ADVANCED PRIVATE WEALTH PLANNING SEMINAR
Spring Semester 2017

Instructors: Beckwith with Davis, O’Brien, Sega and Siegler

G. Ellis Duncan
Director, Graduate Tax Program
Georgetown University Law Center

CAUTION: This syllabus should be read carefully by all prospective students. Any preliminary questions about the course should be addressed to Professor Beckwith at or before the first scheduled class on January 18th.

COURSE DESCRIPTION: This course builds on the following three courses offered during the Fall semester 2015: Income Taxation of Estates, Trusts and Beneficiaries; Introduction to the Estate and Gift Taxes; and Special Topics in Transfer Tax (together “Fall Courses”). It is designed to provide students with a solid grounding in advanced estate-planning techniques and to help them develop the drafting and client-relations skills necessary to design and implement a comprehensive, advanced estate plan. This course is required for the Certificate of Study in Estate Planning.

The course is structured as two concurrent modules. One module introduces students to complex planning scenarios. Topics covered include: estate and trust administration; planning for highly-compensated individuals; disability, insurance and benefit planning; and fiduciary litigation.

The other module consists of a substantial, hands-on exercise that focuses on developing, drafting, and executing a complex estate plan. Using a comprehensive fact pattern developed in class, students work in teams assigned by the faculty to prepare and present client and file memoranda, analyses of planning alternatives and related documents.

Students generally may not receive credit for both this course and former LAWJ/G-161-09, Estate Planning. A student seeking an exception from this rule should consult with the Director, Graduate Tax Program, before registering for this course.

PREREQUISITES: The prerequisites for this course are the successful completion with an equivalent grade of “B” or better in: Taxation I (or a similar J.D. course in basic
individual income taxation); Decedents’ Estates (or a similar J.D. course such as Trusts and Estates or Probate Law); and all of the 6-credits from the Fall Courses described above.


Students should consult Canvas on a regular basis for updates and additional materials. When a Code section is assigned it will be assumed the students have read the section carefully and will have become generally familiar with the contents of the related Regulations. Whenever a section of the Portfolio or a paragraph of the Text is assigned, students are expected to read the corresponding portions of the Supplement as well.

CLASS TIME AND LOCATION: Classes will be held on Wednesday evenings in a double period beginning at 5:45 pm and ending by 9:45 pm in Room 203 McDonough Hall.

SNOW POLICY: In the event of heavy snow, the Law Center follows the federal government's policy on morning closings and late openings. For morning classes, this means that when the federal government is open, the Law Center is open. When the federal government is closed, the Law Center is closed. When the federal government opens two hours late, the Law Center opens for 11:10 a.m. classes. When the federal government announces "unscheduled leave" every effort will be made to hold classes as scheduled. The Law Center will decide independent of the federal government whether to cancel late afternoon or evening classes. If canceled, faculty teaching those classes will be telephoned by the staff of the Office of the Registrar, announcements will be made on local television stations, and an announcement will be placed on the class cancellation line, (202) 662-9446.

CANCELLATIONS: If the Law Center was open for morning and afternoon classes, a given class will be held as scheduled unless you are notified by e-mail from Professor Beckwith that class has been cancelled or by the Law School that all evening classes have been cancelled due to inclement weather.

PARTICIPATION – PLEASE READ THIS CAREFULLY AND TAKE IT TO HEART: This is an advanced seminar. Each student is expected to prepare and be prepared to participate in each class. A student who is unwilling to actively participate fully in each class and in each aspect of the team assignments all semester long should not enroll in this course. For the purposes of this seminar a student should assume all written assignments will be read by and should be understandable by a client who does not have the benefit of any technical training in the subject area.
EXAM and GRADING: There will be no examination in this course. The grade for this course will be based entirely on the class project and class participation.

