

Estate Planning

Spring Semester 2010

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Class Meeting Times Tuesday and Thursday 10:30 – 11:55

Class Meeting Location – Room 446

Course Information and Policies

The first day of class is scheduled January 12, 2010.

Room number 446, Fourth Floor, Law School Building.

The class syllabus is intended to be posted on Blackboard site. This syllabus is subject to change.

Office Hours

I do not have an office or regular office hours at the law school but will be available to meet with you there after class or by appointment. Please feel free to contact me by email or phone with any questions, concerns, etc. that you may have. You are welcome to contact me at any time. If you have a specific question relating to a question on a quiz or an exam which affects all students, please understand I may need to share the discussion or answer with all students.

Description

Spring 2010 Description for LAWS 826

This course will include the theory and actual practice of estate planning. It will emphasize the ways in which tax and non-tax goals influence estate planning. There will be strong emphasis on the way innovative techniques influence the delivery of your legal services. Innovative modern drafting techniques, including web-based techniques, will be evaluated and used as a teaching tool.

(3 credits. Offered yearly.)

Prerequisite: LAWS 859 Wills, Trusts, and Estates I

Disability Statement

Qualified students with documented disabilities who may need classroom accommodations should make an appointment with the Enhancement Program – Disability Services office. Appointments can be made by calling 651-962-6315. You may also make an appointment in person in O'Shaughnessy Educational Center, room 119. For further information, you can locate the Enhancement Program on the web at <http://www.stthomas.edu/enhancementprog/>.

Required Texts or Materials

Beyer, Estate Planning, Third Edition (2004/2005 Edition), Thomson West.
Required Text. This is different from last year's text. Available at the bookstore.

1. Selected Sections of Internal Revenue Code and Regulations – Possible CCH or West or other texts to be announced in class
2. Selected Minnesota Probate and Tax Statutes. Selected Minnesota Title Standards. To be announced in class.

Course Grade

I will use a point system. Each student can earn a maximum of 1,000 points. Quizzes and projects will count for up to 250 points. Mid-Term assignment will count for 250 points and be due prior to Spring Break. Final exam will count for 500 points.

Objectives

1. Goals. Understand and be conversant concerning the basic goals of all estate planning clients and how the law affects those goals both in the absence of estate planning documents and with the assistance of estate planning documents.
 - a. Tax goals
 - b. Non-Tax goals
2. Tools. Understand and be conversant in each of the tools in the estate planner's toolkit, the purpose, essential uses, limitations and features of each:
 - a. Wills
 - b. Trust Agreements
 - c. Powers of Attorney
 - d. Health Care Directives
 - e. Consent to Multiple Representation
 - f. Consent to Spouse's Will and Trust (where applicable)
 - g. Bills of Sale
 - h. Deeds
 - i. Tangible Personal Property Lists
 - j. Beneficiary Designations
 - k. Instructions as to Re-titling assets
3. Apply Critical Thinking. Apply critical analytical thinking leading different hypothetical clients having various hypothetical assets through the estate planning process:
 - a. Married, unmarried
 - b. No children, one child, multiple children
 - c. Various ages, young, middle age, retirement age, beyond.
4. Awareness of Resources. Have an overview and compare the various (old and new) resources existing to support an estate planning practice:

- a. Code
 - b. Regulations
 - c. Revenue Rulings
 - d. Statutes
 - e. Texts, including Beyer
 - f. Rules of Professional Responsibility
 - g. Periodicals and Continuing Legal Education, Seminars
 - h. Forms and Form Books
 - i. CD's
5. Innovations. Learn about and understand thoughts principles behind innovative modern drafting techniques, client-focused interactive interviews and web-based document assembly. Understand the possibilities of the coming techniques.

Your acquiring a deep practical understanding of the basics and useful fundamentals is a goal for this class. Success in estate planning involves helping lead the client and helping those clients accomplish *their* goals.

Rarely used or highly sophisticated estate planning techniques will not be emphasized. They should be the subject of an advanced estate planning class or advanced seminar.

Attendance

Regular attendance is required. In accordance with the regulations of the American Bar Association, “regular and punctual” class attendance is required, and you should be in your seat ready to start class at the scheduled time. See ABA Standard 304(d) and Interpretation 304-6: <http://www.abanet.org/legaled/standards/chapter3.html>. If you want an absence treated as excused, please provide me with a written explanation (email is acceptable) of why your absence was unavoidable and beyond your control. If you have more than three unexcused absences, your final grade will be reduced by one grade increment for each unexcused absence in excess of three. For example, a student with four unexcused absences and a final grade of B- will receive a C+ as a final grade. I will allow one excused absence for a mentor experience after you give me a copy of a completed log entry submitted to the Mentor Program.

