CIVIL TAX PROCEDURE
LAW 7640, SECTION 3528
FALL 2013
SYLLABUS

Monday, 9:00 A.M. – 11:10 A.M., subject to change based on conflicts
Office hours: Mondays, 11:30 A.M. - 1:00 P.M. and by appointment

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REQUIRED TEXTS


2. Internal Revenue Code and Regulations.

SCOPE

This course will cover the procedures for the determination and assessment of federal taxes, the statutes of limitations, exceptions to the statutes of limitations, and the procedures for mitigation. The course will also cover special procedures for partnerships, innocent spouse procedures, tax refund procedures, litigation in the U.S. Tax Court, penalties and collection procedures.

CLASS

The class will meet every Monday during the semester from 9:00 A.M. until 11:10 A.M. Some classes will be re-scheduled because of conflicts, but new times will be announced in advance. We will take a ten-minute break approximately half way through each class.

The attached assignment sheet lists the chapter in the textbook and additional materials that will be covered during each class. The textbook lists other resource material at the beginning of each chapter. I strongly suggest that you study the assigned chapter, the additional materials and the resource material very carefully before each class. I may also assign other material that should be studied as well.

The textbook contains problems at the conclusion of each chapter. The assignment sheet lists the problems that will be covered in each class. We will spend substantial time in class discussing these and hypothetical problems that I will present in class.

There will be discussion in each class of the assigned chapter from the text, the additional materials, the resource material and the assigned problems. I expect you to be prepared for class and to participate in the discussion. I will call on students to join in the discussion and I expect you to be prepared. I also encourage you to ask questions.

I strongly recommend that you attend all classes and pay careful attention to the discussion. The assigned problems in the textbook are very good, and are typical of the problems that will be on the final examination.
You should bring to class whatever you will need to discuss the assignment for that day. You should also have access to the Internal Revenue Code and Treasury Regulations.

You may not record any class.

**FINAL EXAMINATION**

The final examination will be three hours in length, and will consist of three essay-type questions. Each of the questions is weighted equally for grading purposes. Each question will include a statement of facts followed by some specific questions based on the facts. I expect you to answer each question and provide a summary of what you considered in reaching your answer. I do not want an essay addressing everything you know about what you think the subject of the question is. I will give you credit for your answer only if you correctly relate the facts to the law in reaching your answer.

You may write your examination in longhand, in which case I would like you to use blue books. Alternatively, you may use your laptop computer to prepare your answers.

The examination is open book. You may refer to any printed or self-handwritten materials (open book) during the final exam. You may not refer to any electronic material, nor may you refer to any online material or to any material stored in your laptop computer or in any data base.

Questions from previous final examinations will not be available for your review. You must turn in your final examination when you are done.

**GRADES**

The final examinations are graded anonymously. Your grade will be based on your score on the final examination. In addition, I will give credit, or take away credit, based on your class participation.

**QUESTIONS**

I am available to answer questions, review the material or discuss nearly any tax, law or practice subject.

The best way to address your questions is almost always a face-to-face discussion. I will be in my office (Room 320H) after class each Monday. If that is not convenient, please send me an email and let me know the nature of your question, or the specific question, and we will arrange a convenient time to meet.

**WORDS OF WISDOM**

*Accuracy and diligence are much more necessary to a lawyer than great comprehension of mind, or brilliancy of talent. His business is to refine, define, split hairs, look into authorities, and compare cases. A man can never gallop over the fields of law on Pegasus, nor fly across them on the wing of oratory. If he would stand on terra firma, he must first descend. If he would be a great lawyer, he must first consent to become a great drudge.*

*Daniel Webster*
Civil Tax Procedure
Class Assignments

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Class 1 (8/19/13)  Chapter 1 (Omit Problems);  
Chevron U.S.A. Inc., 467 U.S. 837 (1984);  Auer, 519 U.S. 452, 461-3 (1997);  
Brand X, 545 U.S. 967, 982-3 (2005);  Mayo, 562 U.S. ____, 131 S.Ct. 704 (2011);  
Bakersfield, 568 F.3d 767 at 778 (9th Cir. 2009).  (Focus on section IV of the opinion.)