SEMINAR MECHANICS for CLASS PROJECT
(Please read very carefully and note all questions for class on January 20th)

Teams: The Class has been divided into four (4) working groups or teams (Teams One-Four). The class list, with contact information and the Team assignments is found as Attachment 1.

Each Team will work as a group and produce one collaborative work per Team. While responsibilities will likely be divided by a given Team among its members, each team member is responsible for understanding and being able to explain and defend the Team’s entire effort.

Class Project: Each Team will prepare a complete solution set to a comprehensive planning problem common to all Teams which will be styled as two presentations. Each Team will prepare written materials and present and defend their findings and recommendations in camera to all four Faculty Advisors and Professor Beckwith (“Review Committee”). The written materials and in-class presentation should be technically accurate but delivered in a manner that would be understandable to a client or colleague who is intelligent but untrained in the subject matter.

Faculty Advisors: Each Team will be assigned a designated faculty member who will: (i) work with the Team throughout the semester at times to be agreed to by the Team and the faculty member; (ii) serve as a resource to the Team with respect to their project; (iii) grade each member of the Team he or she supports on the collective written work product and two in-class presentations of their work product as well as the individual contribution of each Team member; and (iv) serve as a resource to all Teams with respect to a designated topic area.

Team Leader: Each Team will have a student leader. The student leader has no special authority or responsibility other than to coordinate convening the Team when it is advantageous for the Team to meet as a whole. The schedule establishes several evenings for Group Preparation Sessions during regular class time. It is anticipated the Teams and subsets of each Team will need to meet several other times throughout the semester as agreed upon by the Team. Since a number of students work during the day, each Team should plan to meet in the evening and on weekends whenever possible.

Tasks: The Team assignments are divided into two Tasks.

Task One – Preliminary Fact Finding and Issue Identification and Advanced Planning Considerations: Prepare: (i) one or more file memoranda that organizes all of the relevant information, identifies what additional information may be needed, and sets out a preliminary plan; (ii) client engagement letter(s) that include a detailed description
of the scope of engagement(s); (iii) file memoranda which identify all major tax and other pertinent legal issues and create detailed plans for completing the engagement. Each Team will separately present this material in class on March 1st at the times assigned. **This task will be graded.** After each presentation, the faculty as a whole (“Review Committee”) will offer guidance to help assure success in the completion of Task Two.

**Task Two – A Formal Plan:** Each Team will prepare detailed written client memoranda or similar communications that set forth, with analysis and numeric computations, as advisable: (i) the lifetime private and charitable planning strategies associated with the engagement; (ii) the business succession issues associated with the engagement; (iii) the tasks associated with the estates and related trusts of all recently deceased members of the client family; and (iv) all of the tax and non-tax considerations associated with the administration of each device and technique presented as part of (i-iii above). Each team also will prepare PowerPoint slides, spreadsheets, charts, diagrams, etc. as needed to best present and illustrate their final work product. Each Team will separately present this material in class on April 12th at the times assigned. **This task will be graded.** After each presentation, the Review Committee will offer its evaluation of the Team’s plan and allow time for the Team to ask questions about the project.

**Presentations:** The entire Team will be responsible for assembly and the development of the presentations for the Review Committee for both Task One and Task Two. Each member of each Team will participate in the presentation and will be quizzed by the Review Committee.

**Nature of Written Materials:** When a Team believes the preparation of actual planning documents, i.e. Wills, Trusts, Partnership Agreements, etc., will help illustrate their strategic or technical thinking such documents can be included as an aid but not as a substitute for what is expected, comprehensive written work. It is not expected that any given Team will prepare a significant number of such documents or rely on such documents in lieu of clearly written explanatory and analytical materials. **No later than February 24th for each Team’s March 1st presentation and April 7th for the final Team presentations, each Team will submit their materials (compatible with Microsoft applications) on five (5) thumb drives to Professor Beckwith to be redistributed by him to each Faculty Advisor.**

**Grading:** Each Team will be assigned a grade as a group for its written material and project defense before the Review Committee. However, each individual team member also will be separately graded with some members getting extra credit and some having credit deducted depending on the individual assessment of all other team members, the designated faculty advisor and the entire Review Committee. A copy of the semester-end Team 360° review is found as Attachment 3.

