

UNIVERSITY OF BALTIMORE
FALL 2020

Course: Tax Practice and Procedure
LAW 955.512/LAWT 955.491/TAXA 654.185

Instructor: John B. Snyder, III
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Days/Time: Thursdays, 6:15-9 p.m.

Location: Synchronously taught online via Zoom at <https://ubalt.zoom.us/j/93702089796>
Meeting ID: 937 0208 9796

Course Description:

Catalogue Description: Aspects of practice before the Internal Revenue Service, including ruling requests, handling of audits, assessment of deficiencies and penalties, closing agreements, tax liens, statutes of limitations, claims for refunds, appeals, conferences and practice before the U.S. Tax Court, U.S. district courts, U.S. Court of Federal Claims, and appellate courts. Also includes analysis of the problems encountered in parallel civil and criminal proceedings, problems involving government investigatory powers and taxpayer rights and privileges.

Course Materials:

The following materials are **required**:

- a. David M. Richardson, Jerome Borison and Steve Johnson, *Civil Tax Procedure*. Be sure you are using the third edition of the book (ISBN 9781632809650). The law has changed significantly in some areas since the previous edition was published.
- b. Complete Internal Revenue Code. The RIA/Thompson edition of the complete Code has been ordered by the bookstore, though you may use another edition of the Code, including electronic versions, if you so choose. Be certain that you are using the **complete** Code. The supplements that accompany most introductory income tax classes do **not** contain the complete Code.
- c. Handouts throughout the semester as needed, distributed via TWEN.
- d. Revised syllabi, including assignments for future classes, will be distributed as necessary as the semester progresses.

Additionally, Camilla E. Watson, *Tax Procedure and Tax Fraud* (from the West Nutshell series) is recommended but not required. This book has been ordered for you through the bookstore, but it is also available online through the law school's subscription to West Academic Study Aids. You can access this book by clicking the link to "West Academic Study Aids" at <http://law.ubalt.edu/library/> and then searching for its title or author name.

Student Learning Outcomes:

After completing this course, you should be able to:

- 1) Describe the structure of the American tax controversy system.
- 2) Navigate procedural requirements at the various stages of tax controversies.
- 3) Recognize potential tax controversy problems and solutions in factual situations.

Grades:

Tax Practice and Procedure is subject to the Law School's mandatory grading range. The class grade point average must be in the range of 3.00 and 3.5. Your grade will be based on the following:

- a. **Final Exam** – There will be a three-hour final exam. The exam will cover all of the material covered during the semester. The final exam will be worth **55%** of your grade.
- b. **Drafting Exercise** – There will be a written exercise due in the middle of the semester. You will be provided with a fact pattern and expected to apply the law you have learned to the facts given in order to present a persuasive case. This exercise is designed to test both your understanding of the substantive law of tax procedure and your ability to work with facts. Further details on the exercise will be posted on TWEN and discussed in class. This exercise is worth **25%** of your grade.
- c. **Weekly Discussion Problems** – Most weeks of the semester, you will be required to complete one or more problems on a tax controversy topic. Most of these problems are found at the end of each chapter of reading in your textbook. Answers should be complete and comprehensible and refer to any relevant statutes, regulations, or doctrines but need not conform to any particular form. A complete answer will generally range from a sentence or two for a short problem to a page for a highly complex problem. These problems are designed to assess your ability to apply the legal principles discussed in your reading in factual situations and to practice for the course exam. Please submit your answers via e-mail no later than noon of the Wednesday preceding the class in which the relevant reading will be covered. Collectively, these problems will be worth **10%** of your grade.
- d. **Class Participation** – Class participation is worth **10%** of your grade. Your grade will be calculated based on your willingness to volunteer answers, how well you are prepared, how well you think through and are able to discuss issues you might not have thought about before class, and how clearly you express yourself. If you "pass" more than twice in the semester, you will lose class participation points.

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 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.

You are expected to complete all reading assignments and to consistently participate in class discussion in order to demonstrate that you have read and reflected on the issues raised in the assignment. You should also **read any Internal Revenue Code or Treasury Regulation provisions listed at the beginning of each chapter of reading**. Reading and applying the Code is a critical part of effective tax practice. Be sure to have copies of relevant code provisions available to consult during class; we will be discussing them in class. Additionally, you should be prepared to discuss any assigned problems.

You must turn in problems, INCLUDING THE DRAFTING EXERCISE, ON TIME. If you fail to turn in a set of weekly problems, you will not be allowed to turn in the answers late, and the “zero” for the missed assignment will be figured into the 10% of your grade that the weekly problems collectively represent. If you fail to turn in the drafting exercise on time, your maximum *course* grade will be reduced by one point out of 100 each day it is late, to a maximum reduction of 25 points.

