Course Title: Estate Planning and Taxation

Course Number: Fin. 448

Name of Instructor: Dr. Banker Phares

Semester: Fall, 2019

Financial Planning: This course is one of the six courses (3 hours each) required to obtain a minor in Financial Planning for those not majoring in Finance; and is a required course for a Financial Planning Emphasis for those students majoring in Finance. It is also one of the six courses that must be taken in order to take the CFP exam. Topics covered during this course are shown below. When a number appears to the side of a topic it corresponds to the Principal Topics that are identified by the CFP Board to serve as a curricular framework that the CFP Board accepts for continuing education. In addition, attached to this syllabus is the list of Student-Centered Learning Objectives based on CFP Board Principal Topics (Revised). A sample case study is attached to the end of this syllabus.

Instructor: Dr. Banker Phares

E-Mail of Instructor: pharesb@sfasu.edu

Phone Number of Instructor: 936.234.9196 or 936.468.1783

Office: Room 169, SFA College of Business Building

Office Hours: Monday, Tuesday, Wednesday and Thursday 9 – 12. Instructor is available after each class to discuss topics and answer questions.

Class Meeting time and Place: Class meeting time is 4:00 to 5:15 p.m. on Monday and Wednesday, Room 369 of the SFA McKee Business Building.

Prerequisites for Course: None. It is recommended that other finance courses be taken prior to enrolling in this course. The course level is Upper division baccalaureate Pending graduate credit. Course Credit Given for Certified Financial Planner Program Course credit given as elective for Degree in Finance.

Required Text and Materials: Required Text and Materials: Furnished by instructor.
Program Learning Outcomes:

Program learning outcomes define the knowledge, skills, and abilities students are expected to demonstrate upon completion of an academic program. These learning outcomes are regularly assessed to determine student learning and to evaluate overall program effectiveness. You may access the program learning outcomes for your major and particular courses at [http://www.sfasu.edu/cob/ug-plo.asp](http://www.sfasu.edu/cob/ug-plo.asp).

Student Learning Outcomes:

In general, SLOs in a course that support the PLOs are specific and include the exact knowledge, skill or behavior taught in the course that supports the more global PLOs. For additional information on meaningful and measurable learning outcomes see the assessment resource page [http://www.sfasu.edu/assessment/index.asp](http://www.sfasu.edu/assessment/index.asp).

Bankruptcies and debt collections have dramatically increased in recent years. In large part, this is due to inadequate financial planning by individuals and businesses. To prepare the student to deal with a constantly changing economy by having the student: 1) Learn the importance, and have a basic understanding of, planning techniques; 2) Develop and identify analytical skills, by lecture and class discussion to facilitate effective financial decision-making, including informed decisions regarding budgets, investment, insurance, retirement, and estate planning. Upon course completion, the student should have the ability to have a working knowledge of the materials covered in the course, thereby providing the student with the ability to make – and, if necessary access, sources – for making appropriate financial decisions, both personal and business.

Academic Integrity

Academic integrity is a responsibility of all university faculty and students. Faculty members promote academic integrity in multiple ways including instruction on the components of academic honesty, as well as abiding by university policy on penalties for cheating and plagiarism.

Definition of Academic Dishonesty

Academic dishonesty includes both cheating and plagiarism. Cheating includes but is not limited to (1) using or attempting to use unauthorized materials to aid in achieving a better grade on a component of a class; (2) the falsification or invention of any information, including citations, on an assigned exercise; and/or (3) helping or attempting to help another in an act of cheating or plagiarism. Plagiarism is presenting the words or ideas of another person as if they were your own. Examples of plagiarism are (1) submitting an assignment as if it were one's own work when, in fact, it is at least partly the work of another; (2) submitting a work that has been purchased or otherwise obtained from an Internet source or another source; and (3) incorporating the words or ideas of an author
Students with Disabilities

To obtain disability related accommodations, alternate formats and/or auxiliary aids, students with disabilities must contact the Office of Disability Services (ODS), Human Services Building, and Room 325, 468-3004 / 468-1004 (TDD) as early as possible in the semester. Once verified, ODS will notify the course instructor and outline the accommodation and/or auxiliary aids to be provided. Failure to request services in a timely manner may delay your accommodations. For additional information, go to http://www.sfasu.edu/disabilityservices/.