The Faculty Advisors assignments for each Team and the subject for which each will be a resource for all Teams are as follows:
As of 1/5/17

Professor Davis: Team Four and Resource for Preliminary Fact Finding and Issue Identification.

Professor O’Brien: Team One and Resource for Lifetime Planning (other than Charitable).

Professor Sega: Team Two and Resource for Business Succession Issues.

Professor Siegler: Team Three and Resource for Estate and Trust Administration.

Professor Beckwith: Resource for Charitable Organizations and Charitable Gift Planning.

The Fact Pattern: Professor Beckwith has been approach by Dr. Beau Smythly about representing him and his wife, Jeannette. Dr. and Mrs. Smythly have reached an age where they are concerned they have never done any estate planning and Dr. Smythly is considering a change in careers at the age of 68. Dr. Smythly has written a letter, found as Attachment 2, to describe some introductory background information and you will meet with him during the first 2 hours of the class on January 25th. Each student should come prepared that evening to conduct a preliminary interview with Dr. Smythly.

Consider what questions should be asked, in what order and in what manner to best further develop the facts. After the first interview each Team will meet in class, with or without its Faculty Advisor, compare notes of the first interview and strategize how best to gather the balance of the facts needed to properly complete Task One of the class project. The second interview with Dr. Smythly is scheduled for the last 2 hours of class on the evening of February 8th. Each Team will conduct this follow-up interview with Dr. Smythly as a Team and we will rotate between the Teams until all questions have been answered or time has expired. Each interview session will be between 60 and 120 minutes long so come fully prepared each time to engage with Dr. Smythly in a thoughtful, organized and professional manner.

N.B. Dr. and Mrs. Smythly have scheduled a lengthy vacation in Africa starting February 9th. Accordingly, any questions which remain unanswered after the second interview session will be filled by each Team on a Team by Team basis with assumptions and the rationale for such assumptions clearly described and explained in the Team’s written materials.

To assure uniformity of response, ALL questions of interpretation or protocol regarding the overall class project should be addressed only to Professor Beckwith.
CLASS LECTURES

In addition to the Class Project, the faculty has arranged up to 25 hours of in-class lectures on topics important to becoming a successful private wealth attorney. There will be reading assignments of varying lengths for each lecture. Each student is expected to have completed each reading assignment in advance of the class associated with a given assignment. While there is no written exam in the course, the in-class lectures and material, together with the class assignments from the fall semester, are all considered important to the successful completion of the class project. When a given student has not mastered the topics sufficiently to apply them successfully to the class project it will be evident to others on a Team, as well as to the Team’s faculty advisor and the entire Review Committee when the Team’s work product is formally presented.

CLASS and SEMINAR SCHEDULE AND ASSIGNMENTS

January 18th – Ed Beckwith and Chris Sega

.5 Hours - Course Introduction – Ed

1 Hour – Career Planning – Chris and Ed with panel

2.5 Hours – The Smorgasbord of Lifetime Giving Techniques – Chris and Ed

Assignment: Seminar G Annual ACTEC Meeting 2016


2 Hours – Initial Client Interview with Dr. Smythly

2 Hours – Team Meetings

Assignment: Portfolio A-1 to A12 and A277 to A-284

Each student should read the letter from Dr. Smythly and be prepared to conduct a live interview with him designed to ascertain those facts needed to prepare a complete and comprehensive private wealth plan for him and his wife.
February 1 - Nancy Fax/David Wexler

1.5 Hours – Elder Law and Disability Planning– Nancy

1.5 Hours – Life Insurance Products – David

1 Hour – Financing Life Insurance - David

Assignment: Please consult Canvas for reading materials

February 8 – Nancy Fax /Ed Beckwith/Bill Davis/Ann O’Brien/Chris Sega/Doug Siegler

