

APPENDIX: SAMPLE COURSE SYLLABUS

UNIVERSITY OF BALTIMORE SCHOOL OF LAW FALL 2020

Course: Investigation, Prosecution, and Defense of Tax Crimes
LAWT/994-491
TAXA/658-185
LAW994/512

Instructor: Caroline D. Ciruolo
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(443) 845-4898
Office Hours: Varies upon request (please send me an email)

Days/Time: Monday/6:15-9:00pm

Modality: Online

Course Description:

This course examines the life cycle of a criminal tax case, including the warning signs that a civil tax case may be referred for criminal investigation, applicable privileges, potential defenses, the opening of an administrative investigation, sources of information, authorization of a grand jury investigation and prosecution, best practices in plea negotiations, trial strategies, sentencing, and collateral and civil tax consequences. The course also will address current priorities of IRS Criminal Investigation and the Department of Justice, and cases pulled from the headlines. Prerequisite: Federal Income Tax or Fundamental of Federal Income Tax I. Tax Practice and Procedure is recommended.

Course Materials:

- *Criminal Tax Workbook and Exhibits*, Caroline D. Ciruolo, Kostelanetz & Fink, LLP (2020) (will be provided electronically)
- *Tax Controversies: Audits, Investigations & Trials*, Robert S. Fink, Kostelanetz & Fink, LLP (recommended)
- Assorted statutes and regulations (available online)
- Assorted cases (available on Westlaw)
- *Criminal Tax Manual*, Tax Division, Department of Justice (available online)
- Press Releases, Department of Justice (available online)
- Related materials and articles (will be provided electronically)

Student Learning Outcomes:

Upon successful completion of this course, students will be able to identify, and cite the substantive elements of, criminal tax and related offenses, and explain the lifecycle of a criminal tax case, including who's who in an investigation, the warning signs that a civil tax case may be

referred for criminal investigation, applicable privileges, potential defenses, the procedure for authorizing a grand jury investigation and prosecution, plea negotiations, trial strategies, sentencing issues, and collateral and civil tax consequences. Students will also be able to look behind the headlines to understand the nature of current, high-profile criminal tax investigations and prosecutions.

Grades:

- Class attendance: 10%
- Class participation: 20%
- Midterm Exam (multiple choice): 20%
- Final paper (Sentencing Memo): 50%

Course Expectations:

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work per week for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

Students are expected to review the materials listed in the syllabus before each class and come to class prepared to answer questions based on the materials. A student may “pass” on questions up to 5 times during the semester by emailing the instructor in advance (cciraolo@kflaw.com) to request a pass. No explanation is needed.

Attendance:

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

Attendance will be taken at the beginning of each class. If a student is running late to class, they must send an email noting their delay.

Regular Semester Hours		
Credit Hours	Meetings Per Week	
	1	2
2	2 absences	5 absences
3	2 absences	5 absences
4	--	5 absences

Course Web Site:

This course has a TWEN page that links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling in the TWEN page and for checking it regularly for course information.

Zoom and Panopto:

Faculty are required to record Zoom classes for the purposes of accommodating a disability, for students who cannot attend or so students who wish to review may have access to the full class content. All recordings are for the sole use of the class and may not be reproduced by students for any other purpose. Faculty cannot reproduce students' voices or images from the class for any other purpose without additional student consent. All such recordings are protected by a UB login process based on where they are posted. Students may mute their microphone or turn off their camera if they do not consent to be recorded, but this may mean they need to find additional ways to participate in the class discussion. In addition, students who turn off their camera and do not remain present for the class session may be subject to the Honor Code for misrepresenting attendance.

Class Cancellation:

If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or the School of Law. Violations of academic integrity include, but are not limited to: cheating; plagiarism; misuse of library materials; use of another's book or study materials without consent; unapproved multiple submissions; material misrepresentation of one's academic history or standing; misrepresentation of any academic matter; intentionally giving another student false or inaccurate information about class requirements; inappropriate discussion of exams; and misrepresenting or falsifying class attendance reports. The School of Law Honor Code and information about the process is available at https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm.

Course Evaluations

It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

Title IX Sexual Misconduct and Nondiscrimination Policy:

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University's facilities, please contact Keri Hickey, Director of Student Support in the Office of Academic Affairs, at khickey@ubalt.edu.

Student Success Resources Syllabus Addendum

ASSIGNMENTS

Week

Subject

- | | |
|----|---|
| 1 | <p>[Aug 24] <u>Introduction and Who's Who</u></p> <p>Workbook: [pages to be provided]</p> <p>Additional Materials:</p> <ul style="list-style-type: none">• <i>Comm'r. v. Glenshaw Glass Co.</i>, 348 U.S. 426 (1955)• <i>Tax Gap Estimates for Tax Years 2008-2010</i> - https://www.irs.gov/pub/newsroom/tax%20gap%20estimates%20for%202008%20through%202010.pdf |
| 2 | <p>[Aug 31] <u>Federal Case Timeline, Willfulness, Commonly Charged Tax and Related Crimes</u></p> <p>Code: 26 U.S.C. §§ 7201, 7203, 7206, 7207, 7212</p> <p>Workbook: [pages to be provided]</p> <p>Additional Materials:</p> <ul style="list-style-type: none">• <i>Spies v. U.S.</i>, 317 U.S. 492 (1943)• <i>Cheek v. U.S.</i>, 498 U.S. 192 (1991)• <i>Boulware v. U.S.</i>, 552 U.S. 421 (2008) |
| 3. | <p>[Sept 14] <u>Commonly Charged Tax and Related Crimes (continued)</u></p> <p>Code: 18 U.S.C. - §§ 1001, 286, 287, 371
31 U.S.C. - § 5322
26 U.S.C. - § 6531</p> <p>Workbook: [pages to be provided]</p> |