Class Preparation

I expect you to complete the assigned reading and work through the assigned exercises in advance of class. You should be prepared to participate in the problems we cover. If you are unprepared for class, I will treat the lack of preparation as an unexcused absence for purposes of the attendance policy and reserve the right to reduce your final grade.

Assignments (Subject to Change)

The Casebook is about 910 pages in length, plus an appendix. We have 26 class periods totaling 39 hours. We are not going to read the entire text.

There are parts of the text which are less important than others.

Some matters you can skip, some you can skim, some you should carefully **study** and read and re-read. Some parts or concepts may become irrelevant by the time you enter law practice depending upon both scheduled and unscheduled future changes in federal estate tax law.

Part Two, *The Practice*, starting at Chapter 8 contains important practice information. In the classroom I intend to balance law, theory and practice.

Class discussion will not always follow the text. I have some Powerpoint demonstrations and a web instance of a document drafting system we will be demonstrating, analyzing and experimenting with. I plan to give document drafting assignments.

We may use hypothetical cases and real life situations as models for review, discussion, analysis and debate. We will have in class demonstration of innovative document assembly.

Students will be expected to follow the reading assignments in addition to following the classroom teaching.

January 12 First Class. Orientation. No reading assignment.

Required Reading

January 14 Read Chapter 1 Pages 1-19. Pages 849-866. Forms.

In-Class Demonstration - Redfield

January 19 Read Chapter 2 Section B *Wills*, pages 22-45. Will-Based Plans versus Trust Based Plans.

Assign Drafting Project 1

January 21 Read Chapter 2 Sections C and D *Estate Administration* and *Trusts*, pages 46-74, and Chapter 3 *Probate Avoidance Techniques*, Sections A through F.

January 26 Read Chapter 3 Sections G through K, *Pay/Transfer on Death Property, Life Insurance, Annuities, Retirement Plans, Deferred Compensation Contracts*, pages 107-124

January 28 Drafting Project 1 Due. Read Chapter 4 Sections A through C *Tax Planning, Gift Tax Overview, Estate Tax Overview.*

Review and Discuss Drafting Project

February 2 Read Chapter 4 Section D and E *Transfer of Basis and Marital Deduction* pages 178-212.

Feb 4 Read Chapter 4 Sections F, G, H and part of I on *ByPass Planning and Generation-Skipping Transfer Tax*, Disclaimers and Inter-Vivos Trusts up to but *not including* Grantor Retained Interest Trusts pages 212 -239

Feb 9 Read Chapter 8, Section I *Professional Responsibility*, pages 602-642 .

Assign Drafting Project 2.

- Feb 11 Read Chapter 8, Section J *Malpractice*, pages 642-653
- Feb 16 Read Chapter 4 Sections J *Life Insurance* and K *Business Interests*, pages 258-280
- Feb 18 Drafting Project 2 Due. Read Chapter 4 Section L *Employee Benefits*, pages 280-303

Review and Discuss Drafting Project

- Feb 23 Read Chapter 4 Sections M *Charitable Gifts* and N *Post Mortem Planning*, pages 303-336,
- Feb 25 Read Chapter 5 *Disability Planning* Sections A through C pages 337-365 by February 27. Skip Sections D and E.

Mar 2 Read Chapter 6 Section H *Medicaid Planning*, pages 440-458

Mar 4 Read Chapter 7, Sections A and B, pages 459 – 479

Mar 9 Drafting Project 3 Due. Review Chapters 2-7

Mar 11 Mid-Term Exam

Mar 16 Chapter 8 Sections B and C, *Securing Employment in the Estate Planning Field* and *Obtaining Clients* pages 558-563.

Differences of Three Married Models- Common Law States

Mar 18 Chapter 8 Sections D, *Client Interview*, pages 563-578

Differences of Three Single Models

Mar 23 Chapter 8 Section E and F, *Information and Document Collection* and *Attorney/Client Relationship* pages 576-583

Differences of Three Married Models – Community Property States

Mar 25 Chapter 8, Section G *Fees*, pages 583-590

April 6 Chapter 8, Section H *Fiduciary Selection*, pages 590-602

April 8 Chapter 8, Section K *Role of Legal Assistants*, pages 653-659

April 13 Chapter 11, Sections F and I. Chapter 12 Section D. Execution, Review, Duties to a Deceased Client.

April 19 Chapter 12 Sections A, B, C and E. After Client's Death. Last Day of Class

FINAL EXAM (date to be determined)