

Course #9030 Tax, Bankruptcy and Financial Problems

Course Description & Study Guide

Test the treacherous (and shark infested) waters of tax, bankruptcy and financial problems. This course will teach participants how to apply, implement, and evaluate the strategic tax aspects of bankruptcy, property settlements, debt cancellation, and foreclosure. Current perspectives on asset protection, repossession, and bad debts are examined with an emphasis on planning considerations. The cancellation of indebtedness income inclusion rules are examined in the context of debt forgiveness and property foreclosure. Emphasis is given to the exceptions from income inclusion contained in §108. The tax treatment of property repossession under §1038 is explored with detail given to the calculation of gain and received property basis. Finally, eldercare and estate planning are reviewed and detailed.

Learning Assignments & Objectives

As a result of studying each assignment, you should be able to meet the objectives listed below each assignment.

ASSIGNMENT	SUBJECT
Chapter 1	Bankruptcy

At the start of the chapter, participants should identify the following topics for study:

- * Tax law changes
- * Bankruptcy types
- * Automatic stay
- * Preferences
- * Priorities
- * Debt discharge
- * Individual bankruptcy estate
- * Individual debtor
- * Corporate bankruptcy
- * Homesteading & garnishment

Learning Objectives

After reading the chapter, participants will be able to:

1. Explain how the 2005 Bankruptcy Act changed procedures, qualifications and tax law, and identify the three most common bankruptcy types that influence how an individual or business “goes bankrupt.”

2. Delineate the rules for automatic stay and levy pointing out their impact on “freezing” creditor activity, tax assessment, and collection.
3. Differentiate between preferential and nonpreferential payments, and determine the priority of creditor claims.
4. Discern when debt is discharged under various bankruptcy types and describe how to establish an individual bankruptcy estate figuring its taxable income and pointing out its tax filing requirements.
5. Contrast the special rules for partnership and corporate bankruptcies, list debts covered under homesteading, and calculate permissible garnishment amounts describing four garnishment special rules.

After studying the materials in this chapter, answer the exam questions 1 to 16.

ASSIGNMENT Chapter 2	SUBJECT Transfers Incident to Divorce
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At the start of the chapter, participants should identify the following topics for study:

- * Property rights
- * Premarital agreements
- * Application of §1041
- * Incident to divorce
- * Property basis
- * Purchases of residence between spouses
- * Purchases of business interests between spouses
- * Selected asset divisions of residence & business interests
- * Real & personal property
- * Pension benefits

Learning Objectives

After reading the chapter, participants will be able to:

1. Name three forms of property identifying their likely division in marital property settlements and discuss five legal principles used in dividing assets and providing support on divorce or separation.
2. List the benefits of premarital agreements pointing out the requirements and permissible provisions for a valid and comprehensive agreement under the Uniform Premarital Act.
3. State the position of *U.S. v. Davis* on interspousal transfers pointing out the changes made by §1041, recite the requirements of §1041 and describe the scope of its application.
4. Explain two factors that determine whether a property transfer is incident to divorce and how to meet these factors or avoid §1041 altogether when desired.

5. Evaluate and question the application of §1041 to transfers in trust under §1041(e) and to third party transfers on behalf of a spouse or former spouse.
6. Determine any deferred tax liability by figuring property basis for the transferor spouse and transferee spouse under §1041 after a property settlement.
7. Apply §1041 to property transfers where the transferee assumes liabilities encumbering the property, and identify with appropriate records the holding period for an asset transferred between spouses or former spouses incident to divorce.
8. Identify the dangers of purchasing a former spouse's interest in property particularly a marital residence and its tendency to create deferred tax liability.
9. List three of the effects of purchasing an interest in personal or real property used in a business or held for investment, determine potential recapture and explain the use of an exchange to dispose of low-basis property received in a §1041 transfer.
10. Specify three common disposition alternatives available on divorce, discuss the home sale exclusion requirements, and analyze the tax treatment and use of installment obligations under §453 in divorce.
11. Compare and contrast sale, redemption, recapitalization, liquidation and third-party transfers as methods of dividing a business in a marital settlement citing unique provisions under §302, §736 and §754.
12. Identifying whether gain or loss on a sale of real or personal property is capital or ordinary, explain the tax treatment of such gain or loss and clarify the role and tax treatment of life insurance in property settlements.
13. Name four popular methods of dividing retirement benefits in a divorce or separation action giving particular attention to analyzing the requirements and tax consequences of a "qualified domestic relations order (QDRO).
14. Formulate an overall tax and economic strategy for the division of pension benefits in a marital settlement by:
 - a. Comparing the pros and cons of deferred, present, and alternate property division arguments;
 - b. Discussing the treatment of IRAs at divorce considering the IRA deduction limit and rollovers;
 - c. Listing six strategies for retirement planning after divorce;
 - d. Describing the Social Security benefits, military pensions, civil service pensions, or railroad pensions that may be available to a former spouse; and
 - e. Clarifying which debts incurred during a divorce are dischargeable in bankruptcy.