Chapter 2 (Problems 1(e), 2, 3, 4, 5, 6, 7 and 9(a));  
IRC §§7502(a), (b) and (f); IR 2002-135 (12/11/02); Treas. Regs. §301.7502-1(a)-(d); IRC §6061.

Class 2 (8/26/13)  Chapter 3 (Problem 1), Lantz;  
607 F. 3d 479 (7th Cir., 2010);  
Pullins, 136 T.C. 432 (2011); Wilson, 705 F.3d 980 (9th Cir. 2013)  
(Focus on the rule applied by the Court).  Notice 2011-70, 2011-32 I.R.B. 135 (7/25/11); Regs. § 1.6015-5(b); Notice 2012-8, 2012-4;  
I.R.B. 309 (1/5/12).

Class 3 (9/3/13)  Chapter 4 (Problem, part A); Regs. § 601.103 (a), (b) and (c)(1)  
and Regs. § 601.106(b)-(d), (f)(1)-(4).

Chapter 5 (First part) (Problem, parts a, b & c);  
Lorin G. Sloan, 102 T.C. 137 (1994); Colony, Inc. v. Comm'r, 357 U.S. 28 (1958);  

Class 4 (9/9/13)  Chapter 5 (Finish the chapter, the assigned materials and the  
assigned parts of the problem).

Class 5 (9/16/13)  Chapter 6 (Problems 1 a-d & 2 a, c, d, e, f, g, h, j, k, l & m);  
Columbia, et al., 264 F.3d 1140 (5th Cir. 2001); Byrd Investments, 89 T.C. 1 (1987); Regs. § 601.103(c)(2).

Class 6 (9/23/13)  Chapter 7 (Problem).

Chapter 8 (First part); (Problem, questions 1, 2, 3, 4 b, c & d, 5, 6  
a, b & c, 7 a, b, c, d, e, f, g, h & i & 8);  

Class 7 (9/30/13)  Chapter 8 (Finish the chapter, the assigned materials and the  
problem).
Class 8 (10/7/13)  Chapter 9 (Problem, parts a, b, c, d, e, f i, ii & iii, g, i & j); Flora, 362 U.S. 145 (1960), aff'g on reh'g, 357 U.S. 63 (1958); 28 U.S.C. § 2401(a).

Class 9 (10/14/13)  Chapter 10 (First part); (Problems 1, 3, 4, 5, 7 & 8), CCA 200938021 (2009).

Class 10 (10/21/13)  Chapter 10.  (Finish the chapter, the assigned materials and the problems.)

Class 11 (10/28/13)  Chapter 11 (Part A and the problem); Vaira, 52 T.C. 986 (issues 6 and 7) (1969); but see IRM 1.2.12.1.16 (2011); Boyle, 469 U.S. 241 (1985).

Class 12 (11/4/13)  Chapter 11 (Part B and the problem, questions 1, 2, 3 & 4); Catalano, 81 T.C. 8 (1983); Code §§ 6694 (a) and (b) and 7701(a)(36); Regs. § 301.7701-15 (a) and (b).

Class 13 (11/18/13)  Chapter 12 (Problem, parts a, b, c, e, g & h); Johnson, 602 F.2d 734 (6th Cir. 1979).


Assignment for First Class (August 19, 2013, subject to being rescheduled).


-- Read and be familiar with Chapter 1 and the materials listed on page 1 (focus on IRC §7805(a) and (b)); we will not go over the problems at the end of the chapter in class.

-- Read and be prepared to discuss:
  -- Auer, 519 U.S. 452, 461-3 (1997)
  -- Brand X, 545 U.S. 967, 982-3 (2005)
  -- Bakersfield, 568 F.3d 767 at 778 (9th Cir. 2009). (Focus on section IV of the opinion.)

Note: Do not spend too much time on the facts or substantive issues in these cases. You should focus instead on the rules dealing with the level of deference to be given to administrative regulations (e.g., Treasury Regulations) and lower level administrative authorities (e.g., Revenue Rulings).

-- Study and be prepared to discuss Chapter 2, and problems 1(e), 2, 3, 4, 5, 6, 7 and 9(a) at the end of the Chapter.

-- Read and be prepared to discuss:
  -- IRC §§ 7502 (a), (b) and (f)
  -- IR 2002-135 (12/11/02)
  -- Treas. Regs. §301.7502-1(a)-(d)
  -- IRC §6061