

TAX FRAUD AND EVASION

Course No. 7641

2 Credits

University of Florida
Master of Laws in Taxation (LL.M.)
Spring 2018
F 10:00a – 11:40a

A. Brian Phillips, Esq. | A. Brian Phillips, P.A.
912 Highland Ave. Orlando, Florida 32803
Brian.Phillips@Phillips-Law-Firm.com
Phone: 407-872-0777
Office Hours by Appointment

DESCRIPTION

This course will address a series of topics common to civil and criminal tax fraud matters. Subjects covered will include analysis of relevant statutory concepts and related case-law developments, methodologies of investigation, prosecution, and defense, as well as issues surrounding the resolution of certain types of cases. Emphasis will be on practical and high-level application of subject matter to all aspects of case handling.

Course Materials: Comisky, Feld, & Harris: Tax Fraud and Evasion Vol. 1 and portions of Vol. 2 will be of significant assistance to the student seeking to have a more complete understanding of the subjects addressed. To that end, the assigned readings in the text are strongly suggested. Supplemental Materials noted below from Internal Revenue Code, Regulations, case law, and third-party materials are essential.

Course Objective: To provide students the opportunity to explore the issues and challenges involved in the investigation, prosecution and defense of tax matters involving fraudulent conduct by one or more of the actors involved.

Performance Evaluation: Student performance will be assessed on the demonstrated in-class participation as well as written, essay based final examination.

Class Attendance: Mandatory. See Performance Evaluation, supra. Timeliness, behavior, and conduct will be governed as is attorney conduct, generally, in the United States District Courts. If you have questions, see me.

Students with Disabilities: Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the Dean Rachel Inman when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

Work Load/Class Preparation: It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

Statement of Learning Outcomes: By the end of the course, each student will, inter alia,:
have gained an understanding of what differentiates tax fraud from other forms of unlawful activities;

- have gained an understanding of the relevant provisions of Titles 26 & 18, United States Code;
- have gained the ability to differentiate the numerous mens rea elements of the offenses commonly encountered;
- have acquired an understanding of the behavioral challenges facing those investigating, prosecuting, and defending behaviors involving tax fraud;
- have come to understand the constitutional, statutory, and case law powers conferred on as well as the constraints applied to investigators, prosecutors, and defense counsel;
- have acquired a more complete understanding of the reach and scope of the United States Department of Justice and the IRS;
- be able to analyze the evidentiary and procedural challenges unique to tax offenses;
- be able to assess the risks to counsel and client (whether public or private) inherent in conducting an investigation, prosecution, or defense of tax fraud;
- be able to reasonably assess the consequences of conviction for tax fraud in Federal Court; and
- be able to handle the civil side of tax fraud matters

SYLLABUS

<u>Date</u>	<u>Materials for Preparation</u>
12 Jan 2018	Vol. 1, Chapters 1 & 2 – Fraud Concept, History & T26 Offenses 26 U.S.C. §§ 6064, 7201, 7206, 7212, 7701 <u>Cheek v. United States</u> , 498 U.S. 192 (1991)
19 Jan 2018	Vol. 1. Chapter 2 & 3– T26 Offenses (cont’ed) 18 U.S.C. §§ 1001, 287, 2, 371, 1341, 1343 T.D. 128
26 Jan 2018	Vol. 1. Chapter 2 & 3–T26 & T18 Offenses (cont’ed)
02 Feb 2018	Vol. 1. Chapter 3 – T18 Offenses (cont’ed)
09 Feb 2018	Vol. 1 Chapter 4 - Criminal Investigative Techniques Supp. 4.0.Search Warrant Affidavit <u>United States v. Ofshe</u> , 817 F.2d 1508 (11 th Cir. 1987) <u>United States v. Kowalik</u> , 809 F. Supp. 1992 (S.D. Fla. 1992) <u>In re: Application, etc.</u> , 349 F.3d 1132 (9 th Cir. 1992)
16 Feb 2018	Vol. 1 Chapter 5 – Federal Grand Jury Practice Rule 6, Fed.R.Crim.P. 18 U.S.C. §§ 1503, 1505, 1510, 1512, 1621-23 Supp. 5.0.GJSubpoena Supp. 5.1.JDA Supp. 5.2.Indictments
23 Feb 2018	Vol. 2 Chapter 14 – Fourth Amendment Privileges U.S. Const. Amend. 4 <u>Georgia v. Randolph</u> , 547 U.S. 103 (2006) <u>United States v. Tweel</u> , 550 F.2d 297 (5 th Cir. 1977)
02 Mar 2018	Vol. 2, Chapter 15 – Fifth and Sixth Amendment Privileges/FRE 502 <u>United States v. Hubble</u> , 530 U.S. 27 (2000) <u>Doe v. United States</u> , 487 U.S. 201 (1988) <u>Lasalle Bank v. Seguban</u> , 54, F.3d 387 (7 th Cir. 1995) <u>United States v. Stein</u> , 541 F.3d 130 (2d Cir. 2008)
16 Mar 2018	Vol. 1, Chapter 6 – Criminal Pre-Trial Procedure 26 U.S.C. §§ 6513, 6531; 18 U.S.C. §§ 3290 Fed.R.Crim.P. 7, 16, 18 Supp. 6.0.Plea Agreement
23 Mar 2018	Vol. 1, Chapter 7 – Criminal Trial Issues Supp. 7.1.JI and 7.1.JIS
30 Mar 2018	Vol. 2, Chapters 16 & 17 – Sentencing for Criminal Tax Offenses 18 U.S.C. § 3553

U.S.S.S. § 1B1.3, 2T1.1, 2T4.1
Supp. 16.Sentencing
Supp. 6.0.PleaAgreement

06 Apr 2018

Vol. 1, Chapter 8 – Civil Fraud Penalties