Withheld Grade Policy

Ordinarily, at the discretion of the instructor of record and with the approval of the academic chair/director, a grade of WH will be assigned only if the student cannot complete the course work because of unavoidable circumstances. Students must complete the work within one calendar year from the end of the semester in which they receive a WH, or the grade automatically becomes an F. If students register for the same course in future terms the WH will automatically become an F and will be counted as a repeated course for the purpose of computing the grade point average.

Course Requirements:

1) **Exams for Course**: Four, each of equal value. The Final will be one of the three tests and will have a value equal to a test. There will be no quizzes or homework (unless needed to make up for an unexcused absence). There will be an advance reading assignment each week. A legitimate excuse must be presented in order to make-up a missed exam. If a student has a D or lower average for the first two tests, the student will be required to take a comprehensive final. Students will also be divided into small groups to discuss the issues involved in estate planning. The instructor has been certified by the State Bar of Texas in Estate Planning and Probate since 1976, and is capable of challenging the students with real life situations. In addition, outside speakers from the financial planning sector to discuss the role that financial planners play in advising clients.

2) **Grading Policy**: For the most part, the tests will primarily require short specific answers; i.e. objective. Tests will be announced two weeks in advance.

3) **Required Attendance for Course**: Three absences from each class meeting is allowed without excuse. Other absences require acceptable excuse. If absent without acceptable excuse, additional course work may be assigned.
**Course Description:**

Estate Planning and Taxation focuses on the efficient conservation and transfer of wealth, consistent with the client’s goals. It is a study of the legal, tax, financial and non-financial aspects of this process, covering topics such as trusts, wills, probate, advanced directives, charitable giving, wealth transfers and related taxes.

**Course Objectives:**

Note: In recent years many of the tax laws governing the taxation of estates and gifts were radically changed, and are expected to stay in effect for the next two years. However, the subject is very dynamic and therefore the leading professionals must be committed to lifelong learning. The course will also emphasize non-tax aspects of estate planning. These aspects are just as – if not more important – than the impact of estate and gift taxes.

The student should be able to understand, explain, analyze and evaluate estate planning needs and taxation and recommend appropriate techniques for meeting estate planning and objectives, including:

- Determine client estate planning needs and objectives, taking into account financial and non-financial (behavioral/social/emotional) aspects of estate planning
- Understand the effects of lack of estate planning, including state laws of intestacy
- Project estate taxation and liquidity needs in various situations
- Recommend appropriate and efficient methods of wealth transfer for a client’s situation, including, without limitation
  - Lifetime gifting strategies and taxation
  - Planning for minors
  - Incapacity planning
  - Planning related to tax-favored retirement assets
  - Planning for non-citizen spouse
  - Planning for adequate liquidity
  - Planning to conserve assets and minimize expenses, including taxes
- Understand, analyze and evaluate client need for various estate documents, including, without limitation, wills, trusts, powers of appointment and medical directives
- Recommend appropriate life insurance arrangements, including, without limitation, life insurance trust planning
- Be able to explain the probate system, including its purpose and pros and cons
- Recommend appropriate titling of assets to meet estate planning and other objectives
- Understand and recommend appropriate techniques for charitable giving during life and as part of an estate plan
- Recommend estate planning techniques for traditional and non-traditional families, relationships and needs
- Recommend planning techniques for married couples, including pre-nuptial agreements and use of trusts
- Recommend planning techniques for owners of closely-held businesses and farms and ranches
- Recommend planning techniques for multi-generational planning
- Recommend techniques to mitigate post-death problems for survivors of the decedent, including pre-death planning techniques, planning for income adequacy and post-mortem planning techniques such as qualified disclaimers
- Evaluate a client’s situation and available estate planning strategies and techniques to recommend an appropriate plan to meet client objectives; monitor and recommend modifications based on changing circumstances
- Evaluate possible future changes in the client’s situation and legal/tax situation to provide forward-looking estate planning advice
- Learn to work appropriately with other members of the client’s estate planning team

