Author’s Introduction

This 2018 Cumulative Supplement brings the Second Edition current through February 28, 2018 and replaces the previously published 2017 Cumulative Supplement, which may now be discarded.

This is the fourth supplement to the Second Edition of Art of the Estate Tax Return—Estate Planning At The Movies®, published by the Bloomberg Law® Book Division. This 2018 Cumulative Supplement includes the content of the 2015, 2016, and 2017 Cumulative Supplements except to the extent that content was revised or updated. This cumulative supplement reviews significant developments with federal estate tax compliance since publication of the Second Edition in the fall of 2014. Chief among these important updates are (1) discussion of important changes to the federal estate tax return and estate planning as a result of the 2017 Tax Cuts and Jobs Act; (2) revisions to basis consistency reporting and completion of Form 8971 and Schedule A; (3) updated checklist for Form 706 preparation and each of its schedules; (4) simplified relief to make late portability elections for non-required returns under Rev. Proc. 2017-34; (5) the reversal of two tax court decisions that undermined the objective principles of valuation (Estate of Elkins and Estate of Giustina); (6) review of the restored exclusion amount and GST exemption included for the first time in the 2017 edition of Form 706 as a result of IRS Notice 2017-15 for same-sex couples and its application to Forms 706 and 709 and Schedules R and R-1 to Form 706; (7) a new compliance planning tool in which, for deaths prior to 2011, practitioners review modest-sized estates to determine if a marital qualified terminable interest property (QTIP) election should be made to obtain a basis adjustment on what would otherwise be a credit shelter trust to which no basis adjustment would be allowed on the death of the surviving spouse; (8) alerts for avoiding a marital deduction trap when the decedent’s property is left to a surviving spouse’s revocable trust (or survivor’s trust); (9) expanded material regarding lien priority rights, which have become increasingly relevant as collection issues of estates with declining values from the date of death have come to the forefront following the recession of 2007–2010; (10) the finalization of the portability regulations; (11) new rules governing consistency of reporting income tax basis; (12) updated advisory for the completion of schedules to make your administrative staff’s work easier in preparing estate tax returns in light of basis consistency reporting requirements revised in September 2016; (13) Estate of Purdue—a very helpful case for taxpayers regarding retained interests with family entities, present interest treatment for annual exclusion purposes with gifts of entity interests, and deduction of interest on the estate tax return with funds borrowed from family members; (14) Estate of Powell—an uber-extension of Code §2036(a)(2) and extensively criticized analysis of the Code §2043 offset when retained-interest treatment applies; (15) updated estate tax compliance with three illustrated estate tax returns for deaths in 2014 (Chapters 41, 42, and 43), and three illustrated returns for deaths in 2015 (Chapters 44, 45, and 46); and for deaths in 2016 (Chapters 47, 48, and 49); (16) updated information and return pages connected with the previous sample returns to reflect changes for deaths in 2017 (Chapters 50, 51, and 52); (17) updated information on the various schedules of Form 706; and (18) expanded illustration of an amendment to make a special valuation election under Code §2032A.

Expanded discussion has been included in Chapters 41 through 52 to enhance your review of each illustrated return (death of the first spouse, death of the unmarried individual, and estate making a portability election). We have introduced new underlying facts to the portability return to advance discussion and respond to a particular question from a reader.
Several readers can take pride in their contributions to the content of this cumulative supplement. Over the past few years, I have received inquiries on a variety of issues. When appropriate, the content herein has been expanded from the Main Volume to reply to such questions. In fact, in the area of portability elections, observations of readers have led to enhanced coverage and contributed to commentary to the Internal Revenue Service (IRS) and Treasury on suggested changes to the portability regulations. I believe that portability elections will become more workable, with fewer traps for the unwary.

How to Use This Cumulative Supplement

Although this cumulative supplement may be read as a stand-alone text, readers will benefit most from reading it in conjunction with the Second Edition of Art of the Estate Tax Return—Estate Planning At The Movies®, which will be referred to herein as “the Main Volume.”

