

## Chapter I

### Course Description

#### A. How to Use This Book

The purpose of this book is to educate readers about the tax and property law issues involved in planning the transfer of property after death. It is not intended to be and should not be considered as legal advice to those who read it. Information provided here will help people who want or need legal advice to understand the questions they must answer, the problems with which they must deal, and some of the choices and options that are available to them as they plan their own estates.

As described in more detail below, the book is divided into chapters to make the discussion more focused. Chapters II through VI are the “basic” chapters: They include information about transfer methods and tax implications that nearly everyone will face. Chapters VII through X are focused on particular issues that might not be involved in estate plans. We suggest the reader decide which of the specific chapters to read based on personal interest in the topics or desire to use the strategies. Chapter XI describes a series of estate planning strategies specifically directed to forest land owners. Chapter XII presents a series of estate planning problems and notes several ways to approach each of them. This chapter is useful after the reader has gained an understanding of the material. Review of earlier chapters is encouraged. Chapter XIII is a series of short forms that will allow readers to begin the process of planning their own estate by preparing an inventory of their assets. This inventory will assist in identifying crucial issues and thereby help focus the plan that is ultimately prepared.

#### B. Course Objective and Purpose

Estate Planning Opportunities and Strategies for Private Forest Landowners is an outreach education course designed to acquaint readers with fundamental issues involving transfer of property following the death of the property owner. Although awareness of these issues through personal experience prompts many people to consider lifetime planning for this transfer of property, estate planning also involves other important lifetime decisions. This course will examine each of these issues in some detail.

In addition to this basic approach to understanding estate planning opportunities and issues, this course is designed to include a planning strategy component that focuses specifically on the needs and circumstances of private forest landowners. The audience we hope to reach includes private forest landowners in the northeast region of the United States. Our materials contain information on the planning issues relevant under federal estate and gift tax law as well as state inheritance and estate tax laws in each of the northeastern states. Planning strategies will incorporate consideration of these laws in analysis of various options. While this publication was being written a major change in the tax law took place in June 2001. We have incorporated these changes into the text to make it more useful and up to date. There is a possibility that

further changes will occur in the near future. Always check the accuracy of information on tax law-related issues.

The focus of the course is on the estate planning situation of private individuals who own forest land and other assets. These individuals are concerned about the future use and ownership of their asset and they fear that without proper planning, the investment potential of the assets and the prospect of long-awaited returns may be lost. Two of the least understood aspects of forest management by landowners are the role of forests in their estate, and the need for coordinated planning to avoid conflicts and compromises that threaten achieving desired goals and objectives. In many respects, their situation is identical to that of other individuals and their families. In some respects, planning choices and opportunities available to forest land owners and their heirs are unique. The course attempts to address both aspects of the subject, pointing out, where applicable, those provisions that have limited application. Although the title might suggest a narrow discussion, it is intended to be much broader. Both non-forest landowners and forest landowners will find interesting and useful information in the course

The course is written for an average lay person who is not experienced with property transfer or death tax issues, but who has an interest in knowing more about them. Bank trust officers, insurance agents, financial counselors, accountants, and others whose interests or employment involve them in these issues will recognize that this course is not as exhaustive a treatment of the topic of estate planning as it would be if it were written for a professional financial or estate planning advisor audience. This decision was intentionally made to limit the scope of the material and the level of discussion so it would help property owners understand what estate planning is about.

The objective of the course is to help you understand how issues arise in these estate planning situations. The issues may involve ownership of property, particularly forest land, organization and operation of businesses and interests in various types of business organizations, or the several income or inheritance tax issues that apply to the transfer of property during lifetime and after death. Increased understanding will aid in evaluating the application of these issues to individual situations and improve your decision-making capability in relation to property.

Although the course is intended to increase your knowledge and understanding about this subject, it is not intended to be and should not be interpreted as legal advice or opinion concerning these issues or their application. As will be seen in the discussion of income and estate tax issues, this is a detailed and complex matter. Professional advice and counsel are needed to apply these ideas to actual situations. This advice and counsel can only be given after a thorough review has been made by someone competent to evaluate the situation and offer advice. The course does not provide this advice and is not intended to replace the need for it.

