COURSE DESCRIPTION

The course provides an in-depth look at the federal transfer tax rules -- Chapters 11 through 14 of Subtitle A of the Internal Revenue Code. In the course, we shall attempt to blend theory with practicality, so that by the end of the semester you have begun to develop a framework of thought that is at once both useful and conceptually sound.

In order to facilitate the learning process, our course is “web-enhanced” using the same system used for our cyber-courses -- Moodle. On the web, the course is organized in step-by-step modules. There you will be able to revisit all of the material discussed in class.

**Prerequisites:** TA 318 and TA 329

COURSE OBJECTIVES

Upon completion of the course, you should have a technical, theoretical and practical understanding of the federal transfer tax system. Our specific course objectives are threefold:

1. To provide you with an overview of the federal transfer tax system; in particular, with the workings of the federal estate tax.
2. To arm you with sufficient knowledge to be able to prepare a Form 709 and a Form 706 for a simple estate.
3. To review the relevant changes in the law brought about by recent legislation and judicial action.

We will also strive to assist you in developing your analytical skills through the use of the Code, regulations, and case law as they apply to each of these areas. The problems in the WG&L Study Problems guide are designed so that you must apply principles of theory (from the assigned reading) and practice (covered in both the reading and the information found on line).

**Note:** This course is *not* designed to familiarize you with specific estate planning techniques, although the types of planning vehicles that are commonly encountered will be discussed to the extent necessary to satisfy the course objectives mentioned above. It is also *not* designed to teach the income tax rules applicable to estates and trusts.
COURSE MATERIALS

The following materials are required for the course:

1. **Federal Estate and Gift Taxation, (8th Ed.);** Stephens, Maxfield, Lind, Calfee and Smith; Warren, Gorham & LaMont (*with 2012 Cumulative Supplement*)
2. **Federal Estate and Gift Taxation, Study Problems (8th Ed.);** Warren, Gorham & LaMont
3. **Estate and Gift Taxation Codes and Regulations, CCH**

Due to the many changes wrought by the 2001 and 2010 Acts, it is *paramount* that you utilize the 2012 supplement to the main text. In addition, you may wish to resort to other materials to aid in your studies. Many portfolios in the BNA series provide useful, in-depth analysis of a variety of issues effecting estate, gift and generation-skipping transfer taxation.

Book Store

To purchase course books and materials from eFollett, GGU's official online bookstore, go to [www.ggu.bkstr.com/](http://www.ggu.bkstr.com/).

OFFICE HOURS

I am generally available immediately before and after class each Thursday. You may also reach me by e-mail.

GRADING

Each student's grade will be based upon total points earned on the midterm and final examinations, and class participation, weighted as follows:

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<tr>
<td>Midterm</td>
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<td>Final</td>
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<td>Total</td>
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What this means is that I will weigh the exam on which score your highest percentage at 60% of your grade, and the exam with the lower score will be weighed at 40%. In addition, class participation will be taken into account in setting the class curve.

Class Participation

Though not a formal part of your grade, "**effective participation**” can add up to 5% to a student’s overall points. I realize that class participation can be a rather nebulous thing to grade, but the gist of it is that you have provided meaningful input for all of us involved in the course. What that means is that generally, anything that will assist the
class in its understanding of the material or otherwise add to the educational experience is “effective participation”. Examples include providing a complete answer to a question posed by me or another student, raising a technical question related to the material being studied, responding to any comments made by me or another student with critical analysis of your own, and informing us of developments in the law that are relevant to our course. And here’s a big one, because this is a particular pet peeve of mine – asking a question that has already been asked and answered is not only not effective participation, it can also be quite annoying to both me and your fellow students. So unless you are going to add something new to the discussion, don’t rehash what has already been dealt with. Don’t get me wrong. If you don’t understand what is being said, please ask for clarification. That is why you’re here, isn’t it?! Just be specific about what it is that isn’t making sense to you. (That is effective participation.) As I mentioned above, I will take into account both your participation in the live classroom and in the cyber classroom.

Examinations

You will be taking two examinations over the course of the semester -- a midterm and a final examination. The midterm exam is a take-home exam that you'll find in the cyber version of the course under "Midterm Exam" at the bottom of the main web page (entitled “Course Content”). You'll have three weeks within which to complete it. It will be posted on Thursday, 10/11/12, and is due at the beginning of class on Thursday, 11/1/12. Be forewarned: it will take you between 20 and 30 hours to complete it, so you should get started on it right away! The final is an "in-class" proctored exam. The final is scheduled for the sixteenth week of the semester, and must be taken on Thursday, 12/13/12.

