

## ESTATE PLANNING

Final Examination  
Spring 2006

Professor Ford

### Directions:

Please write on only one side of a page in the answer booklet. Skipping lines may be beneficial for you should you decide to make a change in your answer and need space to insert writing between lines. You are cautioned to read all questions fully before beginning. Thereafter, you should approach each question by making an outline of your answer so as to best organize your response. You may write your outline in a separate booklet. The outline is for your purposes and will not be considered any part of the examination answer. Pass in every booklet in which you write plus the exam sheets, inserting booklets one inside the other, after having written your student identification number, as well as the course title, on the front of each booklet.

Issue identification and discussion are most important. You are cautioned to follow an orderly, step-by-step pattern of analysis and response. This will help keep you on track and better allow me to understand your analysis and answer. Answer only the questions that are asked.

You will have three hours to complete this exam.

### QUESTIONS:

#### **Question 1 – 27 minutes – 15%**

Emily Jackson, a new client, has asked you about probate avoidance planning with regard to her property. She wants to know whether it is advisable in her case, and if so, what are its advantages and disadvantages, if any. Emily is 47 years old, divorced and mother of a daughter, Amy, 25 years old, and a son, Glenn, 20 years old. She owns a personal residence with a mortgage, has a small IRA, and modest additional savings.

How do you respond to Emily regarding her probate avoidance question?

**Question 2 – 54 minutes – 30%**

Helen Adams, 81 years of age, relates to you that her husband, Jim, 83 years of age, has Alzheimer's, but she is caring for him at home. He is still quite manageable for the present, but she has no idea for how much longer. They own their own home subject to a line of credit secured by a mortgage. It is worth \$300,000 and the balance on the line of credit mortgage is \$20,000. Jim has an IRA worth \$160,000 from which he is drawing \$2,000 per month, the minimum required distribution. They have joint ownership of a bank account with \$24,000 in it, and one automobile worth \$9,000. Helen has \$700 per month and Jim has \$1,200 per month in Social Security income. Helen and Jim have a son, Don, 57 years old, who is married with three children and who lives twenty minutes away by car. They also have a daughter, Marie, 53 years old, who is married with two children and who lives half way across the country. Helen says she has a power of attorney document from Jim, who cannot understand financial matters. She asks what can be done to protect their assets from nursing home costs.

What preliminary issues (prior to actual planning) do you need to discuss with Helen? What might be able to be done to protect assets against a spend-down upon Jim's admission into a nursing home? Explain your answers.

**Question 3 – 36 minutes – 20%**

Client as settlor just entered into a trust agreement with bank as trustee, funding trust with \$120,000.00 in cash. Trust provides for all income to be paid out at least annually to client's 18-year-old son, who is just starting a four-year college program, for his education and living expenses away at school. Trustee may use principal if income is insufficient for the college expenses. After son graduates from college, income is to continue to be paid to son at least annually, but trustee is without authority on its own to thereafter distribute any principal until son reaches 25 years of age. At that time, trustee is directed to distribute to son one-third of principal that is then in trust on son's 25<sup>th</sup> birthday, one-half of the then principal to son on son's 30<sup>th</sup> birthday, and all the then remaining principal to son on son's 35<sup>th</sup> birthday. At all times son is to continue to receive all income of trust at least annually. Client has power to accelerate distributions of principal to son during client's lifetime.

What are the income, gift and estate tax consequences of the trust arrangement during the lifetime of the client and upon the client's death, which occurs on the son's 30<sup>th</sup> birthday. Explain your answer.

**Question 4 - 27 minutes – 15%**

You represent Harold and Maude, ages 85 and 83 respectively. You have prepared their estate plans. Each plan includes a durable power of attorney, health care proxy and will, in which they each name each other as their agent or executor. In addition, each plan names their only child, Marsha, as their alternate agent or executor. Marsha, age 53, comes to you with her husband, Max, age 56, asking that you prepare their estate plans. Marsha and Max have two children ages 22 and 25.

How do you respond to Marsha and Max's request for your representation?

**Question 5 - 36 minutes – 20%**

Grandmother Gert settled a trust with stocks and bonds of her own. She has named a bank as trustee. She has retained the power to name a new trustee if the bank should cease to serve. The trustee is to use income and principal if necessary to pay for Gert's 18 year-old granddaughter, Jennifer's, education through college, including tuition, fees, books, laptop, miscellaneous supplies. Gert gave her son, Saul, Jennifer's father, the remainder interest in the trust to be paid to him upon Jennifer's college graduation or attainment of the age of 23 years, whichever comes first. Gert also gave her son, Saul, power to direct the trustee to make distributions of principal to him, Saul, in such amounts and at such times as Saul shall direct. Jennifer is a freshman at college. The trustee is paying from the trust for college expenses, exhausting income and, as needed, dipping into principal. The trustee has had to sell some stocks to get cash to pay college expenses.

Who has tax liability for the interest and dividend income of the trust? Who has the tax liability for capital gain income on sale of investments by the trust? In whose federal gross estate for estate tax purposes will the trust corpus be includable if he or she were to die now? Explain all answers.