After studying the materials in this chapter, answer the exam questions 17 to 48.

ASSIGNMENT	SUBJECT
Chapter 3	Asset Protection

At the start of the chapter, participants should identify the following topics for study:

- * Need for asset protection
- * Types of creditors
- * Fraudulent transfers
- * Preparation for asset protection
- * Types of insurance
- * Buy-sell agreements
- * Individual ownership & corporate ownership
- * Asset protection aspects of trusts
- * Co-tenancy & partnerships
- * Divorce

Learning Objectives

After reading the chapter, participants will be able to:

1. Point out the goals and purposes of asset protection and describe the objections some people have about shielding assets from creditors by:
 - a. Listing at least six reasons for asset protection and identifying sixteen situations that can unexpectedly put assets and financial security at stake;
 - b. Isolating eighteen common sources of lawsuits and analyzing the author's concept of exploding and imploding liability; and
 - c. Implementing asset protection using the primary concepts of insurance, asset placement and statutory protections.
2. Advise clients on the importance of the three types of creditors associated with asset protection and fraudulent transfers.
3. Summarize the fraudulent transfer laws listing several badges of fraud, clarify statute of limitations and criminal penalties, and differentiate permissible asset transfers.
4. Determine the degree and necessity of asset protection by figuring net worth using a balance sheet, determining asset values, and preparing a balance sheet.
5. Identify the ways that insurance and buy-sell agreements can offer asset protection by:
 - a. Clarifying the asset protection elements of homeowner's, automobile and disability insurance;
 - b. Differentiating the four parties under a life insurance contract giving potential reasons for establishing an irrevocable life insurance trust; and

- c. Compare entity purchase and cross purchase buy sell agreements.
- 6. Analyze and contrast the asset protection advantages and disadvantages of ownership formats and entities by:
 - a. Comparing the use of individual ownership and corporate ownership in an asset protection plan and including the importance of S corporations and their estate tax planning advantages;
 - b. Discussing testamentary trusts, living trusts and at least eight sub-categories of trusts pointing out asset protection elements;
 - c. Distinguishing among the various types of co-tenancy listing their asset protection dangers, describing several types of partnerships and comparing them to limited liability companies; and
 - d. Demonstrating the unique asset protection qualities of retirement plans, custodianship, and estates as asset protection tools.

After studying the materials in this chapter, answer the exam questions 49 to 69.

ASSIGNMENT	SUBJECT
Chapter 4	Medical, Charitable and Casualty

At the start of the chapter, participants should identify the following topics for study:

- * Medical costs
- * Medical deductions
- * Health savings accounts
- * Accelerated death benefits
- * Charitable contributions of cash
- * Charitable contributions of property
- * Substantiation
- * Casualty & theft losses
- * Deductible & nondeductible losses
- * Disaster area losses

Learning Objectives

After reading the chapter, participants will be able to:

1. Determine deductible medical care expenses for federal tax purposes by:
 - a. Analyzing the potential inclusion of spousal and dependent expenses, medical insurance premiums, meals and lodging, transportation expenses, cosmetic surgery, permanent home improvements and lifetime care payments;
 - b. Describing medical savings accounts differentiating health savings accounts, naming six benefits and four qualifications of HSAs, and explaining their relationship with high deductible health plans; and

- c. Clarifying the mechanics of prescription drug plans, explaining the accelerated death benefits exclusion and determining the health insurance deduction for self-employed individuals.
- 2. List four variables that impact the deductibility of charitable contributions, identify qualified organizations and limitations for these purposes, and describe the types of contributions that can be made, their tax treatment and substantiation requirements.
- 3. Differentiate between casualty and theft, and clarify the rules for taking a deduction for all or part of each loss.

After studying the materials in this chapter, answer the exam questions 70 to 83.

ASSIGNMENT	SUBJECT
Chapter 5	Debt Cancellation & Foreclosure

At the start of the chapter, participants should identify the following topics for study:

- * Income inclusion rule & exceptions
- * Real property business debt exclusion
- * General ordering of tax attribute reduction
- * Basis reduction
- * Individual and partnership bankruptcies
- * Corporate stock-for-debt rule
- * S corporation bankruptcy
- * Reporting
- * Amount realized on sale or other distribution of property
- * Discounted acquisition of debt

Learning Objectives

After reading the chapter, participants will be able to:

- 1. Summarize the effect of debt cancellation on net worth and potential income inclusion listing six exceptions to inclusion and their impact.
- 2. Order and apply applicable tax attribute reductions describing any special basis reduction rules, explain the depreciable property election, and describe individual, partnership and S corporation bankruptcies identifying at least three variables used in characterizing shares as nominal or token.
- 3. Determine gain or loss resulting from foreclosure or repossession including its timing and character, summarize reporting and filing requirements of such items, and point out the tax danger of acquiring one's own debt at a discount.