In addition to developing technical expertise in the course subject matter, this course develops and fosters:
- Communication skills, both written and oral
- Critical thinking
- Decision-making
- Team work
- Intellectual curiosity and lifelong learning

**Supplementary Graduate Reading:**
- The Estate and Financial Planning Review
- Trusts and Estates: The Journal of Wealth Management for Estate-Planning Professionals
- Journal of Financial Planning
- Financial Services Review
- Journal of Financial Services Professionals
- Journal of Personal Finance
- Financial Counseling and Planning

**Assessment Techniques:**
- Homework (primarily advance reading from text for class preparation)
- Two Exams (closed book)
- Final (closed book) The Final counts the same as an Exam; thus each Exam will count one-third of grade, and the Final will count one-third of grade. The two Exams and the Final will be averaged to produce the final class grade. A ten page paper may be substituted for the third test.
- If the course includes graduate students seeking graduate credit for the course, the graduate students will be required, in addition to the tests, to prepare two papers containing responses to factual situations involving estate planning. The graduate students will meet with the instructor to discuss the papers and defend
their suggestions. For graduate students, the combined papers will constitute one-third of the overall final grade for the course.

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**Course Attendance**

Three absences without any need for excuse. Additional absences with advance permission. Each additional absence without permission will cause of two point deduction from overall class grade.

**Course Outline – the professor retains the right to modify this outline:**

The following outline is organized to meet twice each week and requires the class to meet for at least three hours per week for 15 weeks.
Week One:

INTRODUCTION TO ESTATE PLANNING
Chapter 1

Introduction
Estate Planning Defined

Goals, Objectives, & Risks of Estate Planning
Who Needs Estate Planning
Why the Interest in Estate Planning
Tools for Wealth Protection

The Estate Planning Process
The Six Basic Steps
Establish the Client/Planner Relationship
Collecting Client Information and Defining Transfer Objectives

The Estate Planning Team
The Unauthorized Practice of Law

Week Two:

BASIC ESTATE PLANNING DOCUMENTS

Wills
Intestacy
Advantages of Wills
Limitations of Wills
Types of Wills
Legal Capacity to Execute a Will
Common Clauses in Wills
Other Clauses
Sample Wills
Revoking and Changing Wills
Side Instruction Letter
Statutes Affecting Wills
Avoiding Will Contests

Powers of Attorney & Powers of Appointment
General Power of Attorney
Limited Power of Attorney
Durable Feature
Springing Power
Discussion of Exhibit 2.11
Power of Attorney for Property
Disadvantages of a Power of Attorney

**Directives Regarding Health Care**
Durable Power of Attorney for Health Care
Living Wills/Advance Medical Directives
Do Not Resuscitate Order (DNRs)

**Other Important Documents for Estate Planning**

**Week Three:**

**TYPES OF PROPERTY**

**Ownership And Transfer of Property**

**Property Interests (Title and Ownership)**
Sole Ownership - Fee Simple
Tenancy in Common (TIC)
Joint Tenancy with Right of Survivorship (JTWROS)
Tenancy by the Entirety (TE)
Community Property and Separate Property in Community Property Regimes

**Other Ownership Topics**
Partial Ownership Interests
Legal vs. Equitable Ownership

**Cumulative Summary Example**
Fee Simple
Tenancy in Common
Joint Tenancy With Right of Survivorship
Tenancy by the Entirety
Community Property

**Week Four:**

**THE PROBATE PROCESS**

**Introduction**
The Probate Process Defined
Testate vs. Intestate Succession
Transfer of Assets
Advantages of Probate
Disadvantages of the Probate Process
Nontraditional Relationships

The Probate Process
State Probate Laws
Beginning the Probate Process - Producing the Will
The Probate Court
Personal Representative- Executors and Administrators
Managing and Distributing the Estate
Potential Problems in Distribution

