

PROFESSOR WENDY C. GERZOG

University of Baltimore School of Law, 1420 North Charles Street, Baltimore, MD 21201-5779
(410) 837-4522 wgerzog@ubalt.edu

PROFESSIONAL ACTIVITIES:

Member, American Law Institute (ALI)

Members Consultative Groups: Restatement Third, Property (Wills and Other Donative Transfers) and Restatement Third, Trusts

Academic Fellow, American College of Trust and Estate Counsel (ACTEC)

Member, Academic Fellows Membership Committee and Legal Education Committee; 2008-2011: Member, Transfer Tax Study Committee

American Association of Law Schools (AALS): Donative Transfers, Fiduciaries, and Estate Planning Section: Chair, 2001; Executive Committee, 1998-2002; Coordinator, Mentoring Program 1999-present. Taxation Section: Creator and Coordinator, Mentoring Program 1999-present. Employee Benefits Section: Coordinator, Mentoring Program.

TEACHING EXPERIENCE:

1991-present Professor, University of Baltimore School of Law

Spring '05 Visiting Professor, Seattle University School of Law
(Individual Income Taxation and Tax Policy Seminar)

1986-1991 Associate Professor, University of Baltimore School of Law

1983-1986 Assistant Professor, University of Baltimore School of Law

Teaching Award: The Saul Ewing Award for Excellence in Teaching in the Area of Transactional Law

Subject Areas: Federal Estate and Gift Tax (J.D. and L.L.M. levels); Federal Income Tax; Tax Policy; Estate Planning; Trusts and Estates; Elder Law; Property Law; Conflicts of Law (U.Aberdeen); A Cross-Cultural Analysis of Family Wealth Transfers (U.Aberdeen).

1977-1979 Lecturer in Law, Legal Research, Writing and Professional Responsibility, National Law Center, George Washington University, Washington, D.C.

LEGAL EXPERIENCE:

1981-1982 Assisted Chief Judge Theodore Tannenwald, Jr. in reviewing summary opinions of the Special Trial Judges, United States Tax Court.

1979-1982 Attorney-Advisor to the Honorable Norman O. Tietjens, U.S. Tax Court, Washington, D.C.

EDUCATION:

L.L.M. in Taxation - February 1979 The National Law Center, George Washington University, Washington, D.C. Honors: University Fellow

Juris Doctor - December, 1976 University of Akron School of Law, Akron, Ohio
Honors: Law Review, National Moot Court Team. Class Rank: Top 5%

Master of Arts in English - June, 1971 Assumption College, Worcester, Massachusetts
Honors: Graduate Assistantship

B.A., with Honors in English - June, 1968 Clark University, Worcester, Massachusetts

PUBLICATIONS <http://ssrn.com/author=243167>):

Books:

Joseph M. Dodge, Wendy C. Gerzog, Bridget J. Crawford, *Federal Taxation of Gratuitous Transfers: Law and Planning* (Aspen 2011).

Articles:

Graev: Conditional Facade Easement, 140 Tax Notes 1607 (Sep. 30, 2013).

Koons: Interest Deduction and FLP Valuation Practice Pointers, 140 Tax Notes 375 (Jul. 22, 2013).

Valuing Fractional Interests in Art for Estate Tax Purposes, 139 Tax Notes 1073 (May 27, 2013).

When Sommers Are Winters: Do Blanks Denote Revocability? 138 Tax Notes 1477 (Mar.25, 2013).

Wimmer Wins FLP Annual Exclusions, 138 Tax Notes 489 (Jan. 28, 2013).

Not all Defined Value Clauses Are Equal, 10 Pitt. Tax Rev.1 (2012).

Valuation Discounting and the Lottery Cases, 137 Tax Notes 917 (Nov. 19, 2012).

Another Turn with Turner, 136 Tax Notes 1613 (Sep. 24, 2012).

Façade Easement: Inexpert Valuation, 136 Tax Notes 199 (Jul. 9, 2012).

Wandering Far Afield With Defined Value Clauses, 135 Tax Notes 1171 (May 28, 2012).

Defined Value Clauses and Fair Market Value, 134 Tax Notes 1685 (Mar. 26, 2012).

Boomer-ang Eldercare: Deductible Claim?, 134 Tax Notes 595 (Jan. 30, 2012).

FLP Loss, but Crummey Win, 133 Tax Notes 1139 (Nov. 28, 2011).

