



51A Middle Street Newburyport MA 01950
Phone: 800-588-7039 Fax: 877-902-4284
contact@bhfe.com www.bhfe.com

Course Information

Course Title: #296020 *Advisor's Guide to Estate Planning*

CFP Board Course ID# 257116

Recommended CPE credit hours for this course:

CFP®: **21** (All states) CFP Board sponsor number: 1008.

CPA: **29** (All states)

In accordance with the standards of the CFP Board and the National Registry of CPE Sponsors, CPE credits have been granted based on a 50-minute hour. National Registry of CPE Sponsors ID Number: 107615, State Board sponsor numbers where applicable: FL: 4761; HI 14003; NY (ethics): 002146, OH: M0021, PA: PX178025, TX: 009349.

CLU, ChFC/PACE Recertification: 29

Course Description

Advisor's Guide to Estate Planning is written specifically to present experience-based guidance to practitioners that is directly applicable in professional practice. The course provides a comprehensive study of the process of accumulation, conservation, and distribution of an estate in the manner that most efficiently and effectively accomplishes the client's goals. Key topics are broken down into smaller components and illustrated with client situations to reinforce the concepts and facilitate the practitioner's learning experience.

Program Delivery Method: Self-Study (NASBA QAS Self-Study/Interactive)

Subject Codes/Field of Study

CFP Board of Standards, Inc., NAPFA: Estate Planning
NASBA/CPA: Specialized Knowledge and Application

Course Requirements

Program Level of Complexity

CFP Board: **Advanced**

NASBA (CPA): **Advanced.**

This program is appropriate for professionals at all organizational levels.

Prerequisites: Significant knowledge of estate planning.

Advance Preparation: None

Course Content

Publication/Revision date: Course-Text: 11/1/2020.

Course authors:Carolynn Tomin, CFP®; Colleen Carcone, JD, CFP®.

Course text: *Principles of Estate Planning*, 3rd Ed, 2018, updated in 2020.

Exam: (online): 145 multiple-choice questions.

Instructions for Taking This Course

You must complete the course within one year of the date of purchase (if you do not complete the course within one year, contact us to determine whether an updated edition of the course is available, in which case we will provide you with a PDF of the updated course and the online exam at no charge).

A passing grade of at least 70% is required on the final exam for this course. You may retake the exam if you do not pass it on the first attempt (no charge).

Complete the course by following the learning objectives listed at the beginning of each chapter, studying the chapter-text, and studying the review questions at the end of the chapter. Once you have completed each chapter and you are confident that the learning objectives have been met, answer the final exam questions for that chapter (online). As an alternative, you may complete the the entire exam after studying the entire text.

Instructions for Taking the Exam Online:

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Go to "My Account" and view your course.

Select "Take Exam" for this course and follow instructions.

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Learning Objectives are on page xxvi (following the Table of Contents).

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FOREWORD

Technically, Estate Planning encompasses the process of accumulation, conservation, and distribution of an estate in the manner that most efficiently and effectively accomplishes the client's goals. In short, almost everyone has some estate and every one of those estates are planned – either by the dictates of state law – or by a person or couple who takes deliberate and conscious control of the process.

But money and assets are not the whole story. Estate planning is very much about people, the accomplishment of their dreams and hopes, and the vanquishing of their fears. In fact the “people problems” are every bit as – if not more so – challenging than the technical tax and other legal aspects. This is why the subject of estate planning is so very important.

Practitioner-educators Carolynn Tomin and Colleen Carcone are uniquely qualified to guide you through your first look at this intellectually, psychologically, and financially rewarding field. They have succeeded in taking a highly complex and astoundingly broad body of information and distilling it into an organized, clear, crisp, and concise tool to help you quickly master the basic concepts. Each term of art is both defined and illustrated by examples. Carolynn and Colleen have provided you with a Rosetta stone to the language of estate planning.