Property Passing Through Probate

Property Passing Outside of the Probate Process
State Contract Law
State Titling Law
State Trust Law

Calculating the Probate Estate

Week Five:
First Test

Week Six:

Gift Tax

The Gift Tax System
Historical Background and Purpose
Estate and Gift Tax Reform

Characteristics of a Gift
Parties
Definition of a Gift
Elements of a Gift
Consideration
Types of Gifts
Valuation of a Gift

Exclusions and Exemptions
The Annual Exclusion
Split Gift Elections
Gifts of Community and Joint Property
The Applicable Credit Amount
Gifts of a Present and Future Interest
Present Interest Gift
Future Interest Gift
The Crummey Provision
The Five-and-Five Lapse Rule

Transfers Resulting in No Gift Tax
Transfers to Political Organizations
Qualified Transfers
Payments for Support
Payments Between Divorcing Spouses
Transfers within a Business Setting
Gifts to Spouses
Charitable Gifts

The Gift Tax Return
Form 709
Statute of Limitations
Calculation of the Gift Tax

Income Tax Issues Related to Gifts
Donee's Adjusted Basis of Gifted Property
Exceptions

Gift Strategies
Achieving Client Goals with Direct Gifts
Gifts of Appreciating Property
Gifts to Spouses
Gifts to Minors
Single Party Gift Strategies
Multiparty Gift Strategies
Advantages of Lifetime Gifts vs. Bequests

Week Seven:

ESTATE TAX

The Gross Estate
Property Owned by the Decedent (IRC Section 2033)
Dower and Curtesy Interest (IRC Section 2034)
Gifts Made Within Three Years of Death (IRC Section 2035)
Transfers with a Retained Life Estate (IRC Section 2036)
Transfers Taking Effect at Death (IRC Section 2037)
Revocable Transfers (IRC Section 2038)
Annuities (IRC Section 2039)
Joint Interests (IRC Section 2040)
Powers of Appointment (IRC Sections 2041 and 2514)
Proceeds of Life Insurance (IRC Section 2042)
Property for which Marital Deduction was Previously Allowed (IRC Section 2044)

Valuation of Assets at Death
Hard-to-Value Assets
Financial Securities
Life Insurance
The Alternate Valuation Date

Deductions to Determine the Adjusted Gross Estate
Deductions to Determine the Taxable Estate
The Charitable Deduction
The Unlimited Marital Deduction
The Taxable Estate

Determining the Tentative Tax
Post-1976 Taxable Gifts
The Tentative Tax Base
The Tentative Tax

Credits From the Tentative Tax
Applicable Estate Tax Credit
Exemption Portability
Credit for Tax Paid on Prior Transfers
Foreign Death Tax Credit

Estate Tax Liability
Paying and Reporting Estate Taxes
Filing Requirements
Penalties

Adjusted Basis to Heirs and Legatees
IRD Assets
Heir Donor
Surviving Owner
Community Property
Basis Rules for Years Beginning After 2009 (EGTRRA 2001)

Cumulative Example
Example Solutions

Week Eight:
TRANSFERS DURING LIFE & DEATH

Introduction
Lifetime Transfers

Arm's-Length Transactions
Sale
Installment Sale
Exchange

Transfers to Loved Ones
Transfers Not Subject to Gift Tax
Gifts Outright and in Trust
Partial Sale-Gift Transactions
Full Consideration Transfers/Sales
Grantor Retained Trusts
Family Limited Partnerships (FLP)
Summary
Medicare/Medicaid

Transfers to Charities

Transfers at Death
Transfers by Will
Property Transferred at Death by Contract
Transfers at Death by Operation of Law
Charitable Transfers at Death

Week Nine:

TRUSTS

Parties
Grantor (Settlor, Creator, Trustor)
Trustee
Beneficiary

Why Use a Trust?
Management
Creditor Protection
Split Interests in Property
Avoiding Probate (Living Trust)
Minimizing Taxes

Trust Duration - The Rule Against Perpetuities
Accounting and Income Taxation of Trusts

Income Taxation of Trusts
Gift Tax as Applied to Trusts
Inclusion/Exclusion from Gross Estate of Trust Assets