Excluding Expert Valuation Testimony, 132 Tax Notes 1423 (Sep. 26, 2011).

The New Super-Charged PAT (Power of Appointment Trust), 48 Houston L. Rev. 507 (2011).

Mortgages and Conservation Easements: Not a Good Mix, 132 Tax Notes 437 (Jul. 25, 2011).

Shapiro: Palimony and the Estate Tax, 131 Tax Notes 859 (May 23, 2011).

Linton Reversed: Indirect Gift & Step Transaction, 130 Tax Notes 1607 (Mar. 28, 2011).

The Times They Are Not A-Changin': Reforming the Charitable Split Interest Rules (Again), 85 Chi.-Kent L. Rev 849 (2010).

Caering About the Credit for Prior Transfers, 129 Tax Notes 1023 (Nov. 29, 2010).

The Price of an FLP Annual Exclusion, 128 Tax Notes 1075 (Sep. 6, 2010).

Morgens: More QTIP Mischief, 128 Tax Notes 329 (Jul. 19, 2010).

FLP in the Black, 127 Tax Notes 343 (Apr. 19, 2010).

Check-the-Box Regs and Gift Tax Discounts, 126 Tax Notes 871 (Feb. 15, 2010).

From the Greedy to the Needy, 87 Ore. L. Rev. 1133 (2009).

Families for Tax Purposes: What about the Steps? 42 U. Mich. J. of Law Reform 805 (2009).

Linton Family LLC and the Step Transaction Doctrine, 125 Tax Notes 1027 (Nov. 30, 2009).

Miller: Effective FLP Line Drawing, 124 Tax Notes 1273 (Sep. 21, 2009).

Jorgensen: A Familiar FLP Story, 124 Tax Notes 79 (July 6, 2009).

Negron: Circuits Now Split 2-2, 123 Tax Notes 767 (May 11, 2009).

Section 529 Plans: Not Just for Education, 123 Tax Notes 1267 (Mar. 9, 2009).

PUBLICATIONS (cont'd):

- Hurford: FLP Practice Pointers*, 122 Tax Notes 799 (Feb. 9, 2009).
- Valuation Discounting Techniques: Terms Gone Awry*, 61 Tax Lawyer 775 (2008).
- Gross: FLP Sequence and Its Consequence*, 121 Tax Notes 1075 (Dec. 1, 2008).
- Anthony: Absolute Actuarial Tables*, 121 Tax Notes 485 (Oct. 27, 2008).
- Holman: The FLP's New Clothes*, 120 Tax Notes 1215 (Sep. 22, 2008).
- The New Regs on Alternative Date Valuation*, 120 Tax Notes 797 (Aug. 25, 2008).
- Tax Court FLP Confusion: Mirowski*, 120 Tax Notes 263 (Jul. 21, 2008).
- Portability of Exemptions*, 119 Tax Notes 509 (May 5, 2008).
- Disclaimers and Defined Value Clauses: Christiansen*, 119 Tax Notes 91 (Apr. 7, 2008).
- Rector and Gore: Two Recent FLP Cases*, 118 Tax Notes 1039 (Mar. 3, 2008).
- The Strict Rules of Charitable Split Interest Gifts*, 118 Tax Notes 541 (Jan. 28, 2008) [reprinted in 59 Exempt Org. Tax Rev. 311 (March 2008)].
- Bigelow: The Ninth Circuit on FLPs*, 117 Tax Notes 1167 (Dec. 17, 2007).
- Valuing Art in an Estate*, 117 Tax Notes 619 (Nov. 5, 2007) [reprinted in The Monthly Digest of Tax Articles 17 (June 2008)].
- An Attempt to Legislate?* 117 Tax Notes 59 (Oct. 1, 2007).
- Dealing with Post-Death Events*, 116 Tax Notes 1005 (Sep. 10, 2007).
- Erickson: A Primer on FLPs*, 116 Tax Notes 201 (July 16, 2007).
- Davenport: Res Judicata Applied*, 115 Tax Notes 1199 (June 18, 2007).
- Hester: A Saga of Greed*, 115 Tax Notes 669 (May 14, 2007).
- Big Bird Lays an Egg?* 115 Tax Notes 385 (Apr. 23, 2007).
- Equitable Apportionment: Recent Cases and Continuing Trends*, 41 (ABA) Real Prop., Prob. & Tr. J. 671 (Winter 2007)(solicited article).
- Janis: Two Perspectives of Basis*, 114 Tax Notes 1265 (Mar. 26, 2007).
- Gerson: Plain Meaning and the GSTT*, 114 Tax Notes 701 (Feb. 12, 2007)[cited in government's 6th Circuit brief in *Gerson*, 2007 TNT 92-18].
- McCord: Value of Gifts Must Be 'Tax Affected'*, 113 Tax Notes 913 (Dec. 4, 2006).
- McCord and Postgift Events*, 113 Tax Notes 349 (Oct. 23, 2006).
- Amlie Feud*, 112 Tax Notes 877 (Sep. 4, 2006).
- Conservation Easements Under Turner and Glass*, 112 Tax Notes 179 (July 10, 2006).
- Focardi: Cook-ed not Schott*, 111 Tax Notes 1057 (May 29, 2006).
- The Collision Between CRTs and The UPC Elective Share*, 111 Tax Notes 583 (May 1, 2006).
- Buder: The Extent of Equitable Recoupment*, 110 Tax Notes 1361 (Mar. 20, 2006)[to be included as a chapter in the book, "Unjust Enrichment," Amicus Law Books, ICFAI (Institute of Chartered Financial Analysts of India) University.]
- Return to Senda: Order Determinative for FLP Discounts*, 110 Tax Notes 791 (Feb. 13, 2006).
- Donovan and Davis: Two More Lottery Cases*, 110 Tax Notes 543 (Jan. 30, 2006) [cited twice in the government's motion for summary judgment in *Estate of Lopatovich v. United States*, 2005 U.S. Dist. Ct. Motions 100185 (July 2006), "See also Gerzog, *Donovan and Davis: Two More Lottery Cases*, 110 Tax Notes 543 (January 30, 2006). A copy of this article is attached as Exhibit E. This commentator deftly analyzes the issues and correctly concludes (p. 6 of attached article) that the Donovan court got it right and

