

READING ASSIGNMENTS PART I

NOTES:

- You should read the Syllabus (available on course web site – mkirsch.nd.edu/EGTax) before the first class
- Unless otherwise noted, assignments listed as “Handouts” are available on the course website.
- You are responsible for preparing (prior to class) all assigned problems
- The heading numerals (*e.g.*, “1. Orientation”) correspond to the book chapter number, not the class session number. We will not necessarily be covering one book chapter in each class session (indeed, some chapters will be spread over several class sessions). At the end of each class session, I will announce how far we will cover in the next class.

I. INTRODUCTION TO FEDERAL TRANSFER TAX SYSTEM

1. ORIENTATION

A-B. Constitutional Issues & Legislative History

Text: pp. 1-10. On page 9, the inflation-adjusted basic exclusion amount for 2024 is \$13,610,000.

C. Federal Taxes on Transfers of Wealth

Code: Skim §§ 2001(a), (c); 2010(a), (c), (d); 2501(a); 2502; 2503(b); 2505(a), (c)
Note §§ 102(a), (b)

Regs: §§ 20.0-1(c); 20.0-2(a) (for those of you having trouble finding these paragraphs, they are on pp. 1163-1164 of the Code & Regulations volume)

Text: pp. 10-14. Note that the inflation-adjusted annual gift tax exclusion increased to \$18,000 in 2024.

D. Generation-Skipping Tax

Code: Skim § 2601

Text: pp. 14-15. Note that the lifetime GST exemption is tied to the basic exclusion amount (Code §2631(c)). Accordingly, for 2024 the GST exemption amount is \$13,610,000.

E. Basic Computational Model

Text: pp. 15-16

F. State Death Tax Systems

Text: pp. 16-19 (we will only briefly touch on this)

G. Determining Transfers and Ownership of Property – The Applicability of State Law

Text: pp. 19-22

Handout: “*What is a Trust?*”

H & I. Statistical Information / The Case For and Against Estate and Gift Taxation

Text: pp. 22-28

J - N. Trust and Estate Income / Income from Decedents / Tax Compliance and Controversies / Etc.

Text: pp. 28-30

II. GIFT TAX

2. INTRODUCTION

A-C. Evolution of the Gift Tax / Exclusions / Deductions

Text: pp. 33-34. On page 34, the inflation-adjusted basic exclusion amount for 2024 is \$13,610,000.

D. Mechanisms of the Gift and Estate Taxes

Code: §§ 2001; 2010; 2501(a); 2502; 2503(a) & (b); 2505

Text: pp. 34-37. Merely skim the calculation explanation. I will provide a simpler overview in class.

Problems 1 & 2 (p. 37). Rather than having you prepare Problem 3 (regarding the estate tax calculation), I will go through a simplified method for calculating the estate tax in class.

E. Gifts by Expatriates

Text: pp. 37-38. Note that the casebook mistakenly refers to a 10-year limitation on being a “covered expatriate” (that 10-year reference related to a prior version of the statute; there is no longer a time limit for this provision).

F. Basis in Gift Transfers

Code: §§ 1015(a), (d)

Text: pp. 38-39

Handout: *Brief Explanation of “Basis” for Income Tax Purposes*

3. WHAT CONSTITUTES A GIFT?

A. Is Donative Intent Necessary?

Code: § 2511(a)

Regs: §§ 25.2511-1(a), (c), (d), (e), (g)(1); 25-2512-8

Text: pp. 41-44

B. Interest-Free and Low-Interest Loans

Code: §§ 7872(a), (c)(1)(A), (c)(2), (d)(1), (f)(2)-(5); 102

Text: pp. 44-55

Problems 1, 2, and 4 (pp. 55-56)

C. Gifts of Services

Code: § 2501(a)(1)

Text: pp. 57-60

D. Gifts by Agents

Code: Note § 2503(b)

Text: pp. 60-62

Handout: “*Excerpts from Indiana Durable Power of Attorney Act Relating to Gifts*”

Problem (pp. 62-63)

E. Indirect Gifts

Text: pp. 63-65

F. Payment of Taxes on Trust Income

Text: p. 66

G. Gifts by Trustees

Regs: § 25.2511-1(g)

Text: pp. 66-67

J. Consideration

Code: §§ 2512(b); 2501(a)(4); 2502(c); 2516. Note § 2043(b)(1)

Text: 70-78

4. WHEN A GIFT OCCURS

A. Introduction

Code: §§ 2511(a); 2512

Text: pp. 79-80

B. Retained Control

Regs: § 25.2511-2 (pay particular attention to this in answering the Problems)

