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TAX CONFERENCE

MARSHALL-WYTHE SCHOOL OF LAW
COLLEGE OF WILLIAM AND MARY

TWENTIETH ANNUAL CONFERENCE

ESTATE PLANNING TACTICS

THE USE OF TRUSTS IN ESTATE PLANNING

REVOCABLE TRUSTS

IRREVOCABLE TRUSTS

SHORT TERM TRUSTS*Don W. Llewellyn*

USE OF POWERS OF APPOINTMENT*Joseph Curtis*

THE MARITAL DEDUCTION

TECHNICAL PROBLEMS

ECONOMIC PROBLEMS

PROBLEMS WITH JOINTLY OWNED PROPERTY*Martin L. Fried*

THE USE OF SHAREHOLDER AGREEMENTS

IN ESTATE PLANNING*Robert A. Schmur*

POST DEATH ESTATE PLANNING*Kinsey Spotswood*

COLLEGE OF WILLIAM AND MARY IN VIRGINIA

WILLIAMSBURG, VIRGINIA

PREFACE

TAX CONFERENCE

This publication records the papers presented at the Twentieth Annual Tax Conference held in Williamsburg December 7, 1974. These Conferences are conducted by the Marshall-Wythe School of Law of the College of William and Mary as an adjunct to the graduate program in Law and Taxation. A list of prior Tax Conference publications may be noted on page 86.

These Conferences have for their objective the discussion of policy, technical and procedural matters of an advanced nature in the area of Federal, State and local taxation by recognized authorities for the enrichment of the Law School curriculum, and as a service of practical application to Virginia attorneys, accountants and representatives of business and industry.

It may be observed that those serving as speakers and discussion leaders for this and prior Conferences are distinctively representative Federal and State tax officials, tax practicing attorneys and accountants, and members of law school faculties. The College acknowledges with deep appreciation their significant contribution to these Conferences, and commends their participation in this leadership opportunity as a recognized exemplification of public service in the highest tradition.

The College also records its appreciation to the many attorneys, accountants, and representatives of business and industry who have responded so graciously by their participation in and support of these Conferences.

The printing of this publication is made possible by funds from private sources and the College gratefully acknowledges the support for such a worthy endeavor.

THOMAS A. GRAVES, JR., *President*
The College of William and Mary
In Virginia

Williamsburg, Virginia
February, 1975

LAW AND TAXATION AT THE COLLEGE OF WILLIAM AND MARY

THE MARSHALL-WYTHE SCHOOL OF LAW

A chair of law was established at the College of William and Mary by action of the Board of Visitors under the leadership of Thomas Jefferson, an alumnus and then Governor of the Commonwealth of Virginia, on December 4, 1779. The present Law School takes its name from the first occupant of this chair—George Wythe, signer of the Declaration of Independence, leading attorney of the age and later Justice of the Chancery Court in Richmond; and John Marshall, one of Wythe's first students and subsequently the great chief justice of the United States.

The first phase of the law program at the College of William and Mary extended from 1779 to 1861. Following the long years of suffering and devastation after the Civil War, the Law School reopened its doors in 1922. It became a member of the Association of American Law Schools in 1936.

THE PROGRAM IN LAW AND TAXATION

The Marshall-Wythe School of Law of the College of William and Mary established a program leading to the Degree of Master of Law and Taxation in September 1954.

This program is designed to fill a need for competently trained persons to serve the nation in any capacity where a thorough comprehension of all phases of taxation is an essential requirement. In the present complex status of our tax laws it requires joint consideration by a lawyer, an accountant, an economist, and an expert in business management in order to analyze properly all aspects of a tax matter. While the program does not presume to accomplish expertness in each of these fields, it is intended to equip the student with fundamental groundwork in all and as much of advanced study in each as relates directly to the field of taxation. All candidates for admission to this program must have received a baccalaureate degree and a professional degree in law from approved colleges or universities, and have attained grades indicative of their ability to do graduate work in law. Applicants who have completed the following courses as part of their baccalaureate work will be given preferential consideration:

Business Administration: Financial Management and twenty-four semester hours credit in courses in Accounting.

Economics: Principles of Economics, Money and Banking, Principles and Methods of Statistics, Public Finance, Fiscal Policy, International Trade and Policies, or the equivalent in content.

