

Tax and Professional Ethics

Mondays 5:30-7:30

University of Houston Law Center

Fall 2020 Syllabus

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Required Course Materials:

- Ethical Problems in Federal Taxation Practice (“Ethical Problems”) (5th Ed., 2015), Wolfman, Holden & Schenk, Little, Brown and Company [Aspen Publishers]. (ISBN 978-1454808169)
- The Ethics of Tax Lawyering, Third Edition (“Ethics”) CALI Publisher (2015), Michael Hatfield. Available at <https://www.cali.org/books/ethics-tax-lawyering-third-edition>
- Circular 230: <https://www.irs.gov/tax-professionals/circular-230-tax-professionals>

You need access to:

- ABA Model Code of Professional Responsibility
- Internal Revenue Code of 1986, as amended (various sections)
- Texas Code of Professional Conduct

Other contemporaneous reading materials required as per syllabus

This class will be held via Zoom meetings on a synchronous basis. There are a number of requirements that MUST meet to receive credit for the class.

(i) TO BE COUNTED AS PRESENT, YOU MUST BE connected to the Zoom class via BOTH audio AND video when class starts AND STAY CONNECTED THROUGH THE DURATION OF THE CLASS

(ii) your computer must have a working video camera and quality audio capability, joining by audio-only due to your lack of video capability will be treated as an absence (you may need an external mic or headset for sufficient audio quality);

(iii) if on a portable device you must not be distracted by traveling or any other activities when you join the Zoom class;

(iv) you may not join the Zoom class from a phone;

(v) you must listen closely and speak loud and clear, as hearing students speak in the class room and classmates ability to hear the remote presence student may not be optimal;

(vii) you must present your face and upper body area professionally in the video stream. Eating, texting, or other unprofessional activities “on-camera” is not a professional presentation and disrespectful to the instructor and classmates; and

(viii) you must be able to fulfill your responsibilities if called on to discuss a case or course materials, and respond to polling questions or other interactive elements of the class.

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 provided to you in writing and discussed in class.

Class 1 - August 24 Syllabus/Review Intro to class and Books:

“Ethical Problems” – Chapter 1, Pages 1-17

Discussion Focus: Note 3 p. 13; Note 1 p. 15

“Ethics” – Pages 1-9

Additional Required Reading: Field, Heather M. (2018) "Tax Law: The Ethics of Tax Lawyering," The Judges' Book: Vol. 2 , Article 16. Available at: <https://repository.uchastings.edu/judgesbook/vol2/iss1/16> -

Class 2 – August 31

“Ethical Problems” – Chapter 1 – Pages 31-67

Additional Required Reading:

- *Sexton v. Hawkins*, 2017 WL 1042464119; A.F.T.R.2d 2017-11872017-1; USTC P 50,181
- Karen Hawkins, 2017 *Erwin N. Griswold Lecture Before the American College of Tax Counsel: A (Not So) Modest Proposal* available at https://www.americanbar.org/content/dam/aba/publishing/tax_lawyer/vol70/703/hawkins-griswold-lecture-ttl-spring17-p647-659.pdf **STOP** @ the bottom of page 654.
- Review Circular 230 to get a sense of what the document contains.
- Review Model Rules 5.4 and 5.5

Labor Day – September 7 -No Class

Class 3 - September 14

“Ethical Problems” – Chapter 1, Pages 74-96;

“Ethics” – Pages 10-34

Class 4 - September 21

“Ethical Problems” – Chapter 2, Pages 111-144

“Ethics” – Pages 10-34

Class 5 – September 28

“Ethical Problems” – Chapter 2, Pages 111-144

"Ethics" - Pages 38-53

Class 6 – October 5

"Ethical Problems" – Pages 145-184 (*Introduction to Class Project if applicable*)

Class 7 – October 12

"Ethical Problems" – Pages 184-275

Required Reading: *Wells Fargo & Co vs. U.S.*, 2013 WL 2444639112; A.F.T.R.2d 2013-53802013-1; USTC P 50,368

Class 8 – October 19

"Ethical Problems" – Pages 184-275

Required Reading: *Wells Fargo & Co vs. U.S.*, 2013 WL 2444639112; A.F.T.R.2d 2013-53802013-1; USTC P 50,368

Class 9 – October 26

"Ethical Problems" – Pages 277-285; -289-312

Class 10 – November 2

"Ethical Problems" – Chapter 6 Pages 339-382 (stop at "Problems"); 407 (Start at "5. Ethical Restraints")-432

Class 11 – November 9: Pulling it All Together

"Ethical Problems" – Chapter 7 Pages 433-443

Required Reading: John S. Dzienkowski and Robert J. Peroni, *The Decline in Tax Adviser Professionalism in American Society*, 84 Fordham L. Rev. 2721 (2016).

Available at: <https://ir.lawnet.fordham.edu/flr/vol84/iss6/14rof>

As you are reading, be prepared to address in class questions posed (to be distributed)

Class 12 – TBD Current or Special Topics (reading will be assigned prior to class)

Class 13 - November 23- (Thanksgiving week) TBD Current or Special Topics (reading will be assigned prior to class)

Class 14 November 30 International Tax Issues and Class Review

"Ethical Problems" – Chapter 8; p 469-477 additional materials will be assigned prior to class

Final Examination 6:00 p.m. – 8:00 p.m. – December 7, 2020

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 from the text books, material assigned by Professor Stewart, 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 textbooks 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 in the syllabus 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 the 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 student's 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, assigned projects 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 via email and/or phone listed on this syllabus. I welcome your comments and encourage student contact, and most of all your participation.

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