

**TAXATION OF  
EXEMPT ORGANIZATIONS  
Spring 2022**

**Johnny Rex Buckles**

**Professor of Law**

**Classroom: 215 TUII**

**Tuesday, Thursday 2:30-3:20 p.m.**

**I. Purpose of Course.**

This course is designed (i) to orient students to the laws governing nonprofit organizations; (ii) to familiarize students with the taxation of nonprofit organizations under federal law; and (iii) to introduce students to basic planning techniques for minimizing taxes imposed on nonprofit organizations and their managers.

**II. Topics to Be Discussed in this Course, Reading Assignments Corresponding thereto, and Dates thereof (Subject to Revision by the Professor).**

<b><u>DATE</u></b>	<b><u>TOPICS</u></b>	<b><u>READING ASSIGNMENT<sup>1</sup></u></b>
1/18, 20	Introduction to Course Introduction to the Nonprofit Sector Historical and Theoretical Underpinnings of the Nonprofit Sector Entity Forms and Legal Framework	3-22; 26-52
1/25, 27	General Taxation of Nonprofits Rationales for Tax Exemption	52-81; 216-223
2/1, 3	Fundamentals of Exemption for Charitable Organizations The Scope of Charity	81-121
2/8, 10	The Scope of Charity (cont.) The Public Policy Doctrine	121-170
2/15, 17	Educational Organizations Religious Organizations Other Section 501(c)(3) Organizations	170-215

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<sup>1</sup> Unless otherwise indicated, all reading assignments in this schedule are pages from the required textbook corresponding to the topics assigned for the day. Students must also read statutory provisions and handouts assigned periodically in class.

2/22, 24	Prohibition against Private Inurement Private Benefit Constraint Intermediate Sanctions Limitations on Participation in the Political Process	225-273
3/1, 3	Limitations on Participation in the Political Process (cont.) The Section 501(c)(4) Alternative	273-316; 320-325; 326-328
3/8, 10	Procedural Issues Private Foundations, Public Charities and Alternatives to Private Foundations The Federal Excise Tax Regime Governing Charities	334-342; 491-492; 508-511; 514-517; 531-551; 556-558; Handout
3/15, 17	NO CLASS (SPRING BREAK)	
3/22, 24	The Federal Excise Tax Regime Governing Charities (cont.)	Handout
3/29, 31	The Commerciality Doctrine The Commensurate-in-Scope Doctrine UBIT: History and Policy	362-381; 382-390
4/5, 7	UBIT: Basic Concepts Exclusions from UBTI UBTI Computational Issues	390-419; 421-442
4/12, 14	UDFI Complex Structures	443-455; 456-489
4/19, 21	Other Tax-Exempt Entities	745-767; 768-783 n.1; 789-790; 791-793
4/26, 28	Other Tax-Exempt Entities (cont.) Summary and Review	
5/3	Final Exam (2:00-4:00 p.m.)	

### III. Required Materials.

- A. **Textbook:** Taxation of Nonprofit Organizations: Cases and Materials, by James J. Fishman, Stephen Schwarz and Lloyd Hitoshi Mayer (5th ed. 2021).
- B. **Code Book:** Selected Sections, Nonprofit Organizations: Statutes, Regulations and Forms, by James J. Fishman, Stephen Schwarz and Lloyd Hitoshi Mayer (2021 ed.).

In addition to these required materials, students occasionally may receive photocopied materials to supplement or replace material appearing in the textbook. Students are responsible for reading such photocopied materials as assigned. Further, the professor may occasionally post video recordings discussing material assigned per syllabus. Students are responsible for viewing each such recording by the date specified in advance by the professor.

### IV. Reading Assignments.

Students must read the assigned materials in accordance with this syllabus and as announced in class. Each reading assignment must be completed by the date and before the class corresponding to the assignment in this syllabus unless the professor modifies the assignment.

### V. Class Participation and Professionalism.

In this course, all students are welcome and must be respected regardless of socio-economic status, age, race, ethnicity, disability, religion, national or regional origin, veteran's status, sex, sexual orientation, gender identity, gender expression, political affiliation or preference, marital status, family background, educational background, occupational history, and any other physical, mental, or social attribute not previously identified.

One aspect of respect is referring to people in a dignified, considerate manner. The use of surnames is traditional in law school. However, some students may prefer to be identified by another name, such as a first name. Please tell me how you prefer to be identified (e.g., by your first, middle or last name or by an appropriate nickname), and also tell me your preferred title (e.g., Mr., Ms., Rev., Dr., etc.) when invoking your surname. I prefer "Professor Buckles." If you do not express a preference, I will refer to you by your first name.

The professionalism expected of students includes (1) **respect** for every class member at all times; (2) **advance, diligent preparation** for every class unless you notify me in advance of a legitimate reason for not being prepared adequately; (3) **seriously striving** to learn the material as it is presented in class, even if that requires you to schedule office visits and/or participate in a study group; and (4) **adhering to the requirements for synchronous distance education** in section XVI of this syllabus.