1.5 Hours – Designing and Administering Trust for Life Insurance - Nancy

.5 Hour – Designing Beneficiary Designations for Qualified Retirement Benefits - Nancy

2 Hours – Follow-up interview with Dr. Smythly – Ed and Faculty Advisors

Assignment: Please consult Canvas for reading materials

February 15 – Bill Davis/Doug Siegler

1 Hour – The Basics of Probating an Estate - Bill

1 Hour – Common Legal Issues in Estate and Trust Administration - Doug

2 Hours – Fixing Broken Trusts – Doug

Assignment: Please consult Canvas for reading materials

February 22 - No Class – Faculty Retreat

March 1 - Oral In-Class Team Presentations – Task One (defense of preliminary Plan considerations) – Beckwith/Davis/O’Brien/Sega/Siegler

1 Hour (5:45-6:45) - Team One Presentation - Faculty Critique and Direction

1 Hour (6:45-7:45) - Team Two Presentation – Faculty Critique and Direction

1 Hour (7:45-8:45) – Team Three Presentation – Faculty Critique and Direction

1 Hour (8:45-9:45) – Team Four Presentation – Faculty Critique and Direction
March 8 – Natanya Allan

2 Hours – The Nuts and Bolts of GST Planning: Applying the Exemption, Filing the Returns - Natanya

2 Hours – Team Meetings

Assignment: Please consult Canvas for reading materials

March 15 – No Class – Spring Break

March 22 – David Kirk/Brian Schwalb/Ann O’Brien

1.5 Hours – Post Death Tax Elections - David

1.5 Hours – Fiduciary Litigation – Brian

1 Hour – International Planning: Spotting the Issues - Ann

Assignment: Please consult Canvas for reading materials

March 29 – Joe Estabrook/Chris Sega

1 Hour – The Art of Preparing a Quality Valuation – Joe

2 Hours – A Structural Approach to Planning for Family Business Interests - Chris

1 Hour – Team Meetings

Assignment: Please consult Canvas for reading materials

April 5 – Private Group Preparation Sessions

April 12 – Oral In-Class Team Exams (defense of Final Plan solutions)

1.5 Hours (5:45-7:15) - Team One Presentation and Faculty Critique

1.5 Hours (7:45-9:15) - Team Two Presentation and Faculty Critique

April 19 – Oral In-Class Team Exams (defense of Final Plan solutions)

1.5 Hours (5:45-7:15) – Team Three Presentation and Faculty Critique

1.5 Hours (7:45-9:15) – Team Four Presentation and Faculty Critique
# ATTACHMENT 1

## STUDENT TEAMS and CONTACT LIST

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<thead>
<tr>
<th>Name of Student</th>
<th>Team</th>
<th>Email Address</th>
<th>Phone (home/work)</th>
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Dear Mr. Beckwith:

I know we are scheduled to meet at your firm on January 25th but I thought it might help if I wrote to you in advance to tell you a little bit about me and why my wife, Jeannette Toolson Smythly, and I would like to retain the services of your firm. We have done no planning when it comes to providing for our family or for the charities we care most about.

I am the head of Endocrinology at Georgetown University Hospital. Every fifth year I have taken a sabbatical and spent time in various countries in Africa teaching young doctors modern medical techniques. In fact, my wife and I have financed the start of several medical clinics in Africa which are loosely affiliated with each other.

I like to tinker. Recently, while using materials in my lab at the Hospital, I developed a pill which slows the metabolism of alcohol, making it possible to forestall the onset of inebriation when someone consumes too much to drink. While I enjoy my staff position at the Hospital, I am thinking about retiring so I can devote full time to the exploitation of my invention. I have been told by several pharma companies that the sky is the limit on something that might be used by a significant portion of the population worldwide.