Additional Materials:

- *Sansone v. U.S.*, 380 U.S. 343 (1965)
- *United States v. Jinwright*, 683 F.3d 471 (4th Cir. 2012)
- *United States v. Hale*, 857 F.3d 158 (4th Cir. 2017)

4. [Sept 21] Sources and Selection of Cases and Administrative Investigation (Overview, Investigative Techniques, and Parallel Investigations)

Workbook: [pages to be provided]

Exhibits: Administrative Summons

Additional Materials:

- *U.S. v. Kovel*, 296 F.2d 918 (2d Cir. 1961)

5. [Sept 28] Administrative Investigation (Part 2) (Foreign Evidence, Conferences, Direct Referrals, Discontinued Investigations, and Miscellaneous)

Workbook: [pages to be provided]

Exhibits: Conference request letter to IRS CI and responses
Letter from IRS CI Recommending Prosecution
Letter from IRS CI Discontinuing Investigations

6. [Oct 5] U.S. Department of Justice (Standards of Review, Conferences, Expedited Pleas)

Workbook: [pages to be provided]

Exhibits: Conference request letter to DOJ Tax Division and response
Letter from DOJ Tax Division Authorizing Prosecution

7. [Oct 12] Possible Guest Speaker

8. [Oct 19] Midterm

9. [Oct 26] The Grand Jury Investigation

Workbook: [pages to be provided]

Exhibits: Grand Jury Subpoena

- U.S. Department of Justice, Office of the U.S. Attorneys, Steps in The Federal Criminal Process: <https://www.justice.gov/usao/justice-101/steps-federal-criminal-process>

10. [Nov 3] The Grand Jury Investigation (Part 2)

Workbook: [pages to be provided]

Exhibits: Selected IRM Provisions

11. [Nov 10] Alternative Resolutions and Plea Negotiations

Exhibits: Non-Prosecution Agreement
Deferred Prosecution Agreement

Bank Leumi – Deferred Prosecution Agreement (will be provided electronically), and Press Release: <https://www.justice.gov/opa/pr/bank-leumi-admits-assisting-us-taxpayers-hiding-assets-offshore-bank-accounts>

Bank Lombard Odier & Co. Ltd – Non-Prosecution Agreement and Statement of Facts: <https://www.justice.gov/opa/file/809366/download>, and Press Release: <https://www.justice.gov/opa/pr/justice-department-announces-final-swiss-bank-program-category-2-resolution-hszh-verwaltungs>

Workbook: [pages to be provided]

Exhibits: Proffer Agreement
Plea Agreement
Information and Waiver of Indictment

Additional Optional Materials:

- Kenneth C. Pickering, The Risks and Benefits of Proffer Agreements in Parallel Proceedings:
<http://apps.americanbar.org/litigation/committees/criminal/email/winter2012/winter2012-0402-risks-benefits-proffer-agreements-parallel-proceedings.html>
- Jodi L. Avergun and Douglas Cohan, Explaining the Inexplicable: The Perks and the Perils of Proffer Sessions and Best Practices for Explaining it All to Your Client:
<https://www.cadwalader.com/uploads/books/0a31f986d2926e6929e74e27c97093a8.pdf>
- Walter Pavlo, Kevin Ring’s Attempt to Lift the Veil on Plea Negotiations:
<https://www.forbes.com/sites/walterpavlo/2014/08/07/kevin-rings-attempt-to-lift-the-veil-on-plea-negotiations/#6cda4ae71d04>

12. [Nov 17] Pre-Trial Proceedings, Trial and Defenses

Workbook: [pages to be provided]

Exhibits: Indictment
Discovery Agreement
Judgement in a Criminal Case

Additional Materials:

- Federal Rules of Criminal Procedure 16 and 26.2
- 18 U.S.C. § 3500 (the Jencks Act)
- *Brady v. Maryland*, 37 U.S. 83 (1963)
- *Giglio v. U.S.*, 405 U.S. 150 (1972)

13. [Nov 24] Sentencing and Collateral Consequences

U.S.S.G. §§ 1B1.3, 2B1.1, 2T1.1, 3C1.1, 3E1.1, 4A1.1, 5K1.1
 Code: 18 U.S.C. §§ 3553, 3556, 3563, 3583, 3663 & Sentencing Table
 Rules: Fed. R. Crim. P. 35

Workbook: pp. 351-406

Exhibits: Order setting terms of pretrial release
 Sentencing Order
 Pre-trial Services Interview Worksheet
 Presentence Report Interview Worksheet
 U.S. Office of Probation – Authorizations and Financial Forms

Additional Materials:

- U.S. Department of Justice, Office of the Attorney General Memorandum on Department Charging and Sentencing Policy:
<https://www.justice.gov/opa/press-release/file/965896/download>
- *U.S. v. Booker*, 543 U.S. 220 (2005)
- *Gall v. U.S.*, 552 U.S. 38 (2007)
- *U.S. v. Psihos*, 683 F.3d 777 (7th Cir. 2012)

14. [Nov 30] Possible Guest Speaker/Review/Discussion of Current Events

15. [Dec 1] Possible Guest Speaker/Review/Discussion of Current Events

Exam Period – December 8-16, 2020

Sentencing Memo based on actual criminal proceedings