UNIVERSITY OF BALTIMORE SCHOOL OF LAW
SEMESTER YEAR

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

Instructor: Caroline D. Ciraolo
cciraolo@kflaw.com
(443) 845-4898
Mondays: 5p-6:15p
Other times upon request

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

Location: TBD

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. Ciraolo, Kostelanetz & Fink, LLP (2017) (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: 25%
Midterm exam: 20%
Final paper and presentation (Sentencing Memo and Argument): 45%
  • Options to earn extra credit will be offered several times during the semester

Course Expectations:

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.

<table>
<thead>
<tr>
<th>Credit Hours</th>
<th>Meetings Per Week</th>
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<tr>
<td>1</td>
<td>2</td>
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<td>2 absences</td>
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<td>4</td>
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Regular Semester Hours

Credit Hours | 1 | 2
---|---|---
2 | 2 absences | 5 absences
3 | 2 absences | 5 absences
4 | -- | 5 absences
Course Web Site:
If you use a course website, provide information about the site. (e.g., 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.)

Computers:
Students are permitted to bring laptops to class to access class materials. Students are not permitted to engage in other activities (internet surfing, emails or texting, etc.) during class. If there is a situation that requires a student to monitor emails during a particular class (family or childcare situation), the student must alert the instructor.

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. [Reference to School of Law Honor Code, https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm]

Title IX Sexual Harassment and Sexual Misconduct Policy:
The University of Baltimore’s Sexual Harassment and Sexual Misconduct policies are 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 academic accommodation, please contact Karyn Schulz, Director, Center of Educational Access, Office of Disability and Access Services, at 410-837-4141 or kschulz@ubalt.edu.
## ASSIGNMENTS

<table>
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<tr>
<th>Week</th>
<th>Subject</th>
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<tr>
<td>1</td>
<td>Introduction, Federal Case Timeline, and Who’s Who</td>
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|      | Code: 26 U.S.C. §§1, 61, 63(a), 6001, 6011(a), 6012, 6151(a) (review)  
      | 26 U.S.C. §§101-140 (*skim briefly*). |
|      | Workbook: pp. 11-15, 76-92 |
|      | Additional Materials:  
      |   - *Comm'r. v. Glenshaw Glass Co.*, 348 U.S. 426 (1955)  
      |   - *Tax Gap Estimates for Tax Years 2008-2010* -  
| 2    | Willfulness and Commonly Charged Tax and Related Crimes |
|      | Code: 26 U.S.C. - §§ 7201, 7203, 7206, 7207, 7212 |
|      | Workbook: pp. 17-20, 21-75 |
|      | Additional Materials:  
| 3    | Commonly Charged Tax and Related Crimes (continued) |
      | 31 U.S.C. - § 5322  
      | 26 U.S.C. - § 6531 |
|      | Workbook: pp. 17-20, 21-75 (*same as prior class*) |
|      | Additional Materials:  
| 4    | Sources and Selection of Cases and Administrative Investigation  
      | (Overview, Investigative Techniques, and Parallel Investigations) |
|      | Workbook: pp. 112-121, 122-157 |
|      | Exhibits: Administrative Summons |
|      | Additional Materials:  
      |   - *U.S. v. Kovel*, 296 F.2d 918 (2d Cir. 1961) |
5. Administrative Investigation (Part 2) (Foreign Evidence, Conferences, Direct Referrals, Discontinued Investigations, and Miscellaneous)

Workbook: pp. 158-191

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

6. U.S. Department of Justice (Standards of Review, Conferences, Expedited Pleas)

Workbook: pp. 192-229

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

7. The Grand Jury Investigation

Workbook: pp. 230-293

Exhibits: Grand Jury Subpoena


8. The Grand Jury Investigation (Part 2)

Workbook: pp. 230-293

Exhibits: Selected IRM Provisions

9. Review and Discussion of Topics Addressed to Date

10. Alternative Resolutions

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

11. Plea Negotiations

Workbook: pp. 294-296

Exhibits: Proffer Agreement
Plea Agreement
Information and Waiver of Indictment

Additional Materials:
- Kenneth C. Pickering, The Risks and Benefits of Proffer Agreements in Parallel Proceedings:
- 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:

12. Pre-Trial Proceedings, Trial and Defenses

Workbook: pp. 297-350

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)

13. 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

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. v. Psihos*, 683 F.3d 777 (7th Cir. 2012)

14. Presentations