Each section of this cumulative supplement commences with directions to the reader in bold, italicized font, explaining where the new text that follows may be inserted into the Main Volume. In this way, the reader is provided with the context of the new information. In some instances, new sections and subsections may be introduced. New Chapter 7B has been added and modified regarding basis consistency and compliance rules with an illustrated Form 8971 with its companion Schedule A. The body of the text may make cross-references to either the Main Volume or to internal sections of this cumulative supplement, the latter through use of the Latin terms “infra” (below) and “supra” (above).

The last nine chapters of this cumulative supplement—Chapters 41 through 52—include sample estate tax returns that are nearly identical in background facts to respective Chapters 38, 39, and 40 in the Main Volume, except that they are for hypothetical deaths in 2014, 2015, 2016, and 2017 rather than in 2013. Altered background facts are pointed out and explained in the body of the chapter.

The last portion of this cumulative supplement includes indices for terms, cases, and movies. The Index of Terms is comprehensive and fully replaces the Index of Terms found in the Main Volume, as well as the Corrected Pages booklet published subsequent to the Main Volume.

With a Lot of Help From My Friends and Acquaintances

In the Main Volume I thanked a number of people who helped make Art of the Estate Tax Return possible. I would like to reiterate the appreciation I expressed in the Main Volume and also thank some people who contributed to this cumulative supplement. Special thanks are extended to Lauren Leonard, whose passion for this book led her to assist with editing several major chapters either updated or added in this cumulative supplement; John Schooler for his review of selected chapters; Paul Ohainle, Esq., now practicing in Seattle, Washington, for his comments on the new Chapter 7B (basis consistency and compliance rules) as well as his review of eight other chapters; Jon R. Vaught, Esq., who practices law in Alameda, California and who serves as an adjunct instructor for estate and gift tax at Golden Gate University, for his review of a handful of chapters; Dean Bretney for his comments on special-use aspects of the illustrated estate tax return; Stephanni Mayfield, Esq., for her review of several chapters (Stephanni also reviewed the first edition of the Main Volume); Ashley DePriest (an editor on the law review at Golden Gate University) for her careful review and editing of the case and related citations; Kevin Conner for his assistance with review and technical support; Kyle Jensen for his review of chapters; and Catherine Jaber for her review of chapters. A deluxe spa day was but modest thanks to Kathleen Campbell, CPA, for her eagle eye comments and questions that enhanced the illustrated return in Chapter 48 and portions of Chapter 51. Finally, a big shout-out (if you can do that in print) is extended to Michelle Stone, the Project Manager for the 2016, 2017, and 2018 Cumulative Supplements and who works most directly with the editors at the Bloomberg Law® Book Division and subscribers to the Author’s Update Service.
I am grateful to Rob Anderson, the acquisitions manager at the Bloomberg Law® Book Division, whose support enabled the entire project to become part of the Bloomberg family of publications; and to Joanne Nobile, senior book editor with the Bloomberg Law® Book Division, who has greatly facilitated and improved the entire process and product.

Mark Carrington of Bloomberg Next coordinates presentations that I make in various webinars during the year. Mark was a catalyst in bringing this project to the attention of the Bloomberg Law® Book Division. I thank him for his support, humour, and British accent.

My wife, Jane Schiller, deserves special thanks for tolerating life with an author. Writing consumes a lot of time, and Jane has been most patient.

The Author’s Update Service

In addition to this and future annual supplements published by Bloomberg Law® and authored by me, I am offering a subscription-based update service, which will allow you to receive updates on matters pertinent to estate tax procedure and practice throughout the year. Subscribers receive quarterly newsletters, news alerts when merited, and my individual replies to non-opinion guidance queries, among other benefits. My update service is offered independently but is encouraged to be used in conjunction with the supplements offered by Bloomberg Law®. To learn more, please visit the website at www.EstatePlanningAtTheMovies.com.

I hope that you enjoy and benefit from your Main Volume and your 2018 Cumulative Supplement. Stay safe and prosper.

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