



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

Course Information

Course Title: *Selected Legal Issues with Tax Analysis #491416*

Recommended CPE credit hours for this course

In accordance with the standards of the National Registry of CPE Sponsors and the IRS, CPE credits have been granted based on a 50-minute hour.

CPA 2 (All states)

National Registry of CPE Sponsors ID Number: 107615.

Sponsor numbers for states requiring sponsor registration:

Florida Division of Certified Public Accountancy: 4761 (Ethics #11467)

Hawaii Board of Public Accountancy: 14003

New York State Board of Accountancy: 002146

Ohio State Board of Accountancy: M0021

Texas State Board of Accountancy: 009349

EA/OTRP 2 (All States) IRS: Qualified Sponsor number: *FWKKO*.

IRS Course Number: FWKKO-T-00066-13-S

CLU, ChFC/PACE Recertification 2

Course Description

How can you help your clients protect their assets? What is the best way for your client to “go bankrupt”? How can you help your client avoid the tax trap when going through a divorce? This course addresses all of these and many other, critical legal issues for the tax practitioner in a quick and effective potpourri of legal topics and their tax impact. The emphasis is on the tax consequences of common legal issues in today's litigious society. From the Americans with Disabilities Act to Social Security taxes, a generous sampling of key areas is examined and explored. Tax practitioners will be quickly surprised to find how often the "tax tail" can wag the legal dog.

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

Subject Codes/Field of Study

NASBA (CPA): Taxes.

IRS (EA, OTRP): Federal Tax Law.

Course Level, Prerequisites, and Advance Preparation Requirements

Program Level: CFP Board: Intermediate; NASBA/CPA, IRS: Overview.

This program is appropriate for professionals at all organizational levels.

Prerequisites: Basic familiarity with federal taxation

Advance Preparation: None

Course Content

Publication/Revision Date: 2/9/2016.

Author: Danny Santucci, J.D.

Final exam (online): Ten questions (multiple-choice).

Instructions for taking this course

You must complete this 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 on the following page, studying the text, and studying the review questions at the end of each major section (or at the end of the course). Once you have completed studying the course and you are confident that the learning objectives have been met, answer the final exam questions (online).

Instructions for Taking the Final Exam Online

- Login to your account online at www.bhfe.com.
- Go to "My Account" and view your course.
- Select "Take Exam" for this course and follow instructions.

Additional Information

- The exam may be started, stopped, then resumed at a later date.
- The exam is "open book," it is not timed, and it may be retaken if not passed on the first attempt (no charge).
- Results (correct, incorrect answers) and certificate appear immediately upon passing the exam.
- CFP® and EA credits are reported weekly.

Have a question? Call us at 800-588-7039 or email us at contact@bhfe.com.

Learning Assignment & Objectives

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

ASSIGNMENT

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

- * Asset protection
- * COBRA coverage
- * Bankruptcy
- * Divorce settlements & divisions
- * Employment & Social Security
- * Americans with Disabilities Act
- * Entities and title
- * Insurance & foreclosure
- * Involuntary conversions
- * Torts and personal injuries

Learning Objectives

After reading the materials, participants will be able to:

- 1.** Recognize the business law concepts of asset protection, bankruptcy, condemnation, and damages noting their tax, economic, and legal impact on the small business planning.
- 2.** Determine the business relationships of principal, employee and independent contractor including the legal and tax consequences of their relationship to a business, specified business and legal risks posed by these parties, including co-ownership, employment, Worker's Compensation, COBRA and Disability Act provisions and identify proactive techniques such as buy sell agreements and regulatory compliance procedures.
- 3.** Recognize the variety of personal tax and legal issues such as divorce, foreclosure, legal title, and income needs that can directly impact a client's business and determine how investment, insurance, and government benefit planning can address these issues.

After studying the materials, answer the exam questions 1 to 10.

Notice

This course and test have been adapted from materials and information contained in the above text and any supplemental material provided. This course is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional advice and assumes no liability whatsoever in connection with its use. Since laws are constantly changing, and are subject to differing interpretations, we urge you to do additional research and consult appropriate experts before relying on the information contained in this course to render professional advice.



Selected Legal Issues with Tax Analysis

The author is not engaged by this text, any accompanying electronic media, or lecture in the rendering of legal, tax, accounting, or similar professional services. While the legal, tax, and accounting issues discussed in this material have been reviewed with sources believed to be reliable, concepts discussed can be affected by changes in the law or in the interpretation of such laws since this text was printed. For that reason the accuracy and completeness of this information and the opinions based thereon cannot be guaranteed. In addition, state or local tax laws and procedural rules may have a material impact on the general discussion. As a result, the strategies suggested may not be suitable for every individual. Before taking any action, all references and citations should be checked and updated accordingly.

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert advice is required, the services of a competent professional person should be sought.

—From a Declaration of Principles jointly adopted by a committee of the American Bar Association and a Committee of Publishers and Associations.

Copyright January, 2016

Danny Santucci

Table of Contents

Course Information	ii
Learning Assignment & Objectives	iv
Table of Contents	vi
Why Asset Protection?	1
Types of Liability	1
Basic Protection Concepts.....	2
Types of Creditors	2
Evading Creditors.....	2
Fraudulent Transfers	3
Statute of Limitations	3
Permissible Asset Transfers	3
Insurance	4
Buy-Sell Agreements	4
Definition	4
Divorce	5
Prenuptial Agreements	5
Post-Nuptial Agreements	5
Coverage Termination	6
Notice	6
Election	6
Choice of Coverage	7
Cost	7
Deductibles.....	7
American Recovery & Reinvestment Act	7
Federal Bankruptcy	8
Bankruptcy Types	8
Chapter 7 - Liquidation.....	8
Chapter 11- Reorganization.....	9
Chapter 13 - Wage-Earner Plan.....	9
Automatic Stay	9
Preferences	9
Priorities	10
Super Priority Claims	10
Secured Claims	10
Priority Claims.....	10
Divorce Settlements - The Tax Trap	11
Section 1041	11
Property vs. Income	12
Incident to Divorce.....	12
Related To Termination.....	12
Property Basis	12
Purchases between Spouses	12
Residence	13
The Employment Relationship	13
Employee v. Independent Contractor	14
Common Law Rules Used by IRS.....	15
Factors	15

Statutory Employees	16
Real Estate Agents	17
Reporting Requirements	17
Penalties	17
Unemployment Compensation	20
Federal Unemployment (FUTA) Tax - §3301 & §3306.....	20
Unemployment Compensation	20
Workers' Compensation	20
Tax Exemption	21
Unreasonable Compensation	21
Overall Limitation	21
Factors	21
Employee's Qualifications.....	21
Size of the Business	22
Employee's Compensation History	22
Services Performed by the Employee	22
Past Service	22
Reasonable Dividends	22
Payback Agreements	23
Miscellaneous Factors	23
How Social Security Works	23
Social Security Participants.....	24
Social Security Benefits.....	24
Retirement Benefits.....	25
Qualification	25
Calculation.....	25
Personalized Benefit Estimate	25
Social Security's Payroll Tax or FICA - §3111 & §3121	25
Rates	25
Tax after Retirement.....	26
Tax after Retirement.....	26
Disabled Access Credit - §44.....	27
Eligible Small Business.....	27
Eligible Access Expenditures.....	28
Credit Amount.....	28
Architectural Barrier Removal - §190.....	29
Ownership Vehicles & Entities.....	29
Individual & Sole Proprietorship.....	30
Corporate.....	30
Categories of C Corporations	30
Trusts.....	30
Title Holding	30
Business Trusts.....	31
Co-Tenancy.....	31
Partnership.....	31
Family Partnerships	31
Limited Liability Company	32
Retirement Plan.....	32
Custodianship	32
Estate	32
Life Insurance	33

Purpose.....	33
Tax Overview.....	34
Income Tax.....	34
Estate Taxes.....	34
Gift Taxes.....	35
Annuities	35
Deferred Annuity.....	35
Private Annuity	35
Discharged Debt	35
Nonrecourse Indebtedness.....	36
Recourse Indebtedness	36
Reporting	37
Form 1099A	37
Condemnations.....	38
Threat of Condemnation.....	38
Property Voluntarily Sold.....	38
Easements.....	39
Condemnation Award.....	39
Severance Damages.....	40
Expenses of Obtaining an Award	40
Special Assessment Withheld from Award	41
Severance Damages Included in Award	41
Gain or Loss from Condemnations.....	41
How to Figure Gain or Loss	41
Postponement of Gain	41
Choosing to Postpone Gain	42
Cost Test.....	42
Replacement Period.....	42
Related Party Rule.....	43
Types of Torts	44
Intentional Torts	44
Unintentional Torts	44
Business Torts	45
Damages	45
Personal Injury Awards - §104.....	45
Personal Injury	45
Back Pay.....	46
Installment Payments.....	47
Nonphysical Personal Injury	47
Punitive Damages.....	47
Wrongful Death.....	47
Interest & Legal Fees	47
Glossary	53
Keywords & Phrases	54