Remote Operation:

This course will be taught remotely. You will receive a recurring Zoom meeting link for the class sessions and should access it for each session.

This class will be taught *synchronously*. That is, class will be going on live during the regular 6:15-9 p.m. scheduled time. It is important to attend class, to participate, and to ensure that your equipment is working in order to receive class participation points. If you are taking part in class via Zoom, please ensure that your microphone is working and that you keep yourself muted unless you are speaking.

Regular class attendance is mandatory for J.D. students. You are subject to attendance policies just as if the course were being taught in person. Zoom automatically records attendance (including duration). **However, for this to work, you must use your ubalt email and make sure your Zoom account is configured with your real name.** Students should ordinarily have their cameras turned on to verify that they are attending the entire class session.

Because there is no attendance policy for LLM or M.S. students, all class sessions will also be recorded and posted through the Panopto system.

Attendance:

Class attendance is a primary obligation of each J.D. 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 J.D. 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. J.D. 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.

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

While LL.M. and M.S. students should endeavor to attend each class, there is no attendance policy applying to these students.

Course Website:

We will be using TWEN for this class. This syllabus, and any revisions to it, will be posted on TWEN. The TWEN site will facilitate email communications, including messages about the substance of the course and announcements about class cancellations or make-up classes. The TWEN site also serves as a distribution point for readings and problems not contained in the textbook throughout the course.

All students are required to sign up for the TWEN page. You are solely responsible for any messages you may miss if you do not sign up. The password for the clinic TWEN site is "UBtppf20." You will need academic Westlaw access to sign up for TWEN. If you do not have such access, contact the Law Library to receive an academic Westlaw password.

Computers:

Students may use laptop computers for class-related purposes. Note that this course will be streamed live via Skype. If you are attending class electronically, you must use your microphone rather than Skype chat to participate in class discussion. Please be sure to mute your microphone except when you are speaking and to identify yourself before speaking in class.

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 School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

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>.

Course Evaluation Requirement:

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.

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 the Office of Academic Affairs, at ublawacadaff@ubalt.edu or (410) 837-4468.

CLASS TOPICS AND ASSIGNMENTS**1. August 27 – Introduction to Tax Controversies**

Read: *Civil Tax Procedure*, Chapter 1 (skip Section IV and Problems) and Chapter 2

Problems: None

2. **September 3** – Innocent Spouse Relief
Read: *Civil Tax Procedure*, Chapter 3
Problems: Chapter 3, Problems 1 and 2
3. **September 10** – Examination of Tax Returns
Read: *Civil Tax Procedure*, Chapter 4
Problems: Chapter 4, Problems 1, 5, 6, 7
4. **September 17** – Assessment of Tax
Read: *Civil Tax Procedure*, Chapter 5
Problems: Chapter 5, Problems 1, 4, 6, 8
5. **September 24** – The Notice of Deficiency and Tax Court Litigation
Read: *Civil Tax Procedure*, Chapter 8 (skip Section VII)
Problems: Chapter 8, Problems 1 through 8
6. **October 1** – Overpayments and Claims for Refund
Read: *Civil Tax Procedure*, Chapter 9
Problems: Chapter 9, Problem 1(a, b, and c)
7. **October 8** – Judicial and Statutory Rules that Override the Statute of Limitations
Read: *Civil Tax Procedure*, Chapter 10
Problems: Chapter 10, Problem 2; **Drafting Exercise Due at 5 p.m.**
8. **October 15** – Tax Collection
Read: *Civil Tax Procedure*, Chapter 13
Problems: Chapter 13, Problems 1-2
9. **October 22** – Collection Litigation and Third Party Liability
Read: *Civil Tax Procedure*, Chapter 8, Section VII and Chapter 15 (skim); materials to be distributed (via TWEN)
Problems: Chapter 13, Problems 3-4
10. **October 29** – Termination and Jeopardy Assessments
Read: *Civil Tax Procedure*, Chapter 7
Problems: None
11. **November 5** – The Trust Fund Recovery Penalty
Read: *Civil Tax Procedure*, Chapter 14
Problems: Chapter 14, Problems 1, 3-5

12. **November 12** – Tax Disclosure and F.O.I.A.

Read: materials to be distributed

Problems: to be distributed (via TWEN)

13. **November 19** – Administrative Law and Tax Practice

Read: *Civil Tax Procedure*, Chapter 1, Section IV; materials to be distributed

Problems: Chapter 1, Problems 1-3

14. **December 1** – Ethical Controls on Tax Practice; Review Questions and Answers

Read: materials to be distributed (via TWEN)

Problems: none

Note: This class session meets at the regular class time, 6:15-9 p.m., on *Tuesday*, December 1. You will receive a separate Zoom link.