Text: pp. 80-92

Problems (pp. 92-93)

C. Promissory Notes

Code: § 2512(a)

Text: pp. 93-94

D. Checks

Regs: § 25.2511-2(b)

Text: pp. 95-96

E. Co-Ownership

Regs: §§ 25.2511-1(h)(4), (h)(5) (first sentence). Review § 25.2511-1(g)(1) (first sentence)

Text: p. 97

F. Gifts by Contract

Text: pp. 98-99

H. Installment Transfers

Code: § 2503(b) (in 2024, the inflation-adjusted “annual exclusion amount” is \$18,000).
Note § 529(c)(2)(B) (we will discuss “529 Plans” in more detail in chapter 7)

Text: p. 128 (first four paragraphs of “Annual Exclusion” explanation);
pp. 100-109

Problem (p. 109)

I. Effect of a Reversion

Text: pp. 109-110

5. POWERS OF APPOINTMENT

Code: §§ 2514(b)-(e)

Regs: §§ 25.2514-1 (skip (c)(3)); 25.2514-3(c)(4), -3(e) (Examples)

Text: pp. 111-16

Handout: “*What is a Power of Appointment?*”

Problems (pp. 116-17) (pay attention to the “five-and-five” exception of § 2514(e))

6. DISCLAIMERS

Code: § 2518

Regs: § 25.2518-2(d)(1), (2); 25.2518-3(a)(1)(i), -3(c), -3(d) (Examples 17, 18)

Text: pp. 119-23

Problems (pp. 123-24)

7. UNIFIED CREDIT, EXCLUSIONS AND DEDUCTIONS

A. Unified Credit

Code: §§ 2505; 2010(a), (c); 2001(b)

Text: pp. 125-27

B. Annual Exclusion

1. In General

Code: §§ 2503(b) (in 2024, the inflation-adjusted “annual exclusion amount” increased to \$18,000); 6019(1). Note §§ 2513(a); 2642(c)(1), (3)(A)

Regs: § 25.2503-2(a). Note § 25.2503-2(f)

Text: pp. 128-29

2. Present Interest Requirement

Code: § 2503(b)(1) (in particular the parenthetical in the first sentence)

Regs: § 25.2503-3

Text: pp. 129-37

Problems (pp. 131-32) (pay attention to the examples in § 25.2503-3(c))

3. Gifts to Minors (In general)

Text: pp. 137-39

Crummey Trusts

Code: Review § 2514(e)

Text: pp. 140-66

Problems (pp. 166-67)

2503(c) Trusts & Uniform Acts Regarding Minors

Code: § 2503(c)

Regs: § 25.2503-4

Text: pp. 167-71

4 & 5. Qualified Tuition Programs / Qualified ABLE Programs

Code: § 529(c)(2), (4)(C).

Text: pp. 171-75

6. Reciprocal and Sham Transfers

Text: pp. 175-79

7. Tax Savings or Adjustment Clauses

Text: pp. 179-82

C. Exclusion for Educational and Medical Expenses

Code: §§ 2503(e); 6019(1)

Regs: § 25.2503-6

Text: pp. 182-83

Problem (p. 183)

D. Marital Deduction

Code: §§ 2523; 6019(2). In the context of 2523(f), also read §§ 2044 and 2056(b)(7)(B)(ii).

Text: pp. 183-91 (we will only briefly address the marital deduction here, and will discuss it in more detail in the context of the estate tax).

Relating to the second full paragraph on p. 185, the inflation-adjusted annual per donee exclusion for gifts to a noncitizen spouse is \$185,000 for 2024.

E. Charitable Deduction

Code: §§ 2522(a), (c); 6019(3)

Text: pp. 191-92 (we will address charitable deductions in more detail in the context of the estate tax)

8. GIFT TAX RETURNS AND ADMINISTRATIVE REQUIREMENTS

A. Return Requirements

Code: §§ 6019; 6075(b); 6151(a); 2502(c); 6324(b); 6901(a)(1)(A)(iii)
Note § 6048(a) (regarding special reporting requirements for transfers to foreign trusts)

Text: p. 193

B. Spousal Gift Splitting

Code: § 2513. Note § 2652(a)(2) (applicability of gift splitting to GST)

Regs: §§ 25.2513-2(a)(1), (c), (d)

Text: pp. 193-94

C. Statute of Limitations

Code: §§ 6501(a), (c), (e)(2); 2001(f); 2504(a)-(c)

Regs: Skim § 301.6501(c)-1(f)

Text: pp. 194-96

Omit the Gift Tax Problem on p. 196