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## Software Review of Aardvark/McGraw-Hill's "Estate Tax Planner."

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# COMPUTER SOFTWARE REVIEW

ESTATE TAX PLANNER, AARDVARK/MCGRAW-HILL. \$750.00 with updates available.

*Reviewed by Professor William P. LaPiana\**

Aardvark-McGraw-Hill's "Estate Tax Planner" version 3.1 is a basic estate tax calculation tool with several useful features. It is relatively simple to use and should be of particular aid to the attorney who does not have access to a support staff of competent accountants.

## EQUIPMENT

The program is contained on a single floppy disk which is copy protected and must therefore be left in the A Drive at all times (except when saving plans to a data disk). A backup disk is supplied with the program. While Estate Tax Planner will run on a system with a single disk drive, a two drive system is far more convenient since the disk containing data can be kept in the B Drive and the data accessed without constantly changing disks. For the attorney with a large estate planning practice, of course, a hard disk will allow the still more convenient storage of far more data.

The program will support a printer, but the user must supply the appropriate control codes. Proper completion of this task requires a sound knowledge of the workings of the printer and a familiarity with the sometimes bewildering world of ASCII codes and Decimal Values. There is, however, another option for the production of hard copy. It is possible to save all or any combination of the reports summarizing the estate plan as a DOS text file. Many word processing programs can incorporate a DOS text file as if it had been written using the word processing software. The estate planning reports can then be printed in the same way any file produced with the word processing program can be printed. In addition, once the estate planning reports have been imported into the word processing program, they can be manipulated like any other text and relevant portions in-

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cluded in letters or memoranda.<sup>1</sup>

### BASIC WORKINGS OF ESTATE TAX PLANNER

Once the computer is booted and the Estate Tax Planner program disk inserted in A Drive, the user simply enters "estate" to load the program. The heart of Estate Tax Planner is a series of seventy-seven input fields. The user enters in these fields the relevant information for the particular client and, in the case of married clients, for the spouse as well. The program will handle up to four alternatives at once and each input screen allows the use of different values for each alternative. For example, four different combinations of dates of death for the client and spouse could be chosen allowing easy comparison of different orders of death and different periods between the first and second death.

Some of the input fields are basic to any calculation of estate tax. There are fields for cash assets, for entering the value of the personal residence and personal property, for securities, real estate, life insurance, "other personal property", retirement benefits, and miscellaneous property interests. There are also fields for funeral and administration expenses, debts and liabilities, and mortgages. Other fields require you to enter the appropriate information dealing with the client's gift tax history. When the proper information is provided, the program can handle adjusted taxable gifts and gift tax payable on gifts made after December 31, 1976 in the computation of the estate tax, the reduction in the unified credit for the specific exemption used from September 9, 1976 through December 31, 1976, and the inclusion in the gross estate of gift tax paid within three years of death (§ 2035(c)).<sup>2</sup> In addition, a special input field is provided for all gifts made within three years of death, and the data entered there is used in calculating the estate's eligibility for the deferred payment of estate tax, stock redemptions and eligibility for special use valuation as required by § 2035(d)(3).

Other groups of input fields provide information for the more sophisticated aspects of the program. One group of fields allow the user to enter data on up to nine business interests of the client: three proprietorships, three partnerships and three closely-held corpora-

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1. The transformed file may require some manipulation in order to format it properly.

2. While the program will not calculate them, the credits of §§ 2013-2015 can be reflected in the estate tax calculation by entering their amounts in the input field for gift tax payable after December 31, 1976.

tions. If the inputs are carefully made (and the help screens provide guidance), the program will calculate eligibility for § 303 redemptions of stock to pay estate tax and § 6166 deferral of estate tax, and display reports of the § 6166 payment schedule and § 303 eligibility. A special input field allows the user to make a best guess at the interest rate which will apply to that portion of the § 6166 deferral to which the 4% rate of § 6601(j) does not apply. The program cannot, however, automatically deduct the interest paid under § 6166 as an administration expense.

Another set of input fields deals with special use valuation under § 2032A. If the user supplies the proper data, the program will test eligibility for the valuation reduction but will not calculate the amount of the reduction. If the estate is eligible, the program will apply the amount of the reduction (subject to the maximum limitations of the Code) supplied by the user.

Charitable bequests have their own set of input fields. Bequests of outright amounts and of percentages of the gross estate can be made. The program can deal with the creation of up to six charitable trusts: a charitable remainder annuity trust with the income interest paid for a fixed number of years; a charitable remainder annuity trust with the income interest paid for life; a charitable remainder unitrust with the unitrust amount paid for a fixed number of years; a charitable unitrust with the unitrust interest paid for life; a charitable lead trust with an annuity amount paid for life; and a charitable lead trust with an annuity amount for a fixed number of years. A special input field allows the user to select the old 6% or the current 10% unisex tables for the valuation of the charitable deduction.

The most important group of input fields deals with the marital deduction. The program provides five marital deduction codes: an outright dollar bequest; a maximum marital deduction which passes everything to the surviving spouse except charitable bequests, gifts within three years of death, and amounts needed to pay state death taxes; an optimal marital deduction which takes joint property into account and thus may "underfund" the credit shelter; an optimal marital deduction which ignores joint property and therefore creates a fully funded credit shelter although attaining it may require the severing of joint property interests; and an equalization marital deduction which tries to place both estates in the lowest possible tax brackets. In calculating the optimal deduction, the program takes advantage of both the unified credit and the state death tax credit producing a

credit shelter share of \$642,421. The documentation clearly explains that use of this option for the estate of a client living in a state which has a pick-up or soak-up type estate tax may result in liability for state death tax where it would not otherwise be due.<sup>3</sup> This phenomenon can be avoided by setting the "State Death Tax Override" input field to zero (the default setting, a blank, results in a state death tax equivalent to the state death tax credit). Should that option be used the credit shelter will equal \$600,000 and there will be no state death tax due in the situation outlined above.