**GROUND FOR FAILING THE PROFESSIONALISM REQUIREMENT OF THIS COURSE INCLUDE USE DURING CLASS OF ANY TECHNOLOGY FOR PURPOSES OTHER THAN THOSE DIRECTLY RELATED TO LEARNING THE SUBJECT MATTER OF THIS COURSE. EXAMPLES OF UNAUTHORIZED ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, SURFING THE WEB FOR PERSONAL REASONS, ROUTINELY CHECKING OR SENDING TEXT MESSAGES, AND VIEWING ONLINE CONTENT UNRELATED TO THIS COURSE.**

**VI. Evaluation.**

Assuming adequate class participation, a student's grade will be based upon his or her performance on the final exam, subject to the grading policy of the University of Houston Law Center ("Law Center").

**VII. Office Hours.**

Unless otherwise announced periodically by email or in class, office hours will be Thursday, 11:00 a.m.-12:00 p.m. and 1:00 p.m.-2:00 p.m. in 218 TUIL, and other times by appointment. The professor will follow a literal "open door" policy when a student is in his office – no exceptions. Virtual office hours may also be conducted via Zoom in lieu of in-person office hours, as periodically announced by the professor.

**VIII. Counseling and Psychological Services.**

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. [http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html)

The Texas Lawyers' Assistance Program ("TLAP") also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website includes a page with links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/lawstudents>.

**IX. Learning Outcomes.**

Through this course, students should (i) learn the federal income tax laws, federal excise tax laws, and most basic state laws of primary relevance in the practice area of tax-exempt organizations; and (ii) understand and learn to apply basic techniques for complying with these laws and planning to address the common legal needs of clients.

**X. Student Handbook and Compliance with Honor Code.**

Each student is responsible for complying with the requirements governing students in the

Law Center's student handbook, including the Honor Code. With respect to the attendance policy, **each student must record his or her class attendance and report to the professor concerning the same by using the Google electronic attendance link supplied to students.**

#### **XI. Anti-Discrimination and Sexual Misconduct Policies; Reasonable Academic Adjustments/Auxiliary Aids.**

UHLC and the University of Houston are committed to maintaining and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, a confidential reporting process is available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08. Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty and other University employees are required to report to the University any information received regarding sexual misconduct as defined in the policy. Due to this reporting requirement, faculty members and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by University employees and students.

The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact [the Justin Dart Jr. Student Accessibility Center](#) (formerly the Justin Dart, Jr. Center for Students with DisABILITIES).

#### **XII. Recording of Class.**

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Justin Dart, Jr. Student Accessibility Center](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Normally, the professor will record class sessions to allow students to review the class presentation. Any recordings created will be deleted and destroyed shortly after the final exam for the class. Your contributions to class discussion will be included in the recording. Your continued registration in this class constitutes your acquiescence to all such recording for the purposes described above.

#### **XIII. Syllabus Changes.**

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through email.

**XIV. Email Communications.**

Email communications related to this course will be sent to your Exchange email account which each UH student receives.

**XV. UH COVID-19-Related Required Syllabus Language; Other COVID-19-Related Matters..**

**A. Face Covering Policy.**

To reduce the spread of COVID-19, the University strongly encourages everyone (vaccinated or not) to wear face coverings indoors on campus including classrooms for both faculty and students.

**B. Physical Presence in Class.**

This subsection of the syllabus governs physical presence in class. Your presence in class each session means that you:

- Are NOT exhibiting any [Coronavirus Symptoms](#) that makes you think that you may have COVID-19
- Have NOT tested positive or been diagnosed for COVID-19
- Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see [Student Protocols](#) for what to do if you experience symptoms and [Potential Exposure to Coronavirus](#) for what to do if you have potentially been exposed to COVID-19. Consult the [Graduate Excused Absence Policy](#) for information regarding excused absences due to medical reasons.

**C. COVID-19 Information.**

Students are encouraged to visit the University's [COVID-19](#) website for important information including on-campus testing, vaccines, diagnosis and symptom protocols, campus cleaning and safety practices, report forms, and positive cases on campus. Please check the website throughout the semester for updates.

**D. Vaccinations.**

Data suggests that vaccination remains the best intervention for reliable protection against COVID-19. Students are asked to familiarize themselves with pertinent [vaccine information](#), consult with their health care provider. The University strongly encourages all

students, faculty and staff to be vaccinated.

**E. Remote Learning Contingency Plan; First Two Weeks of Class.**

The first two weeks of class will be conducted through on-line synchronous distance education via Zoom videoconferencing technology. Students must attend class virtually via Zoom during this period.

In addition, because of the continuing nature of the pandemic, at times students may be required or permitted through a special accommodation granted by UH to participate remotely in class via Zoom.

**XVI. Synchronous Distance Education Requirements.**

For any student using the internet videoconferencing capability for synchronous distance education via Zoom, that student must meet the following requirements:

- (i) Be connected to the internet videoconference when class starts;
- (ii) Use a computer with a working video camera **with the video function always turned on during class** and with quality audio capability; joining by audio only will be treated as an absence (you may need an external mic or headset for sufficient audio quality);
- (iii) Do not multitask; you must not be distracted by traveling, texting, checking email, or engaging in other activities when you join the internet videoconference;
- (iv) Do not join the class internet videoconference from a phone except in an emergency;
- (v) Listen closely and speak clearly and audibly;
- (vi) Identify yourself with your class roll name in the internet videoconferencing software;
- (vii) Present yourself **professionally in the video stream** (e.g., dress appropriately, do not eat, remain stationary except when you must excuse yourself for a brief personal break, etc.).
- (viii) Keep your audio function muted when you are not speaking in class.