Classification of Trust Arrangements
Revocable Trusts
Irrevocable Trusts
Inter Vivos Trust
Testamentary Trusts
Standby Trust
Pourover Trust
Grantor Trust
Funded or Unfunded
Simple or Complex

Specific Trusts Used in Estate Planning
Inter Vivos Revocable Trusts
Inter Vivos Irrevocable Trusts
Life Insurance Trusts
Bypass (Credit Shelter) Trusts
Power of Appointment Trusts
Qualified Terminable Interest Property (QTIP) Trusts
Grantor Retained Income Trusts (GRITs)
Grantor Retained Annuity Trusts (GRATs)
Grantor Retained Unitrusts (GRUTs)
Qualified Personal Residence Trusts (QPRTs)
Tangible Personal Property Trusts (TPPTs)
Dynasty Trusts
Grantor Trusts
Trusts for Minors - Section 2503(b) and Section 2503(c) Trusts
Crummey Trusts
Charitable Trusts
Totten Trusts
Blind Trusts

Week Ten:

CHARITABLE GIVING

Introduction
General Issues Regarding Charitable Contributions and Taxation
Qualifying Organizations
Types of Charitable Organizations
Charitable Gifts During Life
Gifts of Cash
Gifts of Services
Gifts of Property
Contribution Base (Adjusted Gross Income) Limitations
Choosing the Adjusted Basis Over the Fair Market Value (Special Election)
Valuation, Record Keeping, and Reporting

Other Outright Gifts to Charity
Bargain Sales of Property to Charities
Bargain Sales of Appreciated Property to Charities
Charitable Gift: Annuities
Charitable Annuity of Encumbered Properties (Mortgaged)
Gifts of Life Insurance to Charities
Group Term Life Insurance

Charitable Gifts of a Split Interest
Pooled Income Funds (PIF)
Charitable Remainder Annuity Trust (CRAT)
Charitable Remainder Unitrust (CRUT)
Calculation of the Gift and Remainder Interest
A CRT and Life Insurance for Wealth Replacement
Non-Trust Split Interest Charitable Gifts
Charitable Lead Trusts

Testamentary Giving to Charities

Advanced Financial & Estate Planning Topics
Tangible Property
Community Property
Choosing Between the CRAT or the CRUT
Reformation of Disqualified Split Interests
Transfer of an Interest in an IRA by Taxpayers Over the Age of 70-1/2

Week Eleven
Second Test

Week Twelve

Unlimited Marital Deduction

The Marital Deduction Defined
The Single Economic Unit
Advantages of the Unlimited Marital Deduction
Requirements of the Unlimited Marital Deduction
Limitations of the Unlimited Marital Deduction
Community Property

**Qualification for the Marital Deduction**
Inclusion in the Decedent’s Gross Estate
Property Transferred to a Surviving Spouse
The Terminable Interest Rule

**Outright Bequests to the Spouse**
Limiting a Direct Transfer

**General Power of Appointment (GPOA) Trusts**
Qualifying a GPOA Trust for the Marital Deduction

**Qualified Terminable Interest Property (QTIP) Trusts**
Qualifying as a QTIP Trust
The QTIP Trust as a Lifetime Transfer Device
Estate Taxes
Portability

**Planning for the Noncitizen Spouse**
Qualified Domestic Trust

**Alternatives to Qualification**
Overqualification
Underqualification
Bypass Trust
Common Trust Arrangements
Disclaimers
Irrevocable Life Insurance Trust (ILIT)

**Week Thirteen**

**LIFE INSURANCE**

**Objective of Life Insurance**
Protect Income Stream for Beneficiaries
A Source of Funds for Education
Provide Liquidity at Death
A Source for Retirement Income
Create or Sustain Family Wealth

**Types of Life Insurance**
Term Insurance
Universal Life
Variable Universal Life
Whole Life
Second-to-Die

Parties to a Life Insurance Policy
Owner
Insured
Beneficiary

Income Tax Treatment of Life Insurance
General Approach
Transfer for Value
Settlement or Cash Surrender
Policy Dividends
Loans
MECs
Policy Exchanges 1035
Accelerated Death Benefits