Once inputs are complete, calculations can begin. The results of the calculations are presented in seven reports: gross estate calculations; estate tax liability; present value analysis of death taxes; deferred payment of estate tax; § 6166 payment schedule; liquidity analysis; and § 303 stock redemption. An eighth report summarizes the inputs made. The reports can be selectively printed to the printer or to disk. As noted above printing the reports to disk as DOS files may allow their manipulation by a word processing program.

### SPECIAL FEATURES AND ADVANTAGES

One of the useful features of Estate Tax Planner is the ability to take account of the effect of the passage of time on the value of assets. Each input field devoted to assets allows the entering of a positive or negative growth rate for that groups of assets. It is impossible, however, to assign differing rates to individual assets within the input field. That problem may be circumvented to a certain degree by placing an asset with a unique growth rate into an otherwise empty asset input field. The value of the asset will not be properly identified on the report detailing the gross estate, but the report could be amended with a word processing program should the report be printed as a DOS file.

If the estate plan involves the marital deduction, Estate Tax Planner allows the user to identify the assets used to fund the marital deduction with specific assets. After calculations begin on such a plan, the user is asked to indicate whether or not marital funding will be identified. If the response is "no", the user is requested to enter a growth rate for the marital property which will be used in calculating the tax on the surviving spouse's estate in all alternatives. If the re-

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3. For a cogent explanation of this phenomenon see J. PRICE, CONTEMPORARY ESTATE PLANNING 277-278 (1983).

sponse is "yes" the program leads the user through the selection of assets from the asset inputs with which to fund the marital deduction. Each time an asset is selected the user may enter a growth rate for that specific asset. Since the business input fields each hold only one business interest, they may be selected only once in the funding process even if the entire interest is not passed to the surviving spouse. If a business interest is selected, however, the user is also able to designate the form in which the surviving spouse will receive it. No matter what sort of interest the decedent had, the surviving spouse may receive it as a partnership, proprietorship, or closely-held corporation. The program will use this information to calculate § 6166 and § 303 eligibility in the surviving spouse's estate. When non-business assets are selected the user may select several times from one input such as "Real Estate Holdings". Each selection may be assigned a different growth rate allowing a differentiation, for example, between residential and commercial real estate.

As noted above, a report detailing the present value of death taxes is created by the program. A special input field allows the user to select a discount rate (the default rate is 8%). In making present value calculations and all growth calculations, the program ignores periods of six months or less and considers all periods of seven months or more to be equal to one year.

On a mechanical level the program is easy to use. It is difficult to make an error since almost every selection is followed by a confirmation query. It is also difficult to accidentally lose inputs. Before allowing the user to do anything that would erase inputs from active memory the program reminds the user that the plan has not been saved and gives the opportunity to do so. The program also warns the user when an existing plan is about to be overwritten. While the confirmation and double checks can be exasperating to someone who has used the program a good deal and is familiar with it, they provide excellent protection against human error.

#### DISADVANTAGES AND LIMITATIONS

In the first place, it must be realized that Estate Tax Planner is not a distribution program. Beyond funding the marital deduction and charitable bequests, the user of the program cannot indicate the distribution of assets. A schedule of such distribution illustrating the ultimate destination of family wealth must be prepared outside of the program.

Estate Tax Planner cannot deal with interrelated computations. For example, using the State Death Tax Override input field to enter a state death tax larger than the state death tax credit of § 2011 will be reflected in the liquidity analysis and the present value of death tax report, but not in the calculation of estate tax liability unless the following situation exists. If the state death tax is much higher than the § 2011 credit but can be computed apart from the federal tax calculations and the tax payment clause of the will exonerates the marital property, then Estate Tax Planner will reduce the marital deduction in order to pay the state taxes after all other assets are exhausted. The federal tax on the state tax will be calculated, but the marital deduction will not be reduced by the amount of the federal tax. If there is no other place for the federal tax to come from besides the marital deduction, it must be reduced and more federal tax incurred, but, as noted, the program cannot reflect that.

#### SUMMARY

Estate Tax Planner should be of great use to the practitioner involved in basic estate planning. Especially important is the ease with which the program handles growth rates and discounting to present value. Taking such considerations into account is crucial to realistic planning. While Estate Tax Planner will not help with the difficult problem of choosing correct growth and discount rates, it does completely relieve the user of all concern with the sometimes burdensome calculations that are involved.

The reports that result from computations are clear and understandable. The possibility of incorporating them directly into a word processing program should greatly increase the usefulness of Estate Tax Planner in the electronic office. It should be noted that the program can print blank input forms. The attorney who does not want to "interface" with the computer can fill out the inputs by hand and allow the actual entries to be made by others. For those who gather estate planning information through the use of a questionnaire completed by the client, the blank input forms could provide a model for a questionnaire, information from which can be easily transferred to the program.

The inability to handle interrelated calculations is a serious handicap, however, to anyone who must take into account state death tax schemes with limited or non-existent marital deductions. The tax on tax problem which can result is a serious one which can result in com-

plex computations for which computerized aid would be much appreciated.

In sum, Estate Tax Planner illustrates the advantages the computer can bring to practice of law. By allowing the attorney to throw away the pencil and the spreadsheet, it should allow more time to be devoted to the human side of planning, to ascertaining the clients wishes, and explaining the ways in which they can be fulfilled.