the joint lives of John and Jane if he so elects. John needs an estate plan and approaches you with the following proposals:

1. That he establish a trust with the children of his recent marriage as beneficiaries, that he (as donor for gift tax purposes) give $12,000 a year to the trust, that the children receive no principal from the trust until reaching the age 22, that income be paid annually or in the discretion of the trustee, accumulated, that each child should share equally unless the trustee believes that one should receive more than the other, and that John have the power to remove the trustee and substitute another, including himself.

2. That he assign to his wife total ownership of a policy of term insurance having a face value of $25,000 but no cash surrender value (term insurance accumulates no cash surrender value). The annual premium is paid by John and John would continue to pay the premium, which is $1,500 per year.

3. That he establish an irrevocable trust with himself as trustee, under which the beneficiaries would be his wife and children, who would share in the income equally, but as to which the trustee can invade principal on behalf of any beneficiary in need. On the death of the wife, the remaining principal and accumulated income is to be distributed to the children equally and the trust terminated. The trust is to be funded with stock having a value of $300,000 and a basis of $30,000, although there is available a block of stock having a value of $300,000 and a basis of $280,000.

4. That John transfer inter vivos $200,000 to the endowment fund of his alma mater. (John has indicated to the fund-raiser of his alma mater that he will give $200,000, but has not specified to him whether his gift would be inter vivos or by will.)
5. That John establish a testamentary trust which would be funded by all of his estate remaining after payment of debts and expenses of administration. Under the trust, Jane would receive income for life and would, at her death, possess a power to appoint the corpus to either or both the children. In default of appointment the trust would terminate and the children would take equally.

6. John proposes to elect, under his pension, the joint and survivor option. He proposes to elect, under the insurance settlement options available on his straight life insurance, an option under which the wife receives installment payments for life, with power to appoint any remainder under the policy to the children.

7. As a partial alternative to Item 5 above, John proposes to establish inter vivos, an irrevocable trust for his wife, with discretion in the trustee to invade principal in her favor, with the trustee under a duty to make annual income payments to the wife unless waived by the wife, and with a general testamentary power of appointment in the wife over the principal and income remaining in the trust at her death. A bank would be trustee and the trust would be funded with stock having a value of $600,000.

You have determined from John that his lifestyle is frugal, he lives well within his income, that his salary and prospective pension leave him financially secure in and of themselves and without regard to his accumulated fortune, that his primary estate objective is to provide for the welfare of his wife and their children and his alma mater at minimal tax cost, that he has great confidence in his wife and children and has no desire to provide for possible grandchildren, being content that his own wife and children are responsible. Advise John concerning the merits of his estate plan proposals, pointing out tax consequences and suggesting other alternatives, if any, which would better accomplish his objectives.
Problem 3

H, age 55, owns an unincorporated hardware store worth $50,000, has securities which in the last year have fluctuated widely in value from $25,000 to $125,000 and currently have a market value of $80,000, and owns in his own name a home worth $20,000. He has a son who is a physician, a teenage daughter, and a wife with no business experience. In his retail business H relies on a trusted employee who would like very badly to acquire the business in H's death but who lacks ready cash. H's estate plan objective is to provide for his daughter and wife and to do so by testamentary dispositions only. He wants to give his wife only that amount necessary to reduce estate tax liability. He has no insurance and only a moderate income. What estate plan would you device for H?

Problem 4

There have been a number of significant proposals from responsible sources to change the estate and gift tax laws. What are those proposals and what would be the consequences of the adoption to the estate planner?

Problem 5

Hiram Walker has just established a trust having the following features:

1. It is funded with marketable securities worth $300,000 transferred to the trust by the settlor.
2. The beneficiaries are the donor's wife and two children.
3. The settlor reserves the right to add additional beneficiaries.
4. Income is to be distributed to the beneficiaries in the discretion of the trustee or can be accumulated. The trustee can invade principal for the benefit of any beneficiary in the absolute discretion of the trustee.
5. The trust is expressly made irrevocable.
6. The trustee is the settlor's wife and the settlor has reserved no power to remove the trustee.
7. The trust is to terminate on the death of the wife and the remaining corpus and income is to be distributed in equal shares to the beneficiaries then living.
Does the settlor have any liability for income tax on trust income? Does the establishment of the trust result in any gift tax liability? On the settlor's death, will any trust assets be includible in his estate? On the wife's death, will any trust assets be includible in her estate?

Problem 6

The estate of a wealthy industrialist who recently died contains assets which have fluctuated widely in value during the period of administration, and which have generated substantial income over this period. Expenses of administration have been significant. What decisions are authorized under the Internal Revenue Code by the executor which may materially affect estate tax liability?