CHAPTER 1
Introduction to Estate Planning

DISCUSSION QUESTIONS

1. Define estate planning.
   Estate planning is the process of the accumulation, management, conservation, and transfer of wealth considering legal, tax, and personal objectives.

   The Economic Growth and Tax Relief Act of 2001 repealed the estate and generation-skipping transfer tax in 2010. The repeal was phased in over a nine year period (2001-2009). There was no estate or generation-skipping transfer tax in 2010.

3. Explain some of the potential ramifications of the extension of the EGTRRA 2001 through the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRA 2010).
   TRA 2010 reunified the gift and estate transfer tax system, and increased the gift, estate, and generation skipping transfer tax exemption amounts to $5,000,000 for the years 2010 through 2012; and lowered the top marginal transfer tax rates for estates and gifts in excess of the exemption to 35%, and imposed a flat 35% on generation skipping transfers that were in excess of $5,000,000. TRA 2010 also introduced the concept of portability of unused gift and estate exemption amounts. TRA 2010 introduced a new formula for calculating previously paid gift tax, the purpose of which was to address the discrepancies that would result due to the maximum estate and gift tax rate being decreased to 35%. TRA 2010 permitted executors of estates of decedents that died in 2010 to opt into the new rates and exemptions regime that went into place on January 1, 2011. While TRA 2010 significantly amended EGTRRA 2001; it only extended the law through December 31, 2012.

4. How did ATRA 2012 impact estate planning?
   The American Taxpayer Relief Act of 2012 (ATRA) was signed into law in January 2013. The new maximum estate, gift, and generation-skipping tax rates are 40 percent and the lifetime exemption is $5,340,000 which translates to a unified tax credit of $2,081,800 as will be explained in Chapters 5 and 6.
5. **What is an effective transfer?**
   An effective transfer occurs when the person’s assets are transferred to the person or institution intended by the client.

6. **What is an efficient transfer?**
   An efficient transfer occurs when transfer costs are minimized consistent with the greatest assurance of effectiveness.

7. **List three common goals of estate planning.**
   The following are goals of estate planning:
   - Fulfill client’s property transfer wishes.
   - Minimize transfer taxes.
   - Minimize transfer costs.

8. **List some of the reasons people avoid estate planning.**
   The following are reasons people avoid estate planning:
   - Some find contemplating their own death too morbid.
   - Some are simply unaware of the total fair market value of their assets.
   - Some are unaware of the transfer costs.

9. **Discuss some of the risks associated with failing to plan for estate transfer.**
   The following are risks associated with failing to plan for estate transfers:
   - Client’s property transfer wishes go unfulfilled.
   - Transfer taxes are excessive.
   - Transfer costs are excessive.
   - Client’s family not properly provided for financially.
   - Insufficient liquidity to cover client’s debts, taxes, and costs at death.

10. **List the six basic steps of the estate planning process.**
    The six basic steps to the estate planning process are:
    1. Establish the client/planner relationship.
    2. Gather client information, including the client’s current financial statements and establish the client’s transfer objectives, including family and charitable objectives.
    3. Determine the client’s financial status.
    4. Develop a comprehensive plan of transfers consistent with all information and objectives.
    5. Implement the estate plan.
    6. Review the estate plan periodically and update the plan when necessary (especially for changes in family situations).

11. **What is usually the most important client objective?**
    Usually the most important client objective is to transfer assets according to the client’s wishes.
12. **List the members of the estate planning team and describe their roles.**

   The members of the estate planning team and their roles are:
   - A licensed attorney is almost always a part of the team, as the process requires drafting numerous legal documents.
   - A CPA is usually involved as a member of the estate planning team because the process requires the identification of assets, the calculation of the adjusted basis of assets, and other tax issues.
   - An insurance specialist is usually involved to help assure asset protection and liquidity at death.
   - The financial planner may serve as the team captain and assist in data collection, analysis, and investment decisions.
   - The trust officer manages the assets of any trusts involved in the estate plan.