Midterm Exam. The midterm exam involves a decedent’s estate. It requires that you analyze a variety of property interests, liabilities and expenses, and determine their proper estate tax treatment. You will also be required to prepare Form 706 for the estate. As is explained in more detail below under "Academic Integrity", you may work with one another on this project so long as the final work product you submit to me represents your own work. And since it is a take-home exam, you may freely use any materials at your disposal. After I grade your midterms, I will assign you a letter grade to give you an indication of how well you are doing in the course. With the exception of students withdrawing from the course, (see "Withdrawals and Incompletes" under "Administrative Policies" below), these letter grades have symbolic meaning only. I.e., your final course grade will be based upon total points earned on your midterm and final exams, and through class participation, with points being taken into account on a weighted basis as indicated above.

Final Exam. On the final, you will be tested on the material covered after the midterm – i.e., the final is not a comprehensive exam per se. Specifically, this means that the final will cover the gift tax and the generation skipping transfer tax. Both an overview of the material covered and a practice exam will be available to you in the cyber version of the course on the main web page under “Week 15”. The only materials you may have access to during your final are the course materials, your notes, the Internal Revenue
Code and Treasury Regulations. You may not have access to any other materials. 

Note: for your final exam, (which, again, is a proctored exam), no computer access is allowed. Exceptions to this rule will only be made for certain documented disabilities. In addition, you may not have access to a cell phone during the exam. A calculator is permissible provided it is a stand-alone device. (I.e., it cannot be a calculator application found on a computer or cell phone.) Should you use a computer of any kind or cell phone during the exam without prior authorization from me or cheat in any other fashion, (e.g., by using unauthorized materials), I will take your exam away from you immediately.

**Timely Completion of Assignments/Exams**

Generally no late work will be accepted without prior instructor approval. Since there are no weekly assignments for you to turn in, this means that the midterm must be turned in on or before the date specified in the syllabus, and the supervised final exam must be submitted in accordance with its instructions. Failure to comply with this rule means that the student will be assigned no points for the missed assignment, and the student's grade in the class will be determined on the basis of points earned on timely submitted assignments and through class participation.

**ADMINISTRATIVE POLICIES**

I shall administer the course in accordance with Golden Gate University policies and procedures. They can be found in the Griffin Student Handbook, (hereafter “the Handbook”), by going to the “Student Services” link on the University’s home web page, and from there, clicking on the “Advising Services” link, then finally the “Student Resources” link, or by typing in the following url: http://www.ggu.edu/student_services/advising_services. Below you will find an explanation of how I will apply these rules to some of the more commonly encountered problems. Exceptions to these rules will be made only in extraordinary situations.

**Academic Integrity**

I shall abide by the University’s Standards on Academic Integrity, and I hold you responsible for acting within these standards. (The standards may be found in the Handbook, and they are further explained in the Student Guide to Academic Integrity, which you can access by going to the Student Services link on the University’s home web page, and from there, clicking on the Classroom Guidance and Student Resources link, or by typing in the following url: http://www.ggu.edu/student_services/classroom_guidance_student_resources.) Any students found guilty of cheating or plagiarism will be punished to the fullest extent possible under University guidelines.

Because there are only two graded items that count toward your grade -- your midterm and your final -- the opportunities for academic dishonesty are limited. Your midterm examination is a take-home exam. You will have three weeks within which to complete it. Since I am in no position to prevent students from talking to one another during this period, I do not prohibit them from doing so. You may talk to one another during this
three-week period. However, the work you hand in must be your own. If, in my vigilant reading of your papers, it appears to me that two or more students are handing in the same work either in whole or in part -- i.e., the same or substantially identical language, format and/or analysis are utilized -- all of these students will be dealt with accordingly. Also, be aware that I use the same basic facts in my midterm each semester. However, I do make some changes to the posted exam, and as you'll discover, I do not provide you with all of the information you require to complete the assignment. And I change these “hidden facts” each semester. Once you’ve all completed the exam, I’ll provide you with a sample solution. Since the facts will have changed from previous semesters, any solution you may have from fellow students who have taken this course from me in the past won’t be as helpful as you might have thought. So if you turn in a paper based upon one of those old solutions – and it will be easy to spot, because your facts will be different – I will treat this in the same manner as any other form of cheating. Your final is an “in-class” examination. Your access is limited to the course materials, your notes, the Internal Revenue Code and Treasury Regulations. You may not have access to any other materials. In addition, you may not have access to either a computer or a cell phone during the exam. As such, the only way one could cheat would be to copy off of another student’s paper, use unauthorized materials, use a computer of any type, or take out a cell phone. Be forewarned -- your final exam will be proctored! Anyone caught cheating on the final -- either in the act (by your proctor) or upon reading your exams -- will likewise suffer the sanctions permitted under University policy.

