Course Change Request

New Course Proposal

Date Submitted: 11/14/17 8:24 am

Viewing: LAW 7117 : Federal Tax Practice and Procedure

Last edit: 11/17/17 7:58 am

Changes proposed by: ruthsmith

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<th>Contact(s)</th>
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<tr>
<td>Name</td>
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<td>Ruth Smith</td>
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Course prefix: LAW
Course number: 7117

Department: School of Law
College/School: School of Law
Academic Level: Professional Law
Academic Level (alternative): 2018-2019 Professional
Effective term: 2018-2019 Professional

Complete Course Title: Federal Tax Practice and Procedure
Abbreviated Course Title: FED TAX PRACTICE & PROCEDURE

Catalog course description:
Procedure and practical aspects of a tax practice, focusing primarily on all stages of a federal tax controversy; audits, appeals, litigations and collection; aspects of practice before an administrative agency and the professional/ethical obligations associated with tax transactional or controversy work.

Prerequisites and Restrictions:
LAW 7002, LAW 7017, LAW 7021, and LAW 7309.

Concurrent Enrollment:
No

Should catalog prerequisites / concurrent enrollment be enforced?
Yes

Enforced Prerequisites / Concurrent Enrollment:

<table>
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<tr>
<th>And/Or</th>
<th>Course Prefix/Number</th>
<th>Min Grade/Score</th>
<th>Academic Level</th>
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<tr>
<td>And</td>
<td>LAW 7002</td>
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<td>And</td>
<td>LAW 7309</td>
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Crosslistings:
No

Stacked:
No

Semester Credit:
2

Contact Hour(s) (per week):
Lecture: 2
Lab: 0
Other: 0
Total: 2

Approval Path:
1. 11/17/17 8:12 am
   Sandra Williams (sandra-williams):
   Approved for Curricular Services Review
2. 11/20/17 9:26 am
   Ruth Smith (ruthsmith):
   Approved for SL Committee Preparer
3. 03/23/18 3:39 pm
   Cynthia Alkon (calkon):
   Approved for SL College Dean

https://nextcatalog.tamu.edu/courseleaf/approve/
Course Syllabus

Syllabus: Upload syllabus

Letters of support or other documentation
No

Additional information
Reviewer Comments
Sandra Williams (sandra-williams) (10/05/17 9:05 am): Edits made to catalog course description and prerequisites to comply with style guide.
Sandra Williams (sandra-williams) (10/05/17 9:05 am): Rollback: All new courses require a syllabus. Please attach or complete syllabus form.
Sandra Williams (sandra-williams) (10/12/17 8:01 pm): Rollback: Syllabus has incorrect course number listed.
Sandra Williams (sandra-williams) (11/12/17 11:57 am): Rollback: Attach syllabus without "mark-ups" and make sure course number is listed; also, form shows 5 courses are enforced, however, only one 73009 is the only one listed on the catalog "Prerequisites and Restrictions" field on the form.
Sandra Williams (sandra-williams) (11/17/17 8:11 am): Edits made to catalog prerequisites.

Reported to state?
Add
COURSE DESCRIPTION AND PREREQUISITES

This course covers the practice, procedure, and ethics involved in federal tax controversies. Topics include ethics of tax practice; handling of audits; statutes of limitation; assessment of penalties; hearings before the IRS Appeals Office; tax liens; tax collection procedures; and litigation in federal courts. Our focus is on procedural rather than substantive provisions of the Internal Revenue Code and Treasury Regulations. Although the focus is on tax controversies, some topics are also directly relevant to tax compliance and tax planning. Further, a general understanding of how tax controversy works is useful background knowledge for a transactional practice as well.

Prerequisites are one year in the full-time or part-time program, and Federal Income Tax.

TEXTBOOK AND/OR RESOURCE MATERIALS

*Civil Tax Procedure*, 3rd edition, Johnson, Borison, & Ullman

You should also have access to relevant portions of the Code and Regs. In my experience, the single volumes with “selected” sections of the Code and Regs often do not include all the sections that are relevant to this course. However, you can generally find any sections of the Code and Regs online, for example, the Legal Information Institute at [https://www.law.cornell.edu](https://www.law.cornell.edu). Full sets are available in the Clinic library.

As noted below, I will also assign some cases. These are generally discussed in the textbook but I think it will be useful for you to read the case itself. However, you should focus on the legal doctrines relevant to our topics, and the rationale for those doctrines. The rest of the case can generally be ignored and often you can quickly skim (if that much) the facts.

These are the primary textbooks/material for the course that you will be expected to master. I will also distribute supplemental material from time to time during the semester. This will include some short readings that may expand on specific topics we discuss, as well as *Federal Tax Procedure*, by Jack Townsend, a comprehensive book-length treatment in pdf format. You are also welcome to access any of the reference material in the Low Income Tax Clinic, even if you are not also enrolled in the clinic. The supplemental material is furnished primarily as something that you might find to be useful knowledge in your professional career. The supplemental reading is not required reading, and therefore will not be directly tested on the final exam, unless I explicitly state otherwise. But in some instances, such as examples of protests or Tax Court petitions, that material may make the discussions in the textbooks easier to understand.
**COURSE GOALS**

By the end of the semester, you should understand how to represent a client in a tax controversy matter, including:

- during an audit by the IRS;
- before the IRS internal (but independent) Appeals function;
- in response to IRS collection efforts;
- in litigation of a tax controversy, including understanding different forums available and under what circumstances you can litigate where.

We will also address some specialized aspects of these topics, such as:

- professional ethics of a tax practice;
- obtaining formal guidance from the IRS with respect to your clients’ specific situation;
- accessing tax return information (FOIA) and rules of confidentiality;
- penalties; and
- specialized controversy topics – partnerships, the trust fund recovery penalty, and innocent spouse provisions.