Look at the contents of this book as a door to a mansion filled with fine art. Walk in and wander through the rooms and you will be awed by the treasure that you will find – not just to enrich others' lives – but also to enrich your own and your family's.

Stephan R. Leimberg
April 2018

THIRD EDITION

Since we wrote the first edition of this book in 2012, we have seen new legislation implemented in the form of the American Taxpayer Relief Act of 2012 (ATRA) and the Tax Cuts and Jobs Act of 2017 that has vastly changed the estate planning landscape. There has been a doubling of the federal estate tax exemption amount, allowing many to focus less on estate tax planning and more on ensuring their objectives are met.

Principles of Estate Planning, Third Edition reflects the very latest tax code laws, rates, and exemptions enacted with the Tax Cuts and Jobs Act. We have also updated the text to reflect other changes that are relevant to estate planning professionals. This includes a thoughtful analysis of the income tax considerations that may come into play when developing a client's estate plan. These changes are important from a “nuts and bolts” perspective, but they also remind us that the practice of estate planning involves more than just estate taxes. Estate planning is about helping your clients take stock of what they have accomplished and decide what kind of legacy they will leave behind for those that they care about. We hope you will find this updated version of the first edition most useful in understanding the comprehensive subject of Estate Planning.

Carolynn B. Tomin, CFP®
Colleen Carcone, JD, CFP®
July 1, 2018

PREFACE

Throughout our many years of experience in teaching estate planning we recognized the need for a textbook that would assist students in learning the complex principles and techniques of estate planning. We observed that students were easily confused by certain legal terms and tax concepts and that they struggled to understand some of the more advanced estate planning strategies they were expected to know. This led us to continually search for effective teaching methods and materials that would help students understand these difficult estate planning topics. Over time, and through experience, we developed better teaching practices and materials that have helped our students with their studies. We decided to share our format, the organization of our materials, and the many client situations and practitioner tips we developed with students and instructors whom we hope will benefit from our work.

The Importance of Learning Estate Planning

Sometimes a student wonders why he or she needs to learn estate planning when a licensed attorney is the only professional who has the authority to practice law and provide comprehensive estate planning for clients. We explain that estate planning involves the coordination of expertise and special skills of all members of the client's estate planning team, which often includes financial planners and other financial advisors. Planners must recognize clients' estate planning issues and they should understand how alternative solutions can affect a client's overall financial plan. Every member of the estate planning team is obligated to be aware of the tools and techniques of estate planning, to understand their limitations as well as their problem-solving potential, and to be knowledgeable enough to discuss them in general terms with clients and their other advisors.

It is important for students to understand that estate planning knowledge can add tremendous value to a client's life and also to a client relationship. A former student, Thomas C. Schwab CFP® of Santa Fe, New Mexico, contributed this explanation:

"In many client engagements, I have found estate planning knowledge and the ability to make meaningful contributions to a client's estate planning the most significant aspect of the relationship. This area of knowledge often sets CFP® practitioners apart from other financial advisors, creating opportunities to engage and collaborate with the other important professionals in the client's life. It also demonstrates to our clients that we are committed to helping them manage and find solutions to often complex intergenerational issues that touch upon their hopes, desires, and values. Because estate planning usually integrates fundamental aspects of our other areas of expertise, such as tax planning, investment planning, and insurance planning, it also creates an opportunity to organize the many pieces of the planning puzzle together with the client into a coherent, comprehensive plan.

"Estate planning inevitably touches upon many (sometimes deeply charged) emotional areas of the client's life--their family relationships, their charitable motives, their wish to leave a legacy, and their acceptance of their own mortality. Therefore a CFP® practitioner who is skilled in estate planning knowledge can forge a deep and intensely meaningful professional relationship with clients and their families. In my practice, it is not at all unusual for clients to express deep gratitude for the sensitive handling of all of these issues.