The graduate program then offers them a broad range of courses in Federal and State tax policy, tax law and procedures. Upon completion of the program, the successful candidates are awarded the Degree of Master of Law and Taxation. The College follows with great interest the service rendered by all recipients of this advanced professional degree. An outline of the requirements and a description of the courses are shown in the Appendix beginning on page 82.

TWENTIETH ANNUAL TAX CONFERENCE

PROGRAM PARTICIPANTS

JOSEPH CURTIS—Dean, University of Baltimore School of Law. Member: American Law Institute; Virginia Advisory Legislative Council Commission for Study of Public Defenders, 1966; Virginia Advisory Legislative Council Commission for Study of Recidivist Statutes, 1967; Virginia Commission on Conflict of Interests in Public Office, 1968; New York Bar; Virginia Bar. Attorney New York City 1938-1940; Assistant to the Dean, New York University 1946-1948; Professor Marshall-Wythe School of Law 1948-1964; Dean, Marshall-Wythe School of Law 1964-1969. B.S., LL.B., LL.M. in Taxation, New York University. Speaker at several tax conferences.

MARTIN L. FRIED—Professor of Law, Syracuse University College of Law. Member: New York Bar. Private Practice: New York City 1959-1968. Syracuse University since 1968; Visiting Associate Professor, University of Iowa 1971-1972. B.A., Antioch College; LL.B., Columbia University; LL.M. in Taxation, New York University.

DON W. LLEWELLYN—Professor of Law, Marshall-Wythe School of Law. Presently visiting Professor of Law, Temple University. Member: Pennsylvania Bar. Private Practice: 1962-1967. Assistant Law Professor Willamette University 1967-1969. B.A., Dickinson College; J.D., Dickinson Law School; LL.M. in Taxation, New York University Law School. Legislation Editor, Dickinson Law Review. Visiting Associate Professor of Law, Syracuse University College of Law 1971-1972. Author of several law review tax articles. Lecturer at tax conferences.

ROBERT A. SCHNUR—Member: American Bar Association; Wisconsin Bar; Illinois Bar; Milwaukee Bar Association. B.A., Cornell University; LL.B., Harvard University. Partner: Michael, Best, and Friedrich, Milwaukee, Wisconsin.

KINSEY SPOTSWOOD—Member: Virginia Bar Association; American Bar Association; American Council on Capital Gains and Estate Taxation. Vice Chairman of the Pre-Death Tax and Estate Planning Committee, Trust and Probate Division, American Bar Association; Contributing member Estate and Gift Tax Committee, Section of Taxation, American Bar Association; Past President of the Peninsula Estate Planning Council; B. S. C. and LL.B. University of Virginia; Trust Officer, Virginia National Bank.

HAROLD G. WREN—Dean T. C. Williams School of Law. Member: New York, Oklahoma, and Texas Bars. Sterling Fellow, Yale 1951-1952. Associate Professor University of Mississippi 1949-1954. Professor of Law: University of Oklahoma 1954-1957; Southern Methodist University, 1957-1965; Boston College 1965-1969; Lewis and Clark, 1969-

1972. Fulbright Resident Scholar, Waseda University, Tokyo, Japan, 1953-1954. Member: Reporter, Uniform Probate Code; Chairman, A.B.A. Commission on Small Estates; National Panel American Arbitration Association; National Panel Federal Mediation and Conciliation Service. Consultant, Trust Division, Central National Bank of Richmond since 1973. Author of several books on estate taxation and estate planning and corporate problems. Speaker at various institutes.

CONFERENCE ADMINISTRATORS

JAMES P. WHYTE, *Dean, Marshall-Wythe School of Law*

EMERIC FISCHER, *Professor of Law, Conference Director*

JOHN E. DONALDSON, *Professor of Law*

HARVEY FRANK, *Professor of Law*

MICHAEL T. MADISON, *Associate Professor of Law*

ARTHUR B. WHITE, *Professor of Law*

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Editor's Note: Dean Wren's discussion of Charitable Trusts was based on notes rather than a formal paper which made it impractical to include his statement in the published Proceedings. The omission from the record of his excellent discussion is regretted.