

University of Washington School of Law



FEDERAL TAX CLINIC

T526

PROFESSOR SCOTT A. SCHUMACHER

PROFESSOR JOHN A. CLYNCH

Winter 2020

Syllabus

Federal Tax Clinic – T526

Course Syllabus

Winter 2020
William H. Gates Hall – Room 212
Mondays: 1:30 p.m. - 3:20 p.m.

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Important Dates/Holidays – The University observes holidays on Monday, January 20, and Monday, February 17. Instruction ends on Wednesday, March 11. The examination period is March 16 – 20, 2020.

Course Description: The Federal Tax Clinic is a course designed to train students in the practice of tax controversy law by affording them hands-on training and first-chair experience in federal income tax litigation under the supervision of the Clinic’s Director and Managing Director. The course is divided into two components – the classroom component and the practice component.

The classroom component includes: (1) instruction in applicable federal tax law and federal tax practice and procedure; (2) professional skills training in interviewing and counseling, negotiation, and litigation; and (3) consideration of pertinent professional responsibility issues.

In the practice component, students will advise and represent low-income taxpayers in controversies with the Internal Revenue Service from initial interview through any negotiations with the IRS and any necessary tax litigation. Students must commit to enrolling for the entire academic year and will receive credit for the course only upon completion of all three quarters. Pre-/Co-requisite Course: Basic Income, or equivalent taken at accredited law school. Recommended Courses: Trial Advocacy, Evidence, and Professional Responsibility.

Method of Evaluation: For UW J.D. students, this course is offered on a credit/no credit basis. For SU J.D. students and UW LL.M. students, this is a graded course. Awarding of credit and the final grade for the course will be based upon a number of factors including:

- Diligence, creativity, and professionalism with which you represent your client, including timely responses to your client and IRS.
- Class attendance and participation, including facility with the assigned reading and being prepared to discuss these materials in class. In addition, part of the class will be dedicated to “case rounds,” where you will talk about a current case that you are working on. You should come to class ready to talk about one of your cases.
- Maintenance of at least 7 scheduled office hours between 8 a.m. and 6 p.m. per week during Autumn, Winter and Spring Quarters. These hours must include at least two days per week, with no less than 2 hours per session.
- Proper notification to supervisor when you will be unable to attend class or be present for office hours.

- Proper maintenance of client files. This includes organization of documents and up-to-date log sheet.
- Attendance at weekly one-on-one sessions to track file maintenance and review progress on existing cases and capacity to take on additional cases. These sessions will be held during your office hours. This includes creation and update of case review sheets.
- Attendance at one Tax Court Session. US Tax Court will be in Seattle during Winter and/or Spring quarters. The time spent at the tax court session can substitute for the equivalent amount of office hours.
- Proper closing of cases when issues have been resolved.
- Exit interview at the end of the school year with proper transfer of cases.
- There is no final exam.

Learning Objectives: Capable of conceptualizing IRS practices and procedures, formulating strategies for various IRS challenges of client tax positions, determining appropriate research for various tax issues, mastering a multitude of IRS forms and publications, effectively communicating with clients and the IRS, and skillfully representing taxpayers who have disputes with the IRS when graduate.

Laptop Use: Laptops may only be used for note taking or working on course materials. Please refrain from using laptops for any other purpose. Laptops cannot be used when guest speakers are presenting.

Access and Accommodation:

Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs in this course.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions 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. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions.

Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

Religious Accommodations:

Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at [Religious Accommodations Policy](https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/) (<https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/>).

Accommodations must be requested within the first two weeks of this course using the [Religious Accommodations Request form \(https://registrar.washington.edu/students/religious-accommodations-request/\)](https://registrar.washington.edu/students/religious-accommodations-request/).

Law School Attendance Policy:

Under changes to ABA Accreditation Standard 304, adopted in August 2004, a law school shall require regular and punctual class attendance.

At any time after the fifth week of a course (halfway through a summer session course), a student who has been determined by the instructor to have attended fewer than 80 percent of the class sessions in any course will be required to drop the course from his or her registration upon the instructor's so indicating to the Academic Services Office.

An instructor may also impose stricter attendance standards or other sanctions for nonattendance, including lowering of a grade, provided that students are informed at the start of the course of the instructor's attendance rules and possible sanctions.

Texts:

- Internal Revenue Code and Treasury Regulations
- Johnson, Borison and Ullman, *Civil Tax Procedure* (3rd ed. 2016)

Students may also wish to consult a number of secondary authorities, including the following which are available in the Clinic office for review:

- *Effectively Representing Your Client Before the IRS* (7th Ed. 2018) (available in Clinic)
- Patricia T. Morgan, *Tax Procedure and Tax Fraud In a Nutshell*

Class I January 6, 2020

Topic Discussed:

- Statutes of Limitation

Reading:

- Johnson, Chapter 5

Class II January 13, 2020 (Due to snow, topic and readings moved to 1/27)

Topic Discussed:

- Crimes and Criminal Penalties

Readings:

- I.R.C. §§ 7201-7207, 7212
- *Cheek v. United States*, 498 U.S. 192 (1991), **Course Webpage**
- *United States v. Harris*, 942 F.2d 1125 (7th Cir. 1991), **Course Webpage**

Class III January 27, 2020

Topic Discussed:

- Crimes and Criminal Penalties
- Criminal Tax Procedure

Readings:

- I.R.C. §§ 7201-7207, 7212
- *Cheek v. United States*, 498 U.S. 192 (1991), **Course Webpage**
- *United States v. Harris*, 942 F.2d 1125 (7th Cir. 1991), **Course Webpage**
- U.S. Sentencing Guidelines, §§ 1B1.1 Chapter 2, Part T, and Sentencing Table <http://www.ussc.gov/guidelines-manual/2014/2014-individual-chapters-and-guidelines-html>
- S. Schumacher, *Tomko and Sentencing Guidelines In Tax Cases After Booker*, **Course Webpage**

Class IV February 3, 2020

Topic Discussed:

- Civil Penalties

Reading:

- Johnson, Chapter 11

Class V February 10, 2020

Topics Discussed:

- Substantive Tax Issues Facing Low Income Taxpayers
- Dependency Exemptions, Head of Household, Earned Income Credit

Readings:

- I.R.C. §§ 2(b), 32, 152, 7703
- *Skim* IRS Publication 596 <http://www.irs.gov/pub/irs-pdf/p596.pdf>
- Treas. Reg. § 1.152-1 through 1.152-4

Class VI February 24, 2020

Topics Discussed:

- Innocent Spouse
- Injured Spouse

Readings:

- Johnson, Chapter 3
- I.R.C. §§ 6015
- IRS Notice 2011-70, http://www.irs.gov/irb/2011-32_IRB/ar11.html
- IRS Notice 2013-34, https://www.irs.gov/irb/2013-43_IRB

Class VII March 2, 2020

Topic Discussed:

- Ethical Issues in Tax Cases

Readings:

- I.R.C. §§ 6662, 6664, 6694
- Treas. Reg. §§ 1.6694-1, 1.6694-2, 1.6694-3, and 301.7701-15
- IRS Form 8300
- *Lefcourt v. United States*, 125 F.3d 79 (2d Cir. 1997), **Course Webpage**
- Washington State Bar Association Formal Opinion 194 (1997), **Course Webpage**
- Circular 230, §§ 10.23, 10.27, 10.33, 10.34, 10.35, 10.37, 10.51 <http://www.irs.gov/pub/irs-pdf/pcir230.pdf>

Class VIII March 9, 2020

Topics Discussed:

- Case review.
- Review concepts from previous weeks.
- Go over next few weeks in clinic.