Jeannette and I are both 68, we have been married for 39 years and we have two adult children, both married. Our son, Kingston, is 38 and has and MBA from the Warton School. He works as a partner at a successful financial management firm. He and his wife have not started a family. Our daughter, Jane is 40 and I have been thinking about having her join me in exploiting my invention. She has a same sex partner. They have been together 15 years and have adopted two children who are now 10 and 8.

Jeannette's mother, Heidi Toolson was the only child of Baron von Toolson who fled Europe during the First World War and settled in Cuba. He became vastly wealthy growing sugar cane and producing rum for export. The Baron and Heidi left Cuba in 1949 and became U S citizens living in Miami. The Baron died two years later after having transferred all of his business interests in Cuba into a Trust for his lineal descendants and having named the Old-line Bank of the South as the sole Trustee. As a grateful and appreciative immigrant he always paid whatever taxes were due at the time they were due and he never had a problem with any government authorities.

Heidi would return to Cuba frequently to oversee the family's business interests until she was sadly a victim during the Bay of Pigs Invasion in 1961. At that point the Trustee liquidated the business interests. At present Jeannette and her twin sister, Babette, are
the only beneficiaries of the Toolson Family Trust. They receive all of the net income annually. Last year the distributions, net of all income taxes, were $4 Million.

One of the reasons I want to see you has to do with the Trust. It provides that it will continue for the Toolson lineal descendants, per stirpes, for as long as is permitted by applicable law. I am told that when the Trust was created in 1949, the applicable state law provided that a reference to lineal descendants in a will, trust or deed was a reference to lineal descendants born to a married couple. Later the law was liberalized to include so-called illegitimate offspring and children adopted by a husband and wife. I understand the law has not changed since.

Jeannette has spent her life as a volunteer and a fully engaged mother and grandmother. I have only worked as a hospital based physician my entire career. I have accumulated a handsome retirement account along the way and we have enjoyed a full life filled with family, friends and travel. My hobbies include stamp collecting and vintage sports cars and Jeannette’s passions are focused on the arts.

Jeannette and I have a fishing cabin near Hudson Bay in Canada and a ski villa in Switzerland. Our children enjoy using those properties and I would like to make sure they can continue to do so when I am gone.

I will bring a better summary of the family assets with me on the 25th but hope this helps you start thinking about the range of issues and needs we might discussed.

Sincerely

Beau Smythly
ATTACHMENT 3

CONTACT INFORMATION

Faculty and Lecturers for *Estate Planning Seminar*:

Natanya Holland Allan

Edward Jay Beckwith
Baker & Hostetler

William E. Davis

Joseph S. Estabrook CPA/ABV, ASA

Nancy G. Fax
Faculty for *Income Taxation of Trusts and Estates*:

Carter Hood

David H. Kirk

Faculty and Lecturers for *Special Topics*:

Travis A. Allen
Sanford C. Bernstein & Co., Inc.

James F. Hogan

Stafford Smiley
ATTACHMENT 4

360 DEGREE EVALUATIONS FOR TEAM _____

**Task:** As part of the grading process each member of each TEAM will complete this form and evaluate himself or herself and every other member of the TEAM.  *Please save this as a separate document and complete by typing your answers within the document. Once done, please e-mail the revised document to Professor Beckwith at beckwith@bakerlaw.com no later COB Friday April 22st.*

**Instructions:** Fill in your TEAM above and the following grid (listing yourself first) and then the rest of your TEAM alphabetically. Please complete what you think is the best response for each member of the TEAM under each category, including yourself. The absence of any mark in any given box will be read to mean that the person being evaluated performed AS EXPECTED. If you believe that a Team Member excelled in a particular area or performed below expectations, you should use one or two pluses (+s) or one or two minuses (-s).

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<th>Name of Student</th>
<th>Written Product and Production</th>
<th>Presentation (including team preparations)</th>
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