**BUS 225A**

**TAXATION OF ESTATES AND TRUSTS**

**DAVID SPENCE**

ROYSE LAW FIRM PC | | 149 COMMONWEALTH DRIVE, SUITE 1001, MENLO PARK, CA 94025

<table>
<thead>
<tr>
<th>Class Periods:</th>
<th>6:00 p.m. to 10:00 p.m. (Except Saturday, 6/29)</th>
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<tbody>
<tr>
<td>Dates:</td>
<td>June 19, 26</td>
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<td>June 29 (Saturday 9:00 a.m. to 5 p.m.);</td>
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<td>July 3, 10, 17, 24 31; and</td>
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<td>August 7.</td>
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<tr>
<td>Office hours</td>
<td>20 minutes after class AND in my office or by</td>
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<td>telephone by appointment, and available by</td>
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<tr>
<td>Office</td>
<td>Office hours to be held at Bunker Hill classroom</td>
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<td>(unless scheduled by appointment in my office</td>
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<td>or by phone).</td>
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<tr>
<td>Phone</td>
<td>(650) 813-9700 ext. 211</td>
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<td>(don’t leave a voicemail message; send an</td>
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<td>email)</td>
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<tr>
<td>E-mail</td>
<td><a href="mailto:dspence@rroyselaw.com">dspence@rroyselaw.com</a></td>
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<tr>
<td>Internet</td>
<td><a href="http://rroyselaw.com/people/david-spence/">http://rroyselaw.com/people/david-spence/</a></td>
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**COURSE DESCRIPTION**

This course will survey federal taxation of estates, gifts, and trusts, including the effects of estate tax, gift tax, generations-skipping transfer tax, and income taxes upon donors, beneficiaries and fiduciaries. The course will provide the student tools necessary to begin advising clients in complying with federal estate, gift, and generation-skipping transfer tax laws, as well as the income tax effects on donors, fiduciaries, and beneficiaries. The course discussions will also weave in relevant estate planning concepts, as well as tax policy issues into its survey of tax treatment of estates, trusts and wealth transfer transactions. Family wealth preservation planning strategies, such as family business entities, grantor trusts, and philanthropic planning techniques will be introduced.

**GRADING**

| Class Participation Points | 50 |
| Four, Tiny, “minimal warning” Quizzes (We’ll throw out the worst one) | 30 |
| Two Mid-sized, Mid-terms | 120 |
| One Fun Tax Return Project | 100 |
| One “itty-bitty easy peasy” Final Exam (Open Code & Regs.) | 200 |
| **TOTAL POSSIBLE POINTS** | **500** |

Letter grades will be assigned in the traditional manner (A+, A, A-, B+, B, etc.) based upon each student’s earned percentage of the total points possible;¹ subject, however, to the instructor’s reserved power to make adjustments to compensate for professorial error.²

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¹ Total points possible generally will be adjusted downward such that it equals the highest score achieved on each item graded.
² Yes, your humble instructor is fallible, and I may choose to adjust grades based on errors in my own judgment about suitability of tested material.

(BUS 225A-Syllabus-Summer 2019;1)
Recommended (not required) Course Text:
Federal Estate & Gift Taxes—Code & Regulations
As of March 1, 2019
(CCH paperback, single volume)

Please note that if you have CCH income tax code and regulations paperback volumes, or if you have any of the prior versions of the required text, these volumes are not recommended, as they may not contain necessary estate & gift tax regulations. THE QUizzes, MIDTERMS AND FINAL WILL BE OPEN BOOK—ALLOWING YOU UNFETTERED ACCESS TO PAPER VERSIONS OF THE CODE AND REGS, WHICH YOU MAY PRINT FROM ANY SOURCE YOU CHOOSE. I FIND THIS VOLUME WORTH THE PRICE BECAUSE IT IS A CONVENIENT COMPILATION OF EVERY CODE AND REGULATION SECTION YOU WILL NEED.