“Clients are often surprised, having initially contacted me for investment advice, that there is so much more that a knowledgeable CFP® practitioner can contribute to their overall planning. Some clients report feeling immense relief, confidence, and peace of mind that this area of their planning has been addressed thoughtfully and comprehensively. In the process, I often get to know the client’s children and grandchildren and this is a source of enrichment for me and for my clients. In some cases, I am treated as a trusted member of the family. All of this makes a solid grounding in estate planning not only a necessity, but it also creates opportunities for truly intellectually and emotionally stimulating experiences in financial planning that can be life changing for my clients and for myself. I have no doubt that this has contributed to my being considered a trusted member of the professional community and, through word of mouth, has brought many new clients into my practice.”

Unique Features of Principles of Estate Planning

Principles of Estate Planning is written specifically for estate planning students and for financial planning practitioners, and other advisors who want to provide greater value for their clients by offering more comprehensive financial planning services.

This textbook is, in essence, a practitioner’s guide to estate planning. The topics covered in this book include all of the CFP® Certification Examination Principle Topics and subtopics related to estate planning at the highest academic level. Our objective is not only to explain the topics in great detail but to emphasize their practical application in planning situations and in the context of a comprehensive financial plan. Each topic is broken down into smaller components and illustrated with client situations to reinforce the concepts and facilitate the student’s learning experience.

Learning objectives are provided for each chapter. They emphasize the most important information that students need to know. Chapter learning objectives have specific learning outcomes linked directly to CFP Board principal topics. Students should test their understanding of chapter material by using the learning objectives as academic benchmarks in their studies. Many of the learning objectives are taken from the CFP Board resource document *Student Centered Learning Objectives based upon CFP Board Principal Topics*.

Client situations are interspersed throughout the book and are intended to demonstrate how topic information is applied to financial planning and estate planning situations. Students often find that topic content is difficult to understand, but when an explanation is combined with a client situation, the material is better understood. Client situations in this book are not necessarily based on real-life examples, but they can be applied to real-life planning situations.

Practitioner tips are included throughout the textbook because they provide advice and practical guidance to students and financial planning practitioners when working with clients. We want our readers to understand how the information is used in practice and have emphasized points that a practitioner would want to know.

Chapter highlights emphasize the most important material presented in the chapter and are included at the end of each chapter. Students must have a thorough understanding of the information presented here and can use this feature as a summary and a review of chapter information.

Key terms are bolded throughout the text and are listed in alphabetical order at the end of each chapter. The meaning of these terms can be found in the context of the chapter material, and definitions can be found in the glossary.

Review questions are the last component of each chapter and are intended to test a student's knowledge of the chapter information. We encourage students to test themselves on the questions provided, because practice questions will help students understand the material better. The answers are provided in Appendix A, located in the back of the book, so that students can read an explanation of the correct answer and understand why other answer options are incorrect.

Finally, for simplicity's sake, we have opted to use the pronoun *he* in this book, to represent both genders.

We believe that the format and structure of our textbook will allow students to learn not only the estate planning concepts essential for practitioners to know, but it will provide them with an understanding of how these concepts work in the real world of financial planning. We are proud of this textbook and hope that our readers will be educated and enlightened by it.

With best wishes for your professional success,

Carolynn B. Tomin, CFP®
Colleen Carcone, JD, CFP®
July 1, 2018

ABOUT THE AUTHORS

Colleen Carcone, CFP®, is a **financial planning professional and attorney** specializing in comprehensive estate and tax planning matters. Since 2008, Ms. Carcone has taught estate planning at Boston University's Program for Financial Planning. Ms. Carcone also serves as a Wealth Planning Strategist for TIAA, where she provides wealth transfer, estate planning, and tax planning services for the company's client needs.

Prior to joining TIAA, Ms. Carcone worked with Atlantic Trust Company, where she advised high-net-worth clients on all aspects of estate planning including basic planning, asset ownership, charitable gifting, multigenerational transfers, and other sophisticated estate planning strategies while working with clients' outside advisors to implement these techniques. Formerly Ms. Carcone worked with Atlantic Benefit Group, an insurance firm, advising high-net-worth individuals and business owners and providing assistance with the implementation of advanced estate and business planning techniques utilizing life insurance.

Carolynn B. Tomin, CFP®, specializes in financial education. She is the Program Director for Boston University's classroom and online financial planning programs and has augmented curriculum for the online program for fifteen years. She has taught estate planning courses, virtual reviews, and CFP® Certification Exam reviews for twenty years at colleges in Massachusetts and Florida, and for many banks and financial service companies in both states.

As cofounder of a financial education company, Beacon Hill Financial Educators, she developed and presented continuing education courses to many financial service corporations and financial planning organizations.

Ms. Tomin served as a member of CFP Board's *Council on Education* from 2009 – 2012, and was appointed Chair in 2012. She has also served on the board of directors for the southwest Florida chapter of the Financial Planning Association (FPA). She is a former member of the Boston Estate Planning Council.

ABOUT THE MANAGING EDITOR

Richard H. Cline, J.D., is the Senior Director, Tax and Insurance Content for the Practical Insights Division at the National Underwriter Company, an ALM Media company. He is responsible for both the print and online versions of Tax Facts as well as developing new tax products for our customers.

Richard joined the company in 2013 but has over twenty-five years of tax editing and publishing experience. Prior to joining our team, Richard worked for Lexis-Nexis, CCH, Inc., and PricewaterhouseCoopers.

He has a B.S. degree from Franklin and Marshall College in Lancaster, Pennsylvania, and earned his law degree from Tulane University in New Orleans, Louisiana.

ABOUT THE EDITOR

Jason Gilbert, J.D., M.A., is the Senior Editor with the Practical Insights Division of The National Underwriter Company, a division of ALM Media, LLC. He edits and develops publications related to tax and insurance products, including titles in the *Advisor's Guide* and the *Tools & Techniques* series of investment and planning products. He also develops content for National Underwriter's other financial services publications and online products. He has worked on insurance and tax publications for more than nine years.

Jason has been a practicing attorney for more than a dozen years in the areas of criminal defense, products liability, and regulatory enforcement actions. Prior to joining National Underwriter, his experience in the insurance and tax fields has included work as a Westlaw contributor for Thomson Reuters and a tax advisor and social media contributor for Intuit. He is an honors graduate from Wright State University and holds a J.D. from the University of Cincinnati College of Law as well as a master's degree in Economics from Miami University in Ohio.

EDITORIAL SERVICES

Connie L. Jump, Senior Manager, Editorial Operations

Patti O'Leary, Senior Editorial Assistant

ACKNOWLEDGMENTS

Writing a textbook is a very time-consuming process. When we began writing the first edition back in 2011 we found that all of our precise planning and self-imposed deadlines were quickly overturned as events in our lives took center stage and demanded our full time and attention. Over the years, we have both experienced the deaths of loved ones, the illness of close friends, and the birth of grandchildren, nieces and nephews. These events made us recognize how truly important estate planning is and appreciate what it can accomplish, as we dealt with estate planning issues within our own families.

We want to extend a very special thank you to our families, who have supported us and encouraged us throughout the writing of this book.Carolynn would especially like to recognize and thank her husband, Nigel Tomin. Without the love, understanding, and support of our families, this book would never have been written.

We wish to further acknowledge the many colleagues who provided us with advice and especially acknowledge many of Colleen's colleagues at TIAA and in the Boston legal community who made significant contributions to this book..

We have been very fortunate to work with our editor, Jason Gilbert who skillfully guided us through the writing process and also provided us with much-needed encouragement along the way. We are also grateful to the folks at the National Underwriter Company, especially Jay Caslow, for the support and confidence they have shown in us and in this project.

Finally, we want to extend a very sincere and special thank you to Stephan Leimberg, who graciously allowed us to adapt and incorporate into this textbook parts of *The Tools & Techniques of Estate Planning*.

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Learning Objectives

After studying the text, you should be able to meet the following learning objectives for this course:

Chapter 1 Introduction to Estate Planning

- Recognize the importance of estate planning and what it can accomplish.
- Identify the unauthorized practice of law.
- Identify the financial planning practitioner's role and responsibilities in the estate planning process.
- List fiduciary duties and identify the parties that would be subject to them.

Chapter 2 Property Interests

- Compare and contrast the most common forms of property ownership and how they affect the gross estate, the probate estate, marital deductions, and step-up in basis.
- Understand the implications of how property ownership affects the manner in which assets will be distributed at a decedent's death.

Chapter 3 Community Property

- Identify the types of property that are community property interests and those that are not.
- Understand the implications of moving from a community property state to a non-community property state and vice versa.

Chapter 4 Methods of Property Transfer at Death

- Understand the characteristics and consequences of using alternative methods of transferring property at death, including contracts, trusts, and property passing by operation of law.
- Select the most appropriate property transfer mechanism for a client's situation.

Chapter 5 The Probate Process

- Understand the probate process, its advantages, disadvantages, and costs.
- Know the various ways to avoid probate.
- Recognize the implications of ancillary probate.

Chapter 6 Wills

- Identify the types of wills and the manner in which assets will pass per the terms of a will.

- Understand the legal requirements of a will.
- Understand the manner in which a will can be modified or revoked.

Chapter 7 Incapacity Planning

- Identify the different documents that provide for incapacity planning.
- Compare the different types of powers of attorney.
- Know the provisions that should be contained in a power of attorney.
- Recognize the importance of coordinating special needs trust planning with available government benefits.
- Understand the need to coordinate Medicaid planning with state law.

Chapter 8 Trusts

- Define and describe the uses of the four types of trusts, including revocable, irrevocable, inter-vivos, and testamentary.
- Know the basic components of trusts, including identifying the parties to a trust.
- Identify and explain the operating terms of a trust and the dispositive provisions of a trust.

Chapter 9 Income Taxation of Trusts, Estates, and Beneficiaries

- Recognize the income tax consequences of simple versus complex trusts.
- Identify a grantor trust.
- Describe the tax consequences for both the decedent and heir/beneficiary for income included in a decedent's gross estate and/or final income tax return.
- Calculate the IRD deduction for one or more sources.

Chapter 10 Gifting Strategies

- Recognize the tax and non-tax advantages of gifting.
- Identify the best property interests to gift, according to a client's objectives.
- Know the purpose and nature of the gift tax law.
- Recognize when a completed transfer has occurred.

Chapter 11 Gift Tax Calculation

- Identify exempt gifts.
- Calculate taxable gifts.
- Calculate the current year's gift tax liability.

- Calculate the amount of unified credit that remains after a taxable gift is made.
- Recognize that taxable gifts are reported as adjusted taxable gifts on the estate tax return.

Chapter 12 Gifts to Minors

- Know the tax advantages of making lifetime gifts to minors.
- Understand the similarities and differences between a UGMA account and a UTMA account.
- Identify the income tax-shifting strategies available for families.

Chapter 13 The Gross Estate

- Know property included in a decedent's estate.
- Identify which separately owned property interests are included in a decedent's gross estate.

Chapter 14 Estate Tax Calculation

- Identify which deductions may be taken from the gross estate.
- Determine which credits are available to a decedent to reduce the estate tax.
- Demonstrate how to compute an estate tax for different client situations.

Chapter 15 The Marital Deduction

- Understand the appropriate use of the marital deduction for estate planning purposes.
- Define the requirements for a qualified transfer.
- Determine the amount of a marital deduction for all property interests included in a decedent spouse's estate.
- Know the requirements of a qualified domestic trust.

Chapter 16 Marital Trusts

- Describe the tax and nontax characteristics of the bypass trust.
- Evaluate when a particular marital trust should be used to meet clients' estate planning objectives.
- Know the relationship between the marital deduction and the qualified terminable interest property trust.
- Determine when estate equalization should be used to minimize tax on a couple's combined estates.

- Know the benefits and disadvantages of portability.

Chapter 17 Charitable Transfers

- Know the income, gift, and estate tax consequences of charitable transfers.
- Identify and select the various charitable transfer vehicles that are appropriate for a client based on current and future income needs and tax advantages.
- Understand the differences between charitable remainder trusts and a charitable lead trust.

Chapter 18 State Death Tax Deduction

- Understand the difference between the state death tax deduction and the state death tax credit.
- Know the differences between a sponge tax, inheritance tax, and estate tax at the state level.

Chapter 19 Generation-Skipping Transfer Tax

- Identify the circumstances that trigger the generation-skipping transfer (GST) tax.
- Know when an annual exclusion applies to a gift made to a skip person or a skip person trust.
- Recognize how the GST exemption is allocated to different transfers to reduce or eliminate the GST tax.
- Calculate the federal GST tax on a lifetime gift and on a bequest.

Chapter 20 Powers of Appointment

- Distinguish general powers of appointments from special powers.
- Understand the gift and estate tax implications of powers of appointment.
- Understand how Crummey powers affect gift and estate taxes for grantors and trust beneficiaries.

Chapter 21 Life Insurance Planning

- Identify the most appropriate types of insurance policies to meet specific client objectives.
- Evaluate the estate, probate, and gift tax consequences of owning and transferring a life insurance policy.

Chapter 22 Irrevocable Life Insurance Trusts

- Know and contrast the characteristics and tax aspects of a funded ILIT with an unfunded ILIT.

- Recognize the advantages and tax implications of dynasty trusts.

Chapter 23 Estate Planning with Retirement Benefits

- Understand the distribution options available to different classes of beneficiaries of retirement plans.
- Recognize the income tax implications that a beneficiary faces upon receiving retirement plan assets.

Chapter 24 Estate Freeze Strategies

- Know when and how to apply the preferred stock recapitalization technique.
- Recognize the circumstances when a qualified interest trust is appropriate for clients.
- Evaluate the gift and estate tax ramifications of using GRITs, GRATs, GRUTs, and QPRTs.

Chapter 25 Intra-family and Other Business Transfer Techniques

- Compare and contrast the different types of business transfer techniques.
- Know the gift and estate tax implications of each business transfer technique.
- Recommend appropriate business transfer techniques such as installment sales, private annuities, SCINs,

Chapter 26 Gift and Sale Leasebacks, or IDGTs.

- Family Limited Partnerships and Limited Liability Companies
- Evaluate how family limited partnerships and limited liability companies might apply to a client's situation.
- Understand gift and estate tax implications for FLPs and LLCs.

Chapter 27 Business Planning Strategies

- Identify the different types of insurance policies and ownership arrangements available to business owners and employees.
- Know the considerations involved in business succession planning.
- Understand the purpose and structure of business continuation agreements.
- Identify the various types of postmortem planning techniques available to business owners and recognize when they can be implemented.

Chapter 28 Estate Planning for Non-traditional Relationships

- Identify the impact of divorce and/or remarriage on an estate plan, including asset titling and distribution, changes in beneficiary status, and selection of heirs.

- Know how asset ownership, tax laws, and government policies affect estate planning for same-sex or unmarried couples.
- Identify the legal documents, agreements, and trusts that benefit individuals in non-traditional relationships.

Chapter 29 The Intersection of Income and Estate Planning

- Describe client considerations for structuring a tax-efficient legacy.
- Compare the advantages and disadvantages of lifetime gifts to individuals and charity.
- Identify the income tax effects of property gifted or bequeathed to individuals, trusts and charity.
- Evaluate the income tax implications of portability; bypass trust planning and qualified disclaimers.

Chapter 30 Common Estate Planning Considerations

- Identify the types of trusts, techniques, and deductions that reduce the estate tax base.