PUBLICATIONS (cont'd):

the Davis court's analysis was completely flawed ("section 7520, regulations under that section, and pre-section 7520 judicial precedents clearly favor the [Donovan] interpretation of the law" over that of the Davis court)" and "Even without the statute, regulations and prior case law, logic dictates that the value of a sure thing, such as the lottery payments here, whether or not marketable, would not be unreasonable or unrealistic when compared to the annuity table value of such payments. Exhibit E, Gerzog, Donovan and Davis: Two More Lottery Cases, p. 6."].

Recent Estate and Gift Tax Developments, 19 Quinnipiac Probate L. J. 59 (2005).

Kelley: A Green Light for FLPs, 109 Tax Notes 1467 (Dec. 12, 2005).

Lurie: A Need for Better Laid Plans, 109 Tax Notes 671 (Oct. 31 2005).

Duty of Consistency and the Marital Deduction: Horse and Carriage, 108 Tax Notes 1463 (Sept. 19, 2005).

It's Summertime with Iced Tehan a TAM, 108 Tax Notes 602 (Aug. 1, 2005).

Bongard's Nontax Motive Test: Not Open and Schutt, 107 Tax Notes 1711 (June 27, 2005).

The Final GRAT Regulations: Schott Shot Down, 107 Tax Notes 1175 (May 30, 2005).

How Do D'Ambrosio and Wheeler Fit into the FLP Debate? 107 Tax Notes 387 (Apr. 18, 2005).

Saigh It Isn't So, 107 Tax Notes 115 (Apr. 4, 2005).

Davis and Whiting: QTIP Income Interests and Intent, 106 Tax Notes 1597 (Mar. 28, 2005).

Estate of Noble, Where Post-Death Sale Is the Best Indicia of Stock's Value, 106 Tax Notes 678 (Feb. 7, 2005).

Okerlund and Polack: How Probative Are Post-Gift Facts? 105 Tax Notes 196 (Oct. 11, 2004).

Annuity Tables Versus Factually Based Estate Tax Valuation: Ithaca Trust Re-visited, 38 (ABA) Real Prop., Prob., & Tr. J. 745 (2004).

