University of Washington School of Law

FEDERAL TAX CONTROVERSIES AND PROCEDURES

T502

PROFESSOR SCOTT A. SCHUMACHER

Spring 2014

Syllabus
FEDERAL TAX CONTROVERSIES AND PROCEDURES – T502

Course Syllabus

Spring 2014
University of Washington
William H. Gates Hall, Room 117
Monday and Wednesday, 4 p.m. – 5:30 p.m.

Professor Scott Schumacher
(206) 543-5351
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Room 431

Course Description: Unlike most other courses in the Graduate Tax Program, this is not, generally, a course covering substantive tax liability. Rather, this course focuses on the processes and procedures surrounding the relationship between taxpayers and the Internal Revenue Service. The course will cover the entire life of a tax case, from the filing of a return by the taxpayer and audit of the return, through tax litigation and collection. Strategy considerations in representing a client are a key focus of the course, as is the theory underlying the procedural rules. Although its focus is resolution of tax disputes, it is essential for tax lawyers in a transactional practice to be familiar with the rules that apply should the IRS question the transaction. Class participation is very important. My general approach to class is to conduct a discussion of the assigned material, focusing on the assigned cases, statutes, regulations, and rules. I encourage you to volunteer.

Method of Evaluation: This is a graded course. The final grade in the course will be based on the total points received on the following:

- Final Examination: 70 points
- Exercise A: 10 points
- Exercise B: 10 points
- Class participation: 10 points possible

Total Possible Points = 100 points

The examination will be open book and will be three hours long. The exam will be designed to test a fair cross-section of the topics covered in the course.

Required Texts and Materials. The Code, Regulations, Lederman & Mazza, Tax Controversies: Practice and Procedure (3rd ed. 2009), and supplemental course materials, which are available on the course website. These materials may be updated periodically, and students should review the website for updates to course materials prior to class.

Access and Accommodations. Your experience in this class is important to us, and it is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law. If you experience barriers based on disability, please seek a meeting with DRS to discuss and address them. If you have already established accommodations with DRS, please communicate your approved accommodations to your instructor at your earliest convenience so we can discuss your needs in this course.
Disability Resources for Students (DRS) offers resources and coordinates reasonable accommodations for students with disabilities. Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. If you have not yet established services through DRS, but have a temporary or permanent disability that requires accommodations (this can include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 206-543-8924 or uwdrs@uw.edu or disability.uw.edu.
CLASS 1 (March 31)

Topics Discussed:
- Introduction and Overview of Course
- Overview of Tax System and IRS as an Administrative Agency

Reading:
- Lederman & Mazza, pp. 1-16

CLASS 2 (April 2)

Topic Discussed:
- Civil Penalties

Readings:
- Lederman pp. 469-488, 493-497,
- I.R.C. §§ 6601, 6651, 6653, 6654, 6662-6664, 6672
- Treas. Reg. § 1.6664-4
CLASS 3  (April 7)

Topic Discussed:

• Civil Tax Penalties and Interest (continued)
• Penalties applicable to tax professionals

Readings:

• Lederman pp. 497-503, 509-519,
• I.R.C. §§ 6601, 6694, 6700-6703, 6707A, 7206(2), 7212
• *Loving v. IRS* (course webpage)

CLASS 4  (April 9)

Topics Discussed:

• Ethical Issues in Tax Practice
• Standards for Tax Advice

Readings:

• Lederman pp. 703-725
• I.R.C. §§ 6662, 6664, 6694
• Treas. Reg. § 1.6664-4, 1.6694-1, 1.6694-2, 301.7701-15
• Washington State Bar Association Formal Opinion 194 (1997) *(course webpage)*
CLASS 5  (April 14)

Topic Discussed:

- Dealing with Ambiguity
- Tax Shelters and Aggressive Tax Planning
- Economic Substance

Readings:

- Roger A. Pies and Adam Gropper, FIN 48 Considerations: Tax Attorneys’ Perspective (course webpage)
- I.R.C. §§ 6662, 6664, 6707A, 7701(o)

CLASS 6  (April 16)

Topics Discussed:

- Reliance on Treasury Regulations
- IRS Rulemaking Practice
- Statutes of Limitations

Readings:

- Lederman pp. 49-66, 260-266
- United States v. Home Concrete (course webpage)
CLASS 7  (April 21)

Topic Discussed:

- Tax Research

Readings:

- Lederman pp. 771-791
- Handout Ex. A (due April 28)

CLASS 8  (April 23)

Topics Discussed:

- Filing of Income Tax Returns
- Audits
- Service’s Investigatory Powers

Readings:

- Lederman, pp. 79-95,105-115, 119-131
- I.R.C. §§ 6011(a), 6012(a), 7502, 7602

CLASS 9  (April 28)

Topics Discussed:

- Defenses in IRS Investigations
- IRS Appeals Division
- Settling Tax Cases

Readings:

- Lederman pp. 131-153, 178-183
- I.R.C. §7525
CLASS 10  (April 30)

Topics Discussed:

- Deficiency procedures
- TEFRA Partnerships
- United States Tax Court

Readings:

- I.R.C. §§ 6211(a), 6212, 6213(a)-(d), Skim §§ 6221-6231, 7491

CLASS 11  (May 5)

Topic Discussed:

- Tax Provisions of the Affordable Care Act
- Tax Collection

Readings:

- Lederman pp. 541-567
- Affordable Care Act Tax Provisions for Individuals and Families
- I.R.C. §§ 6330, 6331, 6332, 6502

CLASS 12  (May 7)

Topic Discussed:

- Tax Collection cont’d

Readings:

- Lederman pp. 591-610, 627-638

- Handout Ex. B (due May 12)
CLASS 13  (May 12)

Topics Discussed:

- Overpayments, Refunds, and Credits

Readings:

- Lederman pp. 378-396, 407-408
- I.R.C. §§ 6511, 6512(b), 1311-1314

CLASS 14  (May 14)

Topics Discussed:

- Tax Crimes
- Criminal Tax Procedure

Readings:

- *Cheek v. United States*, (course webpage)
- *United States v. Harris*, (course webpage)
- I.R.C. §§ 7201-7207, 7212
CLASS 15 (May 19)

Topic Discussed:

- International Tax Administration

Readings:


CLASS 16 (May 21)

Topic Discussed:

- Innocent Spouse
- Review session

Reading:

- Lederman pp. 665-681
- I.R.C. § 6015