Gift Tax Treatment of Life Insurance
Changing the Beneficiary on the Life Insurance Policy
Outright Gift of a Life Insurance Policy
Gifts of Premiums
Gifts of Life Insurance to Charities

Federal Estate Tax Treatment of Life Insurance
Life Insurance on Someone Else's Life
Life Insurance on the Insured/Decedent's Life
The Three-Year Look Back Rule

Creation of a Life Insurance Trust (ILIT)
Using the Annual Exclusion
Other Objectives

Week Fourteen

SPECIAL ELECTIONS AND POST MORTEM PLANNING

Liquidity Needs
Last Medical Costs
Funeral Costs
Transition or Adjustment Period Costs
Administrative Costs
Income, Estate, and Generation-Skipping Transfer Taxes

Liquidity Sources and Implications
Sale of Assets
Life Insurance
Tax-Advantaged Accounts
Corporate Redemption from Closely Held Businesses
Distribution of Assets
Loans for Payments of Taxes and Other Costs

**Income Tax Issues on Decedent's Final Return**
Joint or Separate Final Return
Passive Losses
Expense Elections

**Income Tax Issues Regarding the Estate Fiduciary Income Tax Return (Form 1041)**
Selection of Tax Year
Expense Elections
Waiver of Executor's Fees
U.S. Savings Bonds and Income in Respect of Decedent (IRD) Assets
Distributions and Tax Bracket Analysis

**Gift Tax Issues**
Election to Split Gifts for Year of Death

**Basic Estate Planning Issues (Post Mortem)**
Valuation of Assets
Selection of Valuation Date
Alternate Valuation Date
Installment Payments of Estate Tax (Section 6166)
Special Use Valuation (Section 2032A)
Disclaimers
Qualified Terminable Interest Property (QTIP) Election
Qualified Domestic Trust (QDOT)
Portability of a Deceased Spouse's Estate Tax Exemption
Generation-Skipping Transfer Tax Elections

**Week Fifteen**

**GENERATION SKIPPING TRANSFERS**

**Parties Involved in Generation-Skipping Transfers**
Transferor
Transferee
Qualified Disclaimers

**Types of Taxable Transfers**
Direct Skip
Taxable Termination
Taxable Distribution
Exceptions, Exclusions, and Exemption

Exceptions
Exclusions
Exemption

Applicable Rate, Inclusion Ratio, and Applicable Fraction
Generation-Skipping Transfer Tax and QTIPs

Filing Requirement and Returns

An Overview of Generation-Skipping Trusts

Introduction to Dynasty Trusts
The Rule Against Perpetuities
Taxation of Dynasty Trusts
Basic Structure and Types of Dynasty Trusts
Dynasty Trusts and Business Succession Planning
Types of Dynasty Trusts
Funding the Trust
General Drafting Issues for Dynasty Trusts
Summary of Dynasty Trusts

BASIC ESTATE PLAN

The Estate Planning Process
Determine the Client’s Financial Situation
Develop the Estate Plan
Implement the Plan
Monitor the Plan

Final Exam – Shown on university schedule

CASE STUDY EXAMPLE

John and Marsha Smith are Texas residents. Their estate is worth approximately $15 million. John will retire shortly from the Union Oil Company. Marsha is a retired elementary teacher. With one exception, their estate consists of property acquired during marriage by their joint efforts. Marsha has real estate that she inherited from her parents. Their community property consists of their bank account, home, a small vacation cottage located on a lake in East Texas, two cars, one group life policy, a corporate retirement plan, and a teacher retirement plan. They are debt-free. The corporate retirement plan is the asset with the most value. It is valued at $3 million and is totally invested in Union Oil stock. You are going to meet with John and Marsha. What information do you require to provide them with a financial plan? What should John do with the corporate retirement plan when he retires? Should the investment in Union Oil stock be changed to provide
diversity. Do you think they have an estate tax problem? Do they need to purchase additional life insurance or an annuity?