The Lottery Cases and Ithaca Trust, 101 Tax Notes 289 (Oct. 10, 2003)[cited in *Estate of Donovan v. United States*, 95 AFTR2d 2005-2131, 2005-1 USTC P 50,322 (D.MA 2005); cited in the government's motion for summary judgment in *Davis v. United States*, 2004 U.S. Dist. Ct. Motions 911059 (2005) ("n19 One commentator has correctly noted that the courts of appeal in Shackleford and Gribauskas ignored the holding in *Ithaca Trust v. United States*, 279 U.S. 151 (1929) that there should be no departure from the actuarial tables 'even where the tables produce 'unrealistic' results. Essentially, allowing any adjustment to the value determined by the tables in the lottery cases contravenes the legislative mandate of their use. . . . Certainly, Gribauskas and Shackleford do not present facts more compelling than Ithaca Trust.' Gerzog, *The Lottery Cases and Ithaca Trust*, 101 Tax Notes 289, 291 (October 13, 2003).")].

A Different Take on the FLP Valuation Game, 97 Tax Notes 683 (November 4, 2002)[cited in the government's briefs in *Estate of Strangi v. Commissioner*, 2003 WL 25665488, * 17 and in *Estate of Bongard v. Commissioner*, 2004 WL 3273666, *124 ("As noted by one commentator, 'Byrum does not appear to be at all relevant where the limited partnership has no unrelated shareholders, does not conduct corporate business as customarily understood, and where the decedent, unrestrained by an independent trustee, maintains unlimited control of the assets he has transferred to that partnership.'" Wendy C. Gerzog, *A Different Take on the FLP Valuation Game*, 2002 TNT 210-33, 3 (October 28, 2002).")].

Ithaca Trust and Section 2053: Smith, McMorris, and O'Neal, 95 Tax Notes 570 (2002).

Contingencies and the Estate Tax, 5 Fla. Tax Rev. 49 (2001).

Contingencies and the Gift Tax, 93 Tax Notes 977 (November 12, 2001).

PUBLICATIONS (cont'd):

- Solutions to the Sexist QTIP Provisions*, 35 (ABA) Real Prop., Prob., & Tr. J. 97 (2000).
- Why Gradow Is Still Correct*, 89 Tax Notes 551 (October 23, 2000).
- The Illogical and Sexist QTIP Provisions: I Just Can't Say It Ain't So*, 76 N.Car.L.Rev.1597 (1998).
- Estate of Walsh: I Don't Feel All 'Tingley'*, 80 Tax Notes 339 (July 20, 1998).
- Clack Estate: Adding Insult to Injury, or More Problems with the QTIP Tax Provisions*, 6 So. Cal. Rev. Law and Women's Studies 221 (1996).
- The Marital Deduction QTIP Provisions: Illogical and Degrading to Women*, 5 UCLA Women's Law J. 301 (1995) [excerpted in Paul L. Caron, Grayson M.P. McCouch, Karen C. Burke, Federal Wealth Transfer Tax Anthology 208 (Anderson Publishing Co. 1998).]
- How to Expand the Home Office Deduction*, 69 Tax Notes 481 (October 23, 1995).
- On Public Policy Grounds, A Limited Tax Credit for Child Support and Alimony*, 11 The American J. of Tax Policy 321 (1994) (under "Gerzog Shaller").
- Limit Deductions for Mixed Personal/Business Expenses: Curb Current Abuses and Restore Some Progressivity into the Tax Code*, 41 Cath. U.L. Rev. 581 (1992). [A summary of the article appeared in "Reports in Brief", Tax Notes 785-786 (Feb.8,1993).]
- Tax Consequences of Desert Storm (Where Do We Go From Here? The Legal Fallout of Desert Storm)*, 8(1) Compleat Lawyer, 31 (Spring 1991), reprinted in The Lamplighter (Summer 1991).
- Transferring Income Producing Property to Your Children*, 8 The Compleat Lawyer 4 (Winter, 1991).
- Principal Place of Business: A New Test*, 7 The Compleat Lawyer 8 (Spring, 1990).
- Churches and Their Enviably Tax Status*, 51 U. Pittsburgh L. Rev. 345 (1990) [cited in the government's 9th Circuit brief in *Warren v. Commissioner*, 2000 WL 33980323, *35, 45].
- Idea For Profit: Waiving the Executor's Commission*, 7 The Compleat Lawyer 4 (Winter, 1990).
- Reflections on the Tax Reform Act of 1986*, 18 Law Forum No. 2, p. 12 (1988) (with John Lynch, Jr.).
- Tax Exemption of Charitable Organizations and the Deductibility of Charitable Donations: Dangerous New Tests*, 8 U. Bridgeport L. Rev. 77 (1987).
- Reforming the Business Meal Deduction: Matching Statutory Limitations with General Tax Policy*, 24 Duquesne L. Rev. 1129 (1986).
- The New Fringe Benefit Legislation: A Codification of Historical Inequities*, 34 Cath. U. L. Rev. 425 (1985).
- The Marriage Penalty: The Working Couple's Dilemma*, 47 Fordham L. Rev. 27 (1978) [cited in *Boyter v. Commissioner*, 668 F.2d 1382, 1383 (4th Cir. 1981), *Druker v. Commissioner*, 697 F.2d 46, 49 (2d Cir. 1982), and *Women Involved in Farm Economics v. United States Dep't of Agriculture*, 876 F.2d 994, 1006 (D.C. Cir. 1989)].
- Comment, *A Hypothetical: Quinlan Under Ohio Law*, 10 Akron L. Rev. 145 (1976).