Withdrawals and Incompletes

Students wishing to withdraw from, or take an incomplete in the course must do so in accordance with the University’s policies on withdrawals and incompletes. (See the Handbook.)

A student desiring to withdraw from the course may do so at any time during the first ten weeks of the semester, (termed the "voluntary withdrawal period"), by completing an Add/Drop form and submitting it along with the applicable fee to the Registrar. (Add/Drop forms may be completed through GGU4YOU.) After the voluntary withdrawal period, a grade of "W", (signifying a withdrawal from the course), may only be awarded by me. I will award it to any student (i) who makes their request prior to the final exam, and (ii) who is in good academic standing in the course at the time they make their request. To be "in good academic standing in the class", the student must have a grade of at least "B". I will make that determination by relying on the grade earned on your midterm and your homework and participation status to date. (See "Grading" above.)

I will award a grade of "I", (signifying an incomplete in the course), to a student who wishes to be given additional time to complete the course provided the student (i) makes their request prior to the final exam, (ii) is in good academic standing in the course at the time they make their request, and (iii) needs additional time due to unforeseen and fully justifiable circumstances. An appropriate deadline for completion of the course will be set. This deadline will in no event be later than the last day of the next
succeeding semester, although it may be of a shorter duration. Also be aware that the exam given to a person being allowed to take the final at a later date will be different than the exam given to the class. If the student fails to complete the course by the agreed upon date, the missing work will be treated like any unapproved late work, and the student’s final course grade will be determined accordingly. (See "Grading", above.) Note that the award of an "I" only provides the student with additional time within which to complete the course; it does not allow the student to sit in on the same course in a subsequent semester. Furthermore, a student requesting an incomplete will not later be allowed to withdraw from the course.

Students requesting a withdrawal or an incomplete after an assignment is due without having handed in that assignment, (e.g., either the midterm or final exam), will be treated in the same manner as any student who missed an assignment without prior approval. (See "Grading", above.)

**COURSE SCHEDULE**

Here is our schedule showing your homework assignments: both the materials you must read and the homework problems you should be prepared to answer in class. “SML” refers to the textbook. Web refers to the on-line material for our course. Lastly, “SP” refers to the study problems book. In addition to (or in lieu of) problems in SP, we will also be using problems of my own design. You’ll be provided with them in a separate document.

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| 8-30 | *Course Introduction/The Estate Tax Computation*

**Part I: Introduction**

Reading: **SML**: Chapter 1

Problems: None

**Part I: The Estate Tax Computation**

Reading:  
**Regs**: 20.2013-1 through -5  
**SML**: ¶¶2.01 (Supplement only), 3.01, 3.02 (Supplement only), 3.04, 3.05 [1] - [4] and 3.06.

Problems: **SP**: Problem 1 (revised) and Week 1 problems below
9-6  
*Introduction to the Gross Estate/State Law Concepts*

Reading:  
**Code:** None  
**Regs:** None  
**SML:** None  
**Web:** Modules 3 and 4 under Week 2

Problems:  
**SP:** None, *but* see Week 2 problems below

9-13  
*Valuation*

**Part I: Valuation Generally**

Reading:  
**Code:** 2031, 2032A, 2703, 2704, 7520, *skim* 2040  
**Regs:** 20.2031-1 through -9 and -7T, 20.7520-1 and -3  
**SML:** Chapter 4, ¶4.01, 4.02[1] - [5] and 4.04[1] - [6], and  
Chapter 19, ¶19.04 and 19.05

Problems:  
**SP:** None, *but* see Week 3 problems below

**Part II: Alternate Valuation**

Reading:  
**Code:** 2032  
**Regs:** 20.2032-1 and Prop. Reg. 20.2032-1  
**SML:** Chapter 4, ¶4.03