After studying the materials in this chapter, answer the exam questions 84 to 92.

ASSIGNMENT	SUBJECT
Chapter 6	Repossession

At the start of the chapter, participants should identify the following topics for study:

- * Repossession of personal property
- * Non-installment method sales
- * Installment method sales
- * Basis of repossessed personal property
- * Bad debt
- * Repossession of real property
- * Figuring gain on repossession
- * Seller's former home exception

Learning Objectives

After reading the chapter, participants will be able to:

1. Identify the variables that determine which §1038 rules for repossessions apply, and figure basis and gain or loss resulting from repossession of personal property using installment method and the non-installment method sales.
2. Make a distinction between the rules, calculations and effects of repossessions of personal and real property, and determine when a §166 bad debt deduction may be taken if the seller repossesses real property.

After studying the materials in this chapter, answer the exam questions 93 to 99.

ASSIGNMENT	SUBJECT
Chapter 7	Bad Debts

At the start of the chapter, participants should identify the following topics for study:

- * Totally worthless bad debts
- * True debt
- * Mechanics' liens
- * Reporting & recovery
- * Credit transactions
- * Former business bad debts
- * Insolvency of partner
- * Business loan guarantees
- * Specific charge-off method
- * Nonaccrual-experience accounting method

Learning Objectives

After reading the chapter, participants will be able to:

1. Classify bad debts into two categories clarifying their tax treatment and effect on accounting and reporting by:

- a. Explaining the concepts of worthlessness and true debt pointing out the unique characteristics of deductible nonbusiness bad debt;
 - b. Discussing the treatment of bad debts related to political debts, mechanics' liens and secondary liabilities on home mortgages; and
 - c. Listing forms used to report bad debts and clarifying the tax treatment of recovered amounts.
2. Assist clients in qualifying for the superior tax treatment of business bad debts by:
- a. Explaining the tax treatment of business credit transactions, loan guarantees, accounts receivable or notes receivable particularly the tax treatment of accounts receivable in a business sale and listing the various forms on which a bad debt deduction should be taken depending on the entity type;
 - b. Describing three tests that must be met by an accrual method business taxpayer to be able to take a bad debt deduction for a political debt and identifying the tax consequences of the insolvency of a partner when a business partnership terminates and debts are owed; and
 - c. Describing two methods that can be used by businesses to treat uncollectible amounts pointing out the rules that apply to each.

After studying the materials in this chapter, answer the exam questions 100 to 104.

ASSIGNMENT	SUBJECT
Chapter 8	Elderly & Disabled Planning

At the start of the chapter, participants should identify the following topics for study:

- * Managing the estate
- * Medicare
- * Medicaid & countable assets
- * Medicaid & non-countable assets
- * Medicaid & inaccessible assets
- * Private insurance
- * Health care decisions
- * Supplemental security income
- * Income & assets
- * Disability benefits

Learning Objectives

After reading the chapter, participants will be able to:

- 1. List four ways to manage an incompetent person's estate, analyze joint tenancy including its benefits and pitfalls, and identify at least three levels of conservatorship that can influence assistance in management and protection of an estate and/or personal care.

2. Discuss durable powers and funded revocable living trust pointing out their uses and limitations in elderly and disabled planning.
3. Compare and contrast the basic eldercare benefits of Medicare and Medicaid, and determine income and divide assets into three separate groups for Medicaid eligibility.
4. Describe possible health care decisions such as having a living will, distinguish Supplemental Security Income from Social Security disability benefits, separate assets into two groups for SSI, and outline requirements for both SSI and Social Security disability benefits.

After studying the materials in this chapter, answer the exam questions 105 to 112.

ASSIGNMENT	SUBJECT
Chapter 9	Estate Planning

At the start of the chapter, participants should identify the following topics for study:

- * Unlimited marital deduction
- * Applicable exclusion amount
- * Stepped-up basis
- * Basic estate planning goals
- * Simple will
- * Types of trusts
- * Charitable trusts
- * Insurance trusts
- * Family documents
- * Private annuities

Learning Objectives

After reading the chapter, participants will be able to:

1. Summarize key elements of estate planning for business clients by:
 - a. Explaining at least three elements of estate tax planning that have remained unchanged by recent legislation;
 - b. Analyzing the unlimited marital deduction and its effect on the gross estate of the value of property; and
 - c. Determining the applicable exclusion amounts for various years of death.
2. Define for a business owner “stepped-up basis” and potential “modified carryover basis” for estate tax purposes, and identify the basis increase for certain business property.
3. List five basic estate-planning goals, outlining the benefits and drawbacks of the three primary dispositive plans, and differentiating among the various types of trusts.

4. List six family documents that taxpayers should consider, and compare advantages and disadvantages of the old private annuity format to both the transferor and to the transferee.

After studying the materials in this chapter, answer the exam questions 113 to 120.

Notice

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