Date: December 10, 1997
Time: 9:00 A.M.
Time Limit: Four Hours

Instructions

1. Consult any written materials you consider helpful.

2. Unless otherwise indicated, all parties use the cash method of accounting, use the calendar year, are unrelated, are single, and are not heads of households. All property, unless otherwise indicated, has been held for more than one year.

3. This exam is due in my office - Room 331 - by 1:30 p.m.

5. Place your exam number or other form of identification at the top of this page.

6. Once the exam begins, I will answer no questions prior to the time you turn in your paper. If you find something unanswerable due to vagueness or incomplete or contradictory information, please explain what information or clarification you need and why you need it. Then assume alternative information and illustrate the differences in your answer resulting from the alternative.
Question One

TP has the following assets. Determine the basis and holding period for each.

1. Vacant land he purchased in 1970 for $10,000. It is now worth $150,000.

2. Vacant land he purchased in 1997 for $10,000. It is now worth $2,000.

3. Vacant land his father purchased in 1997 for $10,000. His father died in August and TP inherited the land. It was then worth $15,000. The estate's personal representative did not elect an alternate valuation date.

4. Vacant land he purchased in 1990 for $10,000 cash and a purchase money promissory note for $25,000. He has paid all interest due on the note and $17,000 of principal.

5. Vacant land he purchased in 1990 for $10,000. It is now worth $20,000. Yesterday, he borrowed $15,000 from a bank, giving a mortgage on the land as security for the loan. He deposited the loan proceeds in a savings account.

6. Vacant land his wife purchased in 1997 for $10,000. It is now worth $2,000. Yesterday, she gave it to him pursuant to their divorce.

7. Vacant land his employer transferred to him on December 20, 1996, as a year-end bonus. The land cost the employer $10,000 and was worth $15,000 at the time of the transfer. It is now worth $17,000.

8. A gold watch he found in the street yesterday. He had it appraised for $12,000 and has decided to keep it.

9. A gold watch he stole from a jeweler yesterday. It had a price tag of $15,000 on it.

10. An apartment building he bought in 1990 for $500,000 [of which $100,000 was allocated to the land]. During 1994 he made improvements of $200,000 to the building. It has been fully leased to tenants since the purchase.
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If you care to explain any of your answer, please do so on separate paper.

**Question Two**

Joe, a lawyer, wrote a will for Ann. Prior to writing the will, they discussed his fee, which was $300. Ann offered to pay for the document up front; however, Joe refused, suggesting that he always billed clients after the work was finished. He finished the will today and sent Ann a bill.

If Ann mails Joe a check on December 27, 1997, and he receives it on January 2, 1998, when must he report the income?

Year _____________

If you care to explain your answer, please do so here:
Question Three

Client - who is 45 and in good health - has adjusted gross income of $450,000. She anticipates that level of income indefinitely into the future. She has no charitable contribution carryovers. During 1997, she gave $25,000 in cash to a public charity. She also gave 1000 shares of stock worth $300,000 to the public charity. She inherited the stock from her grandfather earlier this year. It was valued, for the estate tax return, at $225,000. Her grandfather originally paid $10,000 for the shares. She also gave $40,000 in cash to a private foundation not described in section 170(b)(1)(E). What is the amount of charitable contribution deduction you advise her to take for 1997 and what is the amount of her carryover, if any? Even if you offer alternatives, you must make a choice for her (or else she will not pay your fee).

A deduction of _______________________

with a carryover of ____________________

If you care to explain your answer, please do so here:

Question Four

H and W were divorced today. You represent H. Pursuant to the marital settlement agreement, they will each get two pieces of property. The items cannot be divided - they must be taken whole. One person will pick first, then the other will pick second and third. Then the first person will take the remaining piece of property. They had no debts. You should ignore sentimental value and liquidity. For these purposes, the fair market values given are correct, without question, and buyers are ready if either H or W decides to sell. Both are in a 40% tax bracket. Both parties are represented by competent counsel.

The four items are:
A. Shares of stock held for investment with a fair market value of $100,000, a basis of $20,000, and a holding period of two years.

B. Shares of stock held for investment with a fair market value of $75,000, a basis of $300,000, and a holding period of three years.

C. Machinery used in a business with a fair market value of $160,000, an original cost of $300,000, and a holding period of ten years.

D. Personal use items - such as cars, jewelry, clothing, furniture (none of which was held for investment or for use in a business) - with a fair market value of $50,000 and a basis of $500,000.

Do you want to pick first or second?

SECOND

FIRST

In what order do you anticipate the items to be chosen pursuant to the agreement? (Place the letter corresponding to the item on the line corresponding to your anticipated order. For example, if you believe they will be chosen in the order listed, place the letter "A" above the number "1" and the letter "B" above the number "2" and so forth.)

1  2  3  4

If you care to explain your answer, please do so on other paper.

Bonus One

Your client is getting a divorce today. He is in a 40% tax bracket. His ex-spouse will likely be in a 15% bracket. They have three children. He must pay $20,000 per year per child as child support. They would like to characterize these payments as alimony for tax purposes; however, they do not want the payments to continue indefinitely: they want them to end as soon as possible after the children each reach the age of 18, which is the local age of majority.
Two children were twins. The first was born on April 15, 1986, just before midnight. The second was born on April 16, 1986, just after midnight. The third child was born this morning.

Write the paragraph for the marital settlement agreement that will accomplish your client’s desired purpose.

Put your answer here:

Bonus Two

Your client, aged 50 and in good health, has an adjusted gross income of $600,000 with no net operating loss carryovers. He expects similar income in the future. During 1997, he has made contribution to two charities, both of which are described in section 501(c)(3) of the code. One is PC, which is also described in section 509(a)(3). The other is a private foundation not described in section 170(b)(1)(E).

To PC he gave $50,000 cash, shares of stock in a publicly traded corporation with a fair market value of $200,000 and a basis of $100,000, and a boat used in his business with a fair market value of $600,000, a basis of $150,000, and an original cost of $900,000.

To PF, he gave a tract of land with a fair market value of $300,000 and a basis of
$310,000. IN addition, he has a charitable contribution carryover of $10,000 cash he gave to PF during 1992.

How much do you recommend he deduct under section 170 for 1997?

$ ______________________

If he has a carryover to 1998, what is the amount and character of the carryover?___________________with a character of _________________________

_____________________________________________________________________

Do you recommend that he make any elections in relation to the above?

YES  NO

In answering this Question - if you have not already done so - consider alternatives to what the client has already done, to the extent possible. Remember, 1997 is not yet over and some things can still be undone and restructured (subject, of course, to various substance over form doctrines, such as that arising in the Court Holding Company decision). You cannot leave the client in a significantly worse position that he would otherwise be in if things were left as they are. Do you recommend any additional transactions? If so, describe them and show how they would be beneficial to your client or would better fulfill your client's apparent desires.

Please put your analysis on other paper.