

Tax and Professional Ethics

University of Houston: Law Center

Fall 2012 Syllabus

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Contact Information:

(713) 743-2890 (School)
Room Assignment 215 TU2
Day - Mondays
Class Time 5:30-7:30

Required Materials:

Donald B. Tobin, Richard Lavorie, and Richard E. Trogolo,
Problems in Tax Ethics, ("Problems") (American Case Book Series) Thomas Reuters, West
Publisher (2010). (ISBN: 1319780314158994)

You need access to:

Circular 230: www.irs.gov

ABA Model Code of Professional Responsibility
http://www.abanet.org/cpr/mrpc/mrpc_toc.html

Internal Revenue Code of 1986, as amended (various sections)

Texas Code of Professional Conduct

http://www.texasbar.com/AM/Template.cfm?Section=Grievance_Info_and_Ethics_Helpline&Template=/CM/ContentDisplay.cfm&ContentFileID=96

Resource Materials:

2011-2012 Edition; Federal Income Tax Code and Regulations Selected Sections (CCH)
Or
2011-2012 Selected Federal Taxation Statutes and Regulations (Thompson West)

Course Description

This course covers Tax Ethics and Professional Responsibility of the Tax Attorney. We will exam and review the interaction of various laws, regulations, and cases which govern the professional conduct of the tax attorney and other tax professionals. At the end of this course the student should understand the role of the tax lawyer in the practice of tax law; the rules and regulations which govern the professional ethics and responsibility to the client and the legal system in the area of tax practice.

Class Sessions; Reading & Problem Assignments

Please note this Syllabus is subject to change. Any corrections will be announced in class and provided to you either in writing or uploaded on the internet.

August 27, 2012 – Class 1

The Tax Professional/Tax Lawyer Role & Responsibilities

Intro/Students

Review of Syllabus

Tax Lawyers Duty to the System

Chapter 1: Tax Preparer Rules/Obligations "Problems" pgs 1-43

(Reading for Class 2)

September 10, 2012 – Class 2

Chapter 1: Tax Preparer Rules/Obligations "Problems" pgs 1-43

Review Questions/Comments:

Problems 1.1 - 1.4

Scenarios 1.1 - 1.3

Reference: Circular 230; 10.1 – 10.7

Tax Return Preparation and Advice IRC 6001-6015; IRC 6662 and 6694

September 17, 2012 – Class 3

Continue Tax Return Preparation and Advice

Chapter 2: Ethical Obligations of Tax Lawyers "Problems" pgs 44-54

Review/Questions/Comments:

Problems 2.1 - 2.7

Reference: Circular 230; 10.20 - 10.34

Model Code: 1.6; 1.2; 1.16

(Prep for next Class continue reading Chapter 2 pgs 44-101)

September 24, 2012 – Class 4

Continuation **Ethical Obligation of Tax Lawyers “Problems”** pgs 44-101 (continuation)

Review Questions/Comments:

Problems 2.8 – 2.25

Scenarios 2.3

Reference: Circular 230; 10.20 - 10.34

Model Code: 1.6; 1.2; 1.16

(Prep for next Class start reading Chapter 3 **Conflicts of Interests** pgs 102-128)

October 1, 2012 – Class 5

Controversy with the IRS Para Technologies Trust v. Commissioner 614 T.C.C. 922 (1992);

Devore v. Commissioner 933 F2d 280 (9th Cir. 1992)

Conflicts of Interests “Problems” pgs 102-128

Review Problems in Text

Reference: Model Rules: 1.6; 1.7; 1.8; 1.10

Circular 230

October 8, 2012 – Class 6

Controversy with the IRS Para Technologies Continued

Conflicts continuation of Chapter 3 (pgs. 102-128)

Conflict/Project Review/Discussion

October 15, 2012 – Class 7

Begin – **Evidentiary Privileges “Problems”** pgs 129-189

“Client Confidentiality/Privileges”

Related Model Rules and Circular 230: 10.29; 10.33

Loyalty to Client

Maintaining Confidentiality

October 22, 2012 – Class 8

Continuation of Evidentiary Privileges (pgs 129- 189)

Loyalty to Client

Maintaining Confidentiality

United States vs. Kovel 296 F2d 219 (2d Cir. 1961)

October 29, 2012 – Class 9

Conflict Class Project

Tax Attorney for the Corporation – “Problems” pgs 284-286

Handout

Reference: Model Rule: 1.13

Circular 230: 10.25; 10.24

BOCA Investorings Partnership vs. United States

“Problems” pgs 161-160

November 5, 2012-Class 10

Continuation of Class 9 (if applicable)

Conflict Class Project

Chapter 5 **Tax Shelters “Problems”** pgs 191-214

November 12, 2012 – Class 11

Role of the Government Lawyer “Problems” pgs 277-283

Class Handout-Government Attorneys

Reference: Model Rules: 2.1; 1.11

November 19, 2012 – Class 12

The Business of Tax Law Chapter 6 “Problems” pgs 215-256

Review Questions/Comments/Problems

Reference: Model Rules: 1.5

Circular 230: 10.27

November 26, 2012 – Class 13

Continuation of The Business of Tax Law/Review

Project Completion

December 3, 2012 – Class 14

Review/Project Completion
Review; Summary of Tax Ethics materials; Wrap up of Course
Students questions regarding Tax Ethics materials

December 17, 2012 – Examination 6:00 p.m. – 8:00 p.m. TBA

Class Preparation

Students are required to read assignments prior to attending class. My teaching method will include a combination of lectures, problem solving and questioning. Consequently, students will find it difficult to participate in class discussion without reading the material prior to class, particularly the problem solving and question portions.

Material for each class will be drawn principally from the text book, IRS Code and the other required access materials listed above, relevant cases, hypothetical problems and other materials assigned in or prior to class. Assigned materials are to be read even if not in the required texts or provided by the instructor. Students are expected to have read and become familiar with all materials prior to each class.

It is anticipated that we may deviate from the subject order indicated above to some extent. Thus, students who miss a class need to check with the instructor or a classmate to verify the subject matter to be covered in the next class.

I welcome students bringing material relevant to subject matter.

Attendance

Class attendance is required. A student may not be absent from class more than two times without being subject to penalty. More than two absences is considered excessive; I reserve the right to lower any students grade by one letter if a student has a record of excessive absenteeism. A student who is absent more than two class periods due to illness or personal reasons should advise me immediately upon return to class, and should submit supporting documentation for consideration pursuant to rules, regulations and requirements of the University Of Houston School Of Law. Pursuant to University rules if a student misses more than three classes, then the student *may* be dropped and receive no credit for this course. Notification by the student at the end of the semester regarding absenteeism will not be considered.

Grading Policy

Final grades will be based on the final exam, class project and class participation. A student's final grade may be impacted if they have a record of excessive absenteeism. I also reserve the right to raise or lower the final grade by a plus or minus based upon exceptionally good or poor class participation and performance. With respect to extra credit, exceptional classroom performance refers to a student's performance which is substantially above the minimum requirements. Poor performance refers to being repeatedly unprepared or non-responsive when called upon or failing to participate in class discussions.

Other Information

Students who may be in need of help under the Americans with Disabilities Act should contact Student Services.

Should you have any questions please feel free to contact me at the information contained at the beginning of your syllabus. I welcome student's comments and encourage student contact.