13. **Why must a financial planner be concerned with the unauthorized practice of law?**

   Some of the situations that financial planners become involved with require someone to be a licensed attorney in the jurisdiction where the practice is occurring. For example, financial planners are often involved with reviewing wills, powers of attorney, and trust documents, all documents that must be drafted by a licensed attorney. The financial planner must be careful not to draft, amend, or create these documents on his own, or give legal advice.
MULTIPLE-CHOICE PROBLEMS

1. Which of the following is included in the definition of estate planning?
   1. Asset management.
   2. Accumulation of wealth.
   3. Asset preservation.
      a. 1 only.
      b. 1 and 2.
      c. 2 and 3.
      d. 1, 2, and 3.
   The correct answer is d.
   All of the items listed are included in the definition of estate planning. Estate planning is the process of accumulation, management, conservation, and transfer of wealth considering legal, tax, and personal objectives.

2. Which of the following statements is the best definition of estate planning?
   a. Estate planning is the process of accumulation, management, conservation, and transfer of wealth considering legal, tax, and personal objectives.
   b. Estate planning is the management, conservation, and transfer of wealth considering estate tax transfer costs.
   c. Estate planning is the management, conservation, and transfer of wealth considering legal, tax, and personal objectives.
   d. Estate planning is the process of accumulation, management, conservation, and transfer of wealth considering estate and generation-skipping transfer tax costs.
   The correct answer is a.
   The best definition of estate planning includes the accumulation of wealth and the consideration of all legal, tax, and personal objectives. Estate planning is the process of accumulation, management, conservation, and transfer of wealth considering legal, tax, and personal objectives.

3. Which of the following does not need estate planning?
   a. Charles, age 30, married with two minor children, and a net worth of $375,000.
   b. Sheila, age 35, never been married, one severely disabled son.
   c. Cynthia, age 45, single, has a net worth of $450,000 and two dogs.
   d. All of the above need estate planning.
   The correct answer is d.
   All of the people listed need a will, a plan for incapacity, and a plan for dependents and/or to care for animals.
4. The first step in the estate planning process includes:
   a. Meeting with the client and discussing the client’s assets, family structure, and desires.
   b. Prioritizing the client’s goals.
   c. Developing a formal written estate plan.
   d. Identifying key areas of concern in relation to the client’s plan - taxes, cash on hand, etc.

The correct answer is a.
Initially, a planner must meet with the client and discuss the client’s assets, family structure, and desires. Without this information, the planner cannot properly begin the estate planning process. Next, the planner would prioritize the client’s goals. Based on the information gathered during the initial meeting, the planner would identify key areas of concern and utilize this information during the remainder of the estate planning process. Finally, the planner would develop a formal written estate plan. The planner would review the formal written estate plan with the client to ensure that the client’s goals have been properly identified and that the formal written estate plan includes the transfer of all of the client’s assets.

5. Of the following, who should generally be a member of the estate planning team?
   1. Attorney.
   2. Certified Public Accountant (CPA).
   3. Life insurance consultant.
   4. Loan officer.
      a. 1 and 2.
      b. 1 and 4.
      c. 1, 2, and 3.
      d. 1, 2, 3, and 4.

The correct answer is c.
A loan officer is not usually included in the estate planning team. The estate planning team consists of an attorney, CPA, life insurance consultant, trust officer, and financial planner.

6. Who on the estate planning team usually calculates the adjusted basis of assets and addresses tax issues?
   a. Licensed attorney.
   b. Certified Public Accountant (CPA).
   c. Financial planner.
   d. Trust officer.

The correct answer is b.
A CPA is generally involved as a member of the estate planning team because the process requires the identification of assets, the calculation of the related adjusted basis, and other tax issues.
7. Which of the following tasks is typically performed by a financial planner who is not a licensed attorney or accountant?
   a. Drafting wills, trust documents, and powers of attorney.
   b. Calculating asset basis.
   c. Preparing financial statements.
   d. Collecting data and assisting with investment decisions.