IMPORTANT NOTE:

A commercially published textbook, appropriate for this course, does not exist (I have searched high and low). As a result, your humble and loveable instructor will provide you with a weekly reading list. At the end of each class period, I will hand out a reading list. The reading list will contain assigned readings as a follow-up to our class discussion that day, and a reading assignment to prepare for the upcoming class.

I want to you to know that I realize that this course is not your only responsibility. You are busy, as I am. I will try to make the reading and class preparation burden-appropriate. Please let me know if you ever think I’m being unreasonable in my expectations. That said; you’re going to want to soak up as much information as you can, as this subject matter is absolutely the most fun you’ll ever have studying tax law.

Map of the Course.

There will be eight, four-hour class sessions and one, eight-hour, Saturday class session. Into those nine class sessions, we will need to fit in each of our quizzes, projects, mid-terms, and the final exam. The subjects covered in each of the class sessions are outlined (in varying levels of detail) in the “Course Map”
below. The Course Map is subject to change, depending upon how much time I sense we need for the different subjects as we go through the materials. I have outlined the first session in a fair amount of detail below, and I will add to the detail of each of the sessions as we go along our way. I will also try to be open to your suggestions along the way, so if you have particular subject matters you feel are important, let me know and I’ll try to touch on those at the appropriate time.

**Session 1, Wednesday, June 19, 2019--INTRODUCTION**

*Non-Tax, Legal and Foundational Issues.*

(i) Introduction to Property Law  
(ii) Introduction to Trust Law  
(iii) Introduction to Probate Law  
(iv) Nonprobate Transfers  

*Non-Tax, Estate Planning & Wealth Transfer Issues*  

(i) Client Objectives  
(ii) Family Politics  
(iii) Wealth/Asset/Business Management Issues  
(iv) Rule Against Perpetuities (RAP) [*The Duke of Norfolk’s Case (1681)*]  

*History and Overview of the Estate Tax*  

(i) Statutory Scheme of the Federal Estate & Gift Taxes (Title 26, Subtitle B, Chapters 11-15)  
(ii) Mathematical and Reporting Scheme and procedure of Estate Tax:  
   a. Form 706  
   b. Transfer Tax Procedure—Overview  
(iii) Current State of Volatility in the Law (Overview)  
   a. Origins and Pre-EGTRRA  
   b. 2001 EGTRRA (12/31/2010 sunset)  
   c. 2010 TRA (12/31/2012 sunset)  
   d. 2012 ATRA (No Sunset!)  
   e. TCJA (Sunset)  
   f. Tax Policy
PHASE I—Federal Estate, Gift, & Generation-skipping Transfer Taxes

Session 2, June 26

At the end of class on June 26, I will introduce the Tax Return Project. This Project will involve a single set of facts, which will require you to prepare a Federal Gift Tax Return (Form 709), a Federal Estate Tax Return (Form 706), and a Federal Fiduciary Income Tax Return (Form 1041). The Project will require you to work together in groups of 2 - 4 classmates.

IRC Chapter 11

(i) Imposition and Calculation of Tax
   a. Imposition of and liability for tax
   b. Unified Credit
   c. Valuation concepts
      i. Fair Market Value
      ii. Alternate valuation provisions
   d. Deductions Introduction
(ii) Gross Estate in Detail
   a. “String” powers
   b. Special Inclusions (2042 & 2044)
(iii) Taxable Estate Refined
   a. Marital Deduction
      i. QTIP
      ii. DSUE concepts
   b. Charitable Deduction
   c. Debts, Expenses and Taxes, etc.

Session 3, June 26

(i) Estate Tax Special Problems
   a. Estates of Nonresidents Not Citizens
   b. Situs of Property
   c. Exemptions & credits
   d. Marital Deduction—QDOT
(ii) Estate Tax Return Preparation and Filing Structure
(iii) Questions and Answers in preparation for Mid-term 1
(iv) Introduction to Gift Tax (IRC Chapter 12)

Session 4, Saturday, June 29 (Double Session)

On June 29, the first 90-120 minutes of class will be the first 60-point midterm, covering the Estate Tax topics discussed to date.

(i) Gift Tax (IRC Chapter 12)
   a. Summary Overview of Calculation and Return (Form 709)
b. Taxable Transfers

c. Exclusions
   i. Annual
   ii. Disclaimers
   iii. Property Settlements

   iv. Gift Splitting

d. Deductions

e. Calculation of Tax

g. Valuation Issues

Session 5, July 3

REVIEW MID-TERM 1

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(i) Gift Tax (continued) (IRC Chapter 12)

   a. Return Preparation and Filing
   b. Valuation Issues (continued)

(ii) Chapter 14 Special Valuation Rules

(iii) Introduction to International Gift Tax Issues

(iv) Introduction to GST

Session 6, July 10

(i) GST Tax (IRC Chapter 13)

   a. Overview and Policy
   b. Skip Person Defined
      i. Generation Assignment Rules
      ii. Identifying the Transferor

   c. Taxable Transfers
      i. Direct vs. Indirect Skip
      ii. Taxable Termination
      iii. Taxable Distribution

   d. Taxable Amount

   e. Exemption
      i. Inclusion Ratio
      ii. Exemption Allocation Rules

   f. Burden of Tax Payment
Session 7, July 17

On July 17, the first 90-120 minutes of class will be the second, 60-point midterm, covering the Gift Tax, GST tax and Special Issues topics discussed to date.

PHASE II—Income Taxation of Estates & Trusts

I. Foundational Concepts: [July 17, 2019]
   a. Grantor vs. Non-grantor
   b. Simple vs. Complex
   c. Charitable trusts

II. Income Concepts
    a. Accounting income vs. taxable income
    b. Periods and Methods (including sec. 645)

III. State Fiduciary Income Taxes
     a. Nexus and Jurisdiction
        i. Situs
        ii. Choice of Law
     b. Fiduciary vs Beneficiary

IV. Q & A for Tax Return Project

Session 8, July 24

REVIEW MID-TERM 2

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V. Fiduciary Income Tax Deductions
   a. Distributions
   b. Fiduciary Fees
   c. Charitable deductions
   d. Other deductions

VI. Calculating Distributable Net Income

VII. Tax Calculations, Credits, and Taxation of Beneficiaries

VIII. Special Situations—CRTs, Grantor Trust transactions, etc.

IX. Q & A for Tax Return Project

PHASE III—Other Taxes

I. California Real Property Taxes

II. State and Local Transfer Taxes
Session 9, July 31

Return Project Due July 31, 2019

Fiduciary Income Tax catch up and Final Exam Prep

PHASE IV—Common Planning Strategies

III. Asset Titling
IV. Exemption Optimization: A-B-C and GST Trusts
V. Valuation Strategies
VI. Time Value/Interest Rate Arbitrage
VII. Charitable Strategies
VIII. Life Insurance Strategies

Session 10, November 28th—Final Exam

University Policies

Academic Integrity. Students are expected to be familiar with the University’s Academic Integrity Policy. Your own commitment to learning, as evidenced by your enrollment at San José State University, and the University’s Academic Integrity Policy requires you to be honest in all your academic course work. Faculty members are required to report all infractions to the Office of Student Conduct and Ethical Development. The policy on academic integrity and other resources related to student conduct can be found at:

http://www.sjsu.edu/gup/syllabusinfo/#AcademicIntegrity

All work you do must be your own work. If your work includes anything you are representing as your own which is not your own, you will receive zero points for the assignment and a referral to Judicial Affairs will be required. Be sure to read the SJSU Academic Integrity Policy and do the right thing. When in doubt, ask your instructor.

Campus Policy in Compliance with the American Disabilities Act

If you need course adaptations or accommodations because of a disability, or if you need to make special arrangements in case the building must be evacuated, please make an appointment with me as soon as possible, or see me during office hours. Presidential Directive 97-03 requires that students with disabilities requesting accommodations must register with the DRC (Disability Resource Center) to establish a record of their disability. Special accommodations for exams require ample notice to the testing office and must be submitted to the instructor well in advance of the exam date.

Other University Policies of Relevance to Coursework - http://www.sjsu.edu/gup/syllabusinfo/