Problems:  
**SP:** None, *but* see Week 3 problems below

9-20  
*Gross Estate: §§2033, 2040 and 2041*

**Part I: Property in which the Decedent had a Beneficial Interest**

Reading:  
**Code:** 2033, *skim* 691(a), 1014 and 2034  
**Regs:** 20.2033-1  
**SML:** Chapter 4, ¶4.05

Problems:  
**SP** Problem 2, *Questions 1 and 3 and* Week 4 problems

**Part II: Joint Interests**

Reading:  
**Code:** 2040  
**Regs:** 20.2040-1  
**SML:** Chapter 4, ¶4.12

Problems:  
**SP** Problem 8, *Questions 2, 4, 5 and 6 and* Week 4 problems
9-20 (cont’d)

Part III: General Powers of Appointment

Reading:  
**Code**: 2041  
**Reg**: 20.2041-1, -3  
**SML**: Chapter 4, ¶4.13, except [6]

Problems:  
SP Problem 9, *Questions 1, 4 and 5 and* Week 4 problems

9-27  
**Gross Estate: Pullback Rules**

Reading:  
**Code**: 2036, 2037, 2038, 2043(a), 2702  
**SML**: Chapter 4, ¶4.08, ¶4.09, ¶4.10, *skim* Chapter 19, ¶19.03

Problems:  
SP Problem 4, *Questions 2, 7, 8 and 9*; SP Problem 5, *Question 3*; SP Problem 6, *Question 1 and* Week 5 problems

10-4  
**Gross Estate: §§2042, 2035 and 2039**

Part I: §2042: Insurance on the Life of the Decedent

Reading:  
**Code**: 2042  
**Reg**: 20.2042-1  
**SML**: Chapter 4, ¶4.14

Problems:  
SP Problem 10, *Questions 3 and 5 and* Week 6 problems

Part II: §2035: Transfers in Contemplation of Death

Reading:  
**Code**: 2035  
**Reg**: None  
**SML**: Chapter 4, ¶4.07

Problems:  
SP Problem 3, *Question 2 and* Week 6 Problems

Part III: §2039: Annuities

Reading:  
**Code**: 2039  
**Reg**: 20.2039-1, -1T  
**SML**: Chapter 4, ¶4.11

Problems:  
SP Problem 7, *Question 1 and* Week 6 problems
10-11 Introduction to Estate Tax Deductions/Marital Deduction

Part I: Introduction to Estate Tax Deductions

Reading:  
**Code:** None  
**Regs:** None  
**SML:** Chapter 5, ¶¶5.01 and 5.02

Problems: None

Part II: §2056: Marital Deduction

Reading:  
**Code:** 2056, 2056A, 2523, 2044, 2519, 2207A  
**Regs:** All regs. under 2056; 20.2056A-1 through -6, -11; 20.2044-1(e) ex. 8  
**SML:** Chapter 5, ¶¶5.06 and 5.07

Problems: Problem 14, Questions 3, 5, 7 and 8 and Week 7 problems

10-18 Expenses of Administration and Claims/Charitable Deduction

Part I: Expenses of Administration

Reading:  
**Code:** 2053, 2054, 642(g)  
**Regs:** All regs. under 2053, 1.642(g)-1  
**SML:** Chapter ¶¶5.03 thru 5.04

Problems: SP Problem 12, all questions and Week 8 problems

Part II: §2056: Charitable Deduction

Reading:  
**Code:** 2055  
**Regs:** Skim regs under 2055  
**SML:** Chapter ¶5.05[1] thru [3] only

Problems: SP Problem 13, all questions and Week 8 problems
10-25  Return Preparation and Procedural Rules

Reading:  **Code:** 2002, 2203, 2204, 6018, 6075, 6081, 6151, 6161, 6166, 6324, 6601(j), 6651, 6901(j), 2053(c)(1)(D), 163(k)
**Regs:** None
**SML:** None

Problems: None

**Midterm Review:** As you can see, you have virtually no homework for this week. This is to enable you to complete your midterm on a timely basis, and to allow us time in class to address any questions. I will be addressing the assigned Code sections via lecture, and will also provide you with a variety of problems and solutions thereto for your edification.