### **C. Overview of Content**

In Chapter II, the term *estate planning* is defined to assist you in understanding the scope of the topic. In this discussion, *the tools of estate planning* and the important role that families play in designing effective plans is described. The concept of an *estate planning team* and the

composition of that team is discussed. This focus is intended to introduce you to the basic framework within which lifetime planning takes place to influence lifetime and after death matters.

In Chapter III, the topic of managing forest lands in the northeastern states will be discussed, including such key topics as the importance of establishing forest management objectives, identifying your role as a forest land manager, developing your forest management plan, the role of forestry professionals, forming forest management contracts and finding forestry assistance of various kinds.

Chapter IV discusses four ways by which property is transferred after the property owner's death. ***Transfer by operation of law, through a will, under an intestate distribution statute, and under the terms of a living trust*** are described and compared to each other. General information needed to prepare wills and living trusts are identified. Ownership of property by a single individual or jointly with two or more people is discussed in terms of identifying when ***joint interests*** exist and the characteristics of each form. In comparing the forms, consideration is given to the method by which the transfer takes place and costs associated with it.

Chapter V introduces the topic of ***the tax impacts of property transfer***. The chapter discusses various ***state and federal death, inheritance and gift taxes***. In the discussion, consideration is directed to identifying when the tax applies, how it is calculated, when it is due, and who is obligated to pay it. Within the last few years, tax laws were frequently amended and the discussion focuses on the interrelationship among taxes that must be identified in the planning process.

Chapter VI addresses how taxes that apply to various types of estate are calculated. Included in this discussion are topics that include how property of various types is valued under a series of both general and special rules that apply to various kinds of property. In much of this discussion, the focus is on solving practical problems that face estates in these situations.

Chapter VII discusses the concept of ***lifetime gifts of property*** as a means to shift property from one owner to another to achieve a particular planning objective. The emphasis of this chapter is to explain what constitutes a gift for property transfer purposes and the tax issues and matters that arise when a gift is made. These tax issues involve income, inheritance, and gift tax considerations.

Chapter XI addresses the estate planning opportunities provided by using trusts created either during lifetime or after death. This chapter will explain the essential elements in the creation of a trust discuss typical situations in which a trust can be used. This discussion will help to explain the various forms that trusts take and the essential requirements they must meet.

Chapter X examines the role that ***life insurance*** plays in estate planning. Life insurance products have many different forms; the chapter describes the most common ones. Life insurance is also subject to particular treatment under state inheritance and federal estate tax law and the chapter describes the treatment and issues associated with it.

Chapter XI brings together the various issues and concepts of estate planning and applies them to an estate plan involving a variety of assets, including various quantities of private forest land. Pre-planning information and key decisions are discussed along with strategies for employing the various techniques and opportunities described in other chapters.

Chapter XII addresses a series of additional problems and issues that arise in planning estates that include forest land assets of one type or another. This chapter will give you additional opportunity to evaluate the application of planning strategy.

Chapter XIII outlines the steps needed to gather the information needed to develop the plan. This is information you will need to begin the evaluation of your own situation.

### **Performance Objectives - Study Hints**

At the end of all chapters except Chapters I, III and X through XIII, you will find a series of multiple-choice questions that ask you to evaluate the facts in the situation and address a specific question about it. Each question is intended to evaluate how well you understand the concepts in the chapter and how you will apply these concepts to new situations. You may be asked to compare several concepts on one point or test your understanding of the concept and the situations where applicable. In addition to the multiple choice questions you will also find several short essay questions for you to consider. These questions involve greater analysis of the situation and help you to understand how the various strategies will work in a given situation.

One of the most common errors in answering multiple-choice questions has to do with not carefully reading and understanding the question. As a result, students respond to what they think the question is asking rather than what the question actually is asking. In some cases these differences are very significant. To avoid this problem, please take your time and carefully read the question before responding. Taking this additional time will prevent wasted effort.

Good luck!