TESTIMONY:

IRS hearing on proposed regulations (IRS REG-143316-03, 72 F.R. 20080-20087, 26 CFR 20) presented testimony on “Guidance Under Section 2053 Regarding Post-Death Events,” Aug. 6, 2007 [reported on in 116 Tax Notes 541 (Aug. 13, 2007)].

IRS hearing on temporary and proposed regulations (T.D. 8714; REG-209830-96) (presented testimony against extending the QTIP marital deduction estate tax provision to include contingent income interests, June 3, 1997).

Senate Finance Committee, Subcommittee on Taxation and Internal Revenue Service Oversight, June 19, 1995 (invited Congressional testimony against a proposed amendment to the home office deduction that would overturn the result in *Soliman*).

REPRESENTATIVE PRESENTATIONS AND MATERIALS:

“Federal Reimbursement Statutes,” MD ACTEC meeting, Baltimore, MD (Nov. 28, 2012).

“Equitable Apportionment,” Transfer Tax Study Committee, ACTEC meeting, Washington, DC, (Oct. 23, 2012).

“Should we retain a transfer tax, adopt an inheritance tax, or impose an income tax on gifts and bequests?” Panel 2, AALS Joint Trusts and Estates and Tax Sections Meeting (Jan. 6, 2012).

“Valuation Discounting Techniques: Terms Gone Awry,” Law and Society Meeting, Montreal, QC (May 30, 2008).

“Families for Tax Purposes: What about the Steps,” Critical Tax Theory Conference, FSU, (April 4, 2008) and Law and Society Meeting, Montreal, QC (May 29, 2008).

“Portability of Estate Tax Exemptions,” MD ACTEC meeting (May 21, 2008).

“Gift and Estate Tax Valuation: Consideration of Post-Valuation Date Events,” Critical Tax Theory Conference, UCLA, (April 13, 2007).

“Key Resources for Estate and Gift Tax Research,” ABA Section of Taxation, with the ABA Section of Real Property, Probate and Trust and the New York State Bar Tax Section at the U.S. Patent and Trademark Office (PTO) in Alexandria, VA (Jan. 9, 2007).

“Looking a "Gift" Horse in the Mouth: When a "Gift" Is Not a Gift,” Joint Meeting for ABA Taxation and Real Property, Probate and Trust Sections, Denver, CO (Oct. 20, 2006).

“The Collision Between CRATs (Charitable Remainder Annuity Trusts) and the Spousal Election” Critical Tax Theory Conference, Mercer University School of Law (April 8, 2006).

“Issues in the Valuation of Family Limited Partnership Interests,” IRS CLE for Estate Tax Attorneys, Atlanta, GA (Sep. 27, 2005) (presentation and written materials) [presented also to the Trust and Estate Bar, Howard County, MD (Nov. 4, 2005).]

“Estate Tax Valuation and the Lottery Cases,” Distinguished Scholar Series to commemorate the tenth anniversary of the University of Washington School of Law's Graduate Program in Taxation (April 13, 2005, inaugural series of lectures).

“Recent Estate and Gift Tax Developments” (presentation and written materials), Teaching Taxation Committee, ABA Midyear Tax Meeting (2000, 2002-2004).

BAR ADMISSIONS: District of Columbia

COURT ADMISSIONS: United States Tax Court