11-1  Gift Tax Calculation/Elements of a Taxable Gift

**Part I: Gift Tax Calculation**

Reading:  **Code:** 2001(c), 2501(a), 2502, 2504, 2505, 2512, 6019(a), 7520, **skim** 2503(b) and (e)
**Regs:** 25.2501-1(a); 25.2502-1; 25.2512-1, -5, -8; 20.7520-1, -3
**SML:** Chapter ¶9.02, ¶9.03, ¶9.05; Chapter ¶10.02[1] -[4]

Problems:  **SP** Problem 24, *all questions* and Week 10 problems

**Part II: Elements of a Taxable Gift**

Reading:  **Code:** 2511, 2519, 7872
**Regs:** 25.2511-1 and -2
**SML:** Chapter 10, ¶10.01[1] through [10]

Problems:  **SP** Problems 16 *and* 18, *all questions* and Week 10 problems

**MIDTERM DUE**

*(Your exam is due *at the beginning of class* on 11/1/12)*

(Note: if midterm is handed in late without prior instructor approval, student will be awarded *no* points.)
11-8 Gift Tax Exclusion/Powers of Appointment/Joint Interests

Part I: Gift Tax Exclusion

Reading:  
**Code:** 2503  
**Regs:** 25.2503-1, -2, -3, -4, and -6  
**SML:** Chapter 9, ¶9.04

Problems:  
*SP* Problem 21, *all questions except question 5 and* Week 11 problems

Part II: Powers of Appointment

Reading:  
**Code:** 2514  
**Regs:** 25.2514--1 and -3  
**SML:** Chapter 10, ¶10.04

Problems:  
*SP* Problem 19, *all questions and* Week 11 problems

Part III: Joint Interests

Reading:  
**Code:** 2511(a)  
**Regs:** 25.2511-1(h)(4) and (5)  
**SML:** Chapter 10, ¶¶10.01[3][f], and 10.01[5][c] and [d]

Problems:  
*SP* None, *but see* Week 11 problems

11-15 Gift Splitting/Disclaimers/Marital Property Rights/Deductions

Part I: Gift Splitting

Reading:  
**Code:** 2513  
**Regs:** 25.2513-1, -2 and -4  
**SML:** Chapter 10, ¶10.03

Problems:  
*SP* Problem 23, *all questions and* Week 12 problems

Part II: Disclaimers

Reading:  
**Code:** 2518  
**Regs:** 25.2518-1 through -3  
**SML:** Chapter 10, ¶10.07

Problems:  
*SP* Problem 20, *questions 3, 4 and 5 and* Week 12 problems
Part III: Marital Property Rights

Reading:  
- **Code**: 2516  
- **Regs**: 25.2516-1 and -2  
- **SML**: Chapter 10, ¶10.06

Problems:  
- **SP** Problem 20, questions 1 and 2 and Week 12 problems

Part IV: Gift Tax Deductions

Reading:  
- **Code**: 2522, 2523  
- **Regs**: None  
- **SML**: Chapter 11, ¶¶11.02[1], 11.03[1] - [4]

Problems:  
- **SP** Problem 22, all questions

11-22  
**No Class (Thanksgiving Holiday)**

11-29  
**Generation Skipping Transfers**

Reading:  
- **Code**: 2611, 2612, 2613, 2621, 2622, 2623, 2624, 2651, 2652, 2653  
- **Regs**: None  
- **SML**: Chapter 12, Chapter 13, Chapter 14, ¶¶14.01-14.04 only; Chapter 17, ¶17.01 only

Problems:  
- **SP** Problems 26 and 27, all questions and Week 13 problems

12-6  
**The GST Tax Calculation**

Reading:  
- **Code**: 2631, 2632, 2641, 2642  
- **Regs**: 26.2632-1, 26.2642-1 and -2  
- **SML**: Chapter 15 and Chapter 16, ¶¶16.02[1] -[4] only

Problems:  
- **SP** Problem 28, all questions and Week 14 problems

12-13  
**FINAL EXAMINATION**

**NOTE RE: READING ASSIGNMENTS**

As you can see, no cases have been assigned. Naturally, many cases and rulings are discussed in the lecture material and in SML, and the SP problems frequently refer to cases and rulings that bear on the issues presented, so you may wish to take a look at some or all of them. Remember, too, that while SML provides a clear and authoritative narrative on the subject matter, it is **not** a substitute for the Code and regulations. **It is imperative to your understanding of the law that you read the Code and regulations!**