
Preface

This textbook began almost 30 years ago as a set of problems to supplement a casebook. Then it grew. The book reflects the input of the many students who have taken my course over the years; their analyses of the problems as well as their comments, questions, and suggestions have greatly influenced the final product. I am most grateful for the contributions of my research assistants who have worked on this and related projects. This book is designed for problem-centered teaching. The problems focus primarily on the rules of law contained in the Code, the regulations, the cases, and the administrative interpretations. They also provide a base for discussing policy and planning. This book is also designed for teaching the fundamentals of transfer taxation, and it does not explore advanced estate planning techniques in any depth.

The past 15 years have seen much rhetoric about the so-called “death tax” and its effect on family farms and businesses. Congress did enact a repeal of the estate and generation-skipping taxes, but that repeal was short-lived. While the exemption amounts have increased and the maximum marginal tax rate decreased, the substance and structure of all three transfer taxes remains essentially the same. That is not to say that there have not been changes. Courts continue to refine doctrines to balance the taxpayer’s right to structure her transactions to minimize tax with the taxpayer’s attempt to evade taxes through devices and schemes designed to obscure the substance of the transaction.

The amendments to §2010(c) and §2505 that allow a surviving spouse the benefit of her deceased spouse’s unused exemption amount changes the estate planning landscape for married couples. The landmark Supreme Court decisions in *United States v. Windsor* and *Obergefell v. Hodges*, while significantly impacting tax consequences for same-sex couples, do not alter the substance of the marital deduction.

There continue to be bills enacted that would repeal the estate tax. There also continue to be proposals to reform all three transfer taxes. Congress has not taken up either since the 2012 Tax Act. It is impossible to predict what might happen. The state of the economy as well as political sentiment will undoubtedly influence the final solution. One should also remember that politics plays a central role in all tax legislation.

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