**EVALUATION AND GRADING POLICIES**

For JD students, this course follows the grading scale and grading policies outlined in Academic Standards 8.1-8.5.4, which may be found in the Student Handbook.

For LL.M. and M.Jur. students, this course follows the grading scale and grading policies for graduate students outlined in University Student Rule 10 (http://student-rules.tamu.edu/rule10). Your grade will be based on a two-hour final examination, currently scheduled for Tuesday, December 5th, at 2:00 pm. The examination is in-class and open book; you may use any materials you wish but may not consult with any other person. Examination policies and procedures are set forth in the Student Handbook. Because of limitations with respect to in-class EBB exams, you will only be able to use hard copy materials and will not be allowed to use e-books or other electronic materials during the exam.

Additional evaluations: We will be discussing many of the problems in the textbooks during class, as that is likely more effective than merely recapitulating what the textbooks say. I may also use very brief quizzes at the end of some class sessions. In addition to those and our discussions in class, I may also provide occasional problems or other assignments for you to work on outside of class. In that case, I will ask that you provide written answers for these to me. These quizzes and problems/assignments will not be graded but I will provide feedback to you. These are intended to help you assess how well you are progressing and to help me assess how to tweak our discussions of the material.
Because of the importance of preparation and participation, as discussed below, I reserve the right to adjust your grade for the course by up to one level (for example, from an A- down to a B+ or up to an A) for exceptional or significantly substandard preparation and/or participation. However, such adjustments have been very rare.

ATTENDANCE POLICY

JD students are required to adhere to the law school’s attendance policy as outlined in the Student Handbook.

LL.M. and M.Jur. students are required to adhere to the attendance policies and makeup policies applicable to graduate students included in University Student Rule 7 (http://student-rules.tamu.edu/rule07).

Attendance and participation are very important for mastering the material and preparing for the exam, as well as your work in the clinic if you are enrolled in that as well. Further, class participation is an opportunity to practice and improve your skills of thinking on your feet and presenting a position to colleagues. Attendance and participation are not just for your benefit; they also benefit your fellow students. We all learn from each other. I encourage questions, either during class or outside of class. The only stupid question is one that is not asked.

COURSE TOPICS

The following are the reading assignments, by week, that I currently anticipate. You should also read Code or Regs sections, forms, and other guidance listed at the beginning of chapters. You should read the full text of the cases listed below (to the extent relevant to the procedural issues); you can find them on Lexis or Westlaw.

This is an approximation of what we will cover and when. The schedule may change, on reasonable notice.

Week 1: Overview of tax controversy and sources of tax law; reporting obligations

Week 2: Audits
Chapter 4 of CTP, plus United States v. Fern, 696 F.2d 1269 (11th Cir. 1983)

Week 3: Assessments and statutes of limitation
Chapters 5, 7, and 10 of CTP, plus Colony, Inc. v. Comm’r, 357 U.S. 28 (1958); United States v. Home Concrete & Supply, LLC (2012)
Week 4: Tax Court litigation
Chapter 8 of CTP, plus Branerton Corp. v. Comm’r, 64 T.C. 191 (1975).

Week 5: Overpayments and refund claims

Week 6: Penalties

Week 7: Collection procedures and payment alternatives

Week 8: Liability for other people’s taxes

Week 9: Innocent spouse relief
Chapter 3 of CTP, plus Kellam v. Comm’r, T.C. Memo 2013-186; King v. Comm’r, 115 T.C. 118 (2000); Lantz v. Comm’r, 607 F.3d 479 (7th Cir. 2010); Wilson v. Comm’r, 705 F.3d 980 (9th Cir. 2013).

Week 10: Partnership audits, TEFRA and beyond
Chapters 6A and 6B of CTP

Week 11: Ethics in tax practice, part 1
I will distribute reading material in advance of class

Week 12: Ethics in tax practice, part 2
I will distribute reading material in advance of class

LAW SCHOOL DISABILITY POLICY

The Americans with Disabilities Act (ADA) is a federal anti-discrimination statute that provides comprehensive civil rights protection for persons with disabilities. Among other things, this legislation requires that all students with disabilities be guaranteed a learning environment that provides for reasonable accommodation of their disabilities. If you believe you have a disability requiring an accommodation, please contact the Assistant Dean of Students, Rosalind Jeffers. Due to the law school’s policy of testing anonymity, students should not discuss their disabilities with professors. For assistance, students should consult with Dean Jeffers. For additional information, visit http://law.tamu.edu/current-students/student-affairs/exam-accommodation.

ACADEMIC INTEGRITY STATEMENT AND POLICY
An Aggie does not lie, cheat or steal, or tolerate those who do. For additional information, please visit http://aggiehonor.tamu.edu and the law school Student Handbook.

STATEMENT ON CREDIT HOURS

ABA accreditation standards include a formula for calculating the amount of work that constitutes a credit hour. According to ABA Standard 310(b)(1), “a ‘credit hour’ is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” At Texas A&M University School of Law, we have a twelve-week semester. As this is a 2-credit hour class, applying the ABA standard to the numbers of credits offered for this class, you are expected to spend, on average, two actual hours (120 minutes) each week in class. Outside of the classroom you should be spending a minimum of 4.67 hours (280 minutes) of study time weekly in addition to class time. For more information, see the Credit Hour Policy.

STATEMENT ON PROFESSIONALISM

“What is professionalism? ‘Professionalism is conduct consistent with the tenets of the legal profession as demonstrated by a lawyer’s civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rule of law, the courts, clients, persons who work within the legal profession, witnesses, and unrepresented parties.’”

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