1971

Estate and Gift Taxation: Final Examination (May 28, 1971)

William & Mary Law School

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ESTATE AND GIFT TAXATION

Final Examination, May 28, 1971

1. Donor makes a gift in trust: Income for 10 years to son, remainder including any accumulated income to son at end of 10 years. Donor reserved power to require trustee to accumulate instead of pay out during the 10 years.
   a. Is there a gift tax? If so, on how much of the property? Discuss the issues involved. 5 points
   b. If donor dies within the 10 years, is it in his estate? Under which section(s)? If under more than one section, which one would be preferable? On what grounds would Commissioner argue that the other one should apply? How would you try to rebut his argument? (You would probably lose, but argue it anyway.) 8 points
   c. Who pays income tax during the 10 years? 2 points

2. Same facts as 1 except donor can exercise such power only if income of son is above $15000 per year. Does this make a difference as to (a); as to (b); as to (c)? 1, 3, 1 points

3. In 1960 G transfers property in trust, the corpus of which was to be divided into equal parts, one for each of his 3 grandchildren then living, and into additional equal parts as after born grandchildren might be designated by him in writing during his lifetime. Until each such grandchild reached 30 years of age, the income of each such part was payable to G's daughter, if living, and to those she appointed by will, if she died prior to that time, or if she left no will, then to her heirs under the laws of intestacy of Virginia. When each such grandchild became 30 years of age, that grandchild became entitled to his share of income and, upon death, his share of the corpus was to be divided among his children then living, and upon failure of such issue, it was to be divided among the shares of the others. In 1967 one after born child was designated by G as an additional beneficiary. In 1970 G relinquished his right to designate after born grandchildren.
   a. When was a completed gift made here? Of how much? Explain. 3 points
   b. If G died in 1969 what estate tax consequences? 2 points
   c. If G died in 1972 what estate tax consequences? 2 points
   d. If G died in 1974 what estate tax consequences? 2 points
   e. Who pays income tax on the income of the trust? 5 points
   f. Based on your answer in (a) above, does the $3000 annual exclusion per donee apply? 2 points
   g. Did a taxable event occur in 1970? 1 point

4. Decedent transferred property in trust providing for payment of the income to W for life, remainder to S. But if S predeceases W, remainder to revert to decedent if living at W's death; if not then living then to X or his estate. Decedent is survived by W, S, and X. What interest, if any, is included in decedent's estate? 5 points
5. Grandfather gives property in trust: life income to father, remainder as father will appoint by deed or will to any of his children. At age 50 father appoints to S and D the whole property including the life income and dies 20 years later.

As to Grandfather:

1. Income tax consequences (this is a treacherous one, watch it!). Explain your answer. 3 points

2. Gift and estate tax consequences. 3 points

As to Father:

A. Assume that under the trust instrument he could not appoint the life income and therefore the trust must continue until his death (but nevertheless the income can be paid and was so paid to S and D).

1. Income tax consequences. 2 points

2. Gift and estate tax consequences. 3 points

B. Assume that under State law such an appointment terminates the trust and the trustee must distribute the corpus.

1. Income tax consequences. 2 points

2. Gift and estate tax consequences. 3 points

6. In 1960 H bought 100 shares of stock for $10000 and had it registered in the names of H and W as joint tenants. In 1965 the shares were worth $30000; H and W then purchased a home for $40000, giving the stock plus $10000 from W's separate funds, taking title as tenants by the entireties. In 1969 the home was worth $50000, at which time H made improvements on the home costing $5000, filing a gift tax return thereon. In 1972 they sold the house for $60000, bought another one (as tenants by the entireties) for 36000, and split the $24000 cash evenly. No gift tax returns were filed in 1965. Is there a gift in 1972, and if so how much? Do the problem step by step, as I can see what you are doing. Also determine the consideration furnished by H and W to the new home. 15 points

Note: By State law tenancy by entirety cannot be dissolved unilaterally by either spouse. W's factor is .6000

7. a. Father sets up trust in 1960: life income to W, then life income to S, power in S to appoint remainder by will to anyone, and in default of appointment remainder to D. S dies before W. What, if anything, is included in S's estate? 3 points

b. Same as above, except S dies after W. What, if anything, is included in his estate? What code section? 2 points

8. G creates a trust in 1960: life income to L, remainder to R. R has power to cause corpus to be distributed to L. R dies before L. What goes into his estate, under what section? Suppose R's remainder is conditioned on his surviving L (other facts are the same). What goes into his estate, under what section? 3, 4 points

9. F created a trust for various beneficiaries. In addition, he provided that his son S has a noncumulative right to withdraw $10,000 per year from the corpus of the trust. During 1970
S had a large income of his own and did not withdraw anything. The corpus of the trust in 1970 was $212,000. In 1976 he again did not withdraw anything. The corpus of the trust in 1976 was $100,000. What taxable events, if any, occurred in 1970 and 1976? 5 points

10. Decedent leaves property in trust for W for life, remainder to D, with power in W to appoint inter vivos the remainder to grandchildren, or to appoint by will to anyone (including her estate). She appointed inter vivos. What tax consequences occur? 10 points