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Estate and Gift Taxation: Final Examination (January 5, 1972)

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Estate and Gift Taxation (L89)
Final Examination
Prof. Fischer

Jan. 5, 1972

1. Father gives Son 1000 shares G.M. stock outright, but with the following condition: should Father become destitute Son (and/or his successors) will return it. To insure Father that the condition will be honored, Son signs a contract to that effect (and is actually paid \$1.00 for it) and the face of the stock certificate (which is now in son's name) is inscribed not transferable during lifetime of Father, except by his indorsement hereon.
 - a) Discuss in full all gift tax issues in regard to this transfer. (5 points)
 - b) Discuss estate tax issues in re Father if he dies during son's lifetime without having become destitute. (3 points)
 - c. Discuss estate tax issues in re Son if he dies during father's lifetime, without Father becoming destitute. (2 points)
- 2a) H transferred to W his savings account with life income to her (i.e. the interest to be hers) and the right to withdraw, during her life, the principal or any portion thereof. He retained the right to the income, along with the right to withdraw principal, if he survived her (assuming there was anything left at her death). (Remainder over--immaterial to this problem) H predeceased W at which time the corpus was still there, intact. (mirabile dictu!)
 - 1) Show why neither § 2036 nor § 2037 will put this in H's estate. (7 points)
 - 2) Does § 2033 catch it? If so, what problems will arise? (3 points)
 - 3) At the time of the original transfer is H subject to gift tax? Why? If so, on how much? (3 points)
- b) Decedent transferred stock reserving the first \$10,000 in dividends from the stock and died before he received that amount. What estate tax consequences? (2 points)
3. Decedent left property in trust for W for life, remainder to D, and gave W power to appoint the remainder to decedent's descendants by deed, delivered to the trustee during her life, or to appoint by will to anyone, including her estate. W appoints the remainder by deed to S. Upon the death of W what are her estate tax consequences in regards to this property. Explain clearly. (10 points)
4. Smartaleck transferred property to Doasitellyou, who later conveyed to T in trust for W for life, remainder to S and D equally, and provided that Smartaleck should have power to change the beneficiaries, except he could not name himself, his estate, or creditors as beneficiaries. Smartaleck is rich. Doasitellyou is an average citizen. When Smartaleck dies what will the position and argument of the I.R.S. be? (10 points)
5. H, on 4/23/71, transfers a residence to his aged father F, for life, with remainder to W if she survives F, otherwise to B.

Situation 1--H dies on 8/19/76:

- a) F is alive at H's death (2 points)
- b) F is not alive at H's death (2 points)

Situation 2--H dies on 8/19/72

- a) F is alive at H's death (3 points)
- b) F is not alive at H's death (3 points)

Discuss the marital deduction issue in all four of the above situations (does it exist, does it not, and why)

6. P was an equal partner with Q in a business. The partnership agreement provided that life insurance policies in amount of \$20,000 each be purchased on the lives of the partners, payable to the surviving partner, and the partnership shall pay the premiums on each policy. The right to change the beneficiary of each of the policies was reserved to the insured under the standard policy provisions. The decedent's estate was bound to transfer to the surviving partner all the interest in the partnership of the deceased partner for the proceeds of the policy. P died and Q turned over the policy proceeds to P's executor and the executor transferred P's interest to Q. P's estate tax return included the life insurance proceeds in the gross estate, but not the partnership interest. The Commissioner adjusted the return by including it (on top of the insurance). Comment on this. Who is right? (5 points)
7. G (50 year old) has twin grandchildren, A and B, each 10 years old. He wants to give them some property but does not know how they will turn out when they grow up so is afraid to give them property outright. However, he doesn't want to retain powers since he doesn't want the property in his estate. So he set up a trust for each: income for 20 years to each then distribute corpus. Should either die before the twenty years expires, trust is to terminate and corpus to go to S, G's son.
- a) Did G accomplish his purposes? (2 points)
 - b) Discuss all gift and estate tax consequences of this transfer. (3 points)
 - c) Would you have a better way to accomplish G's goals? (5 points)
8. Father 45, is a widower, has two daughters, 18 and 22 respectively. He owns Blackacre, worth \$100,000, and has a life income (ceasing at his death) sufficient to support him in the custom he is used to. He has exhausted his lifetime gift exemption with prior gifts and is in the 24% gift tax bracket. He intends marrying a woman with two children of her own, and fairly wealthy. He wants to take care of his two daughters now, before marrying. Advise him from a most economical gift-estate tax standpoint. You may assume that Blackacre is his only asset. (10 points)
9. In 1960 H bought 100 shares of stock for \$10,000 and had it registered in the names of H & W as joint tenants. In 1965 the shares were worth \$30,000; H & W then purchased a home for \$40,000, giving the stock plus \$10,000 from W's separate funds, taking title as tenants by the entireties. In 1969 the home was worth \$50,000, at which time H made improvements on the home costing \$5,000, filing a gift tax return thereon. In 1972 they sold the home for \$60,000, bought another one (as tenants by the entireties) for \$36,000, and split the \$24,000 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, so 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.