The correct answer is d.
The financial planner generally assists in collecting data, analysis, and investment decisions. If the financial planner is also a licensed attorney or a CPA, the financial planner may take on the role of the attorney or CPA as well.

8. Joe is a financial planner in the state of Iowa. Although he attended one year of law school, Joe is not a licensed attorney. Which of the following actions would be considered the practice of law?
   a. Drafting wills, trust documents, and powers of attorney.
   b. Reviewing wills, trust documents, and powers of attorney.
   c. Directing a client to seek legal advice from a licensed attorney.
   d. Acting as trustee for a client’s trust.

The correct answer is a.
Drafting legal documents is considered practicing law. Any of the other actions would not be considered practicing law. (Note: This varies according to state law and could be different in some states.)

9. Which of the following statements concerning the practice of law is correct?
   a. The practice of law is defined by each state.
   b. Special circumstances are sometimes given to financial planners to enable them to draft wills, trust documents, and other legal documents.
   c. Reviewing wills to ensure client goals are being addressed is considered practicing law.
   d. A licensed attorney can give anyone the right to practice law as their agent.

The correct answer is a.
The practice of law is defined on a state-by-state basis. All of the other statements are false. A financial planner cannot be given any special rights to draft legal documents, but a financial planner can review documents without practicing law. Licensed attorneys cannot give anyone else the right to practice law - only a state can license an attorney to practice law.

10. Joann contacts you by phone. She is 65 and has accumulated over $3,000,000 in assets. She informs you that she is not married, and wants to leave all of her assets equally to her three adult children. She agrees to come meet with you, but asks what she should bring. Which one of the following items would be least important for her to bring if the topic of discussion is estate planning?
    a. Copy of her will and any codicils.
    b. Copy of children’s birth certificates.
    c. Copy of life insurance policies.
    d. Copy of latest bank statements.
The correct answer is b.
To develop her estate plan, you would not need copies of her children's birth certificates. You would need all of the other items.

11. Jimmy would like to meet with you regarding his estate plan. Jimmy is 55 years old, and currently has an estate that would be subject to estate tax. His wife died of lung cancer last year. Jimmy has three children, ages 23, 26, and 32, and one grandchild, age 4. He does not have any dependents. Which of the following options would be the least likely reason for Jimmy to have an estate plan?
   a. Minimize estate and transfer taxes.
   b. Minimize costs.
   c. Plan for his children.
   d. Plan for his incapacity.

The correct answer is c.
Planning for children generally refers to planning for minor or dependent children. Because all of Jimmy's children are of the age of majority, Jimmy may not need to plan for his children. All of the other options are reasons Jimmy should have an estate plan.

12. Don does not want to write a will. It upsets him to contemplate his own death and he simply desires to avoid the estate planning process. All of the following are risks Don's estate may face due to Don's inaction, except:
   a. Don's property transfers contrary to his wishes.
   b. Don's estate may face liquidity problems.
   c. Don's estate faces increased estate administration fees.
   d. Don's estate faces increased debt payments for outstanding debts at death.

The correct answer is d.
Don's inaction will cause him to die intestate and be subject to the intestacy laws of his state. Don's inaction will also cause him to die without an estate plan. There is no risk that his estate will be subject to increased debt payments for outstanding debts at death simply because he dies intestate or without an estate plan. All of the other options are risks when someone dies intestate or without an estate plan.

13. Which of the following is a risk of failing to plan for one's estate?
   1. Property transfers contrary to the client's wishes.
   2. The client's family may not be provided for financially.
   3. The estate suffers liquidity problems at the client's death.
   4. The estate may bear higher transfer costs.
      a. 2 only.
      b. 2 and 3.
      c. 1, 3, and 4.
      d. 1, 2, 3, and 4.
The correct answer is d.
All the risks listed are risks of not planning for the estate. Proper estate planning can transfer property per a
decedent’s desires, develop a plan for continued family support, create liquidity at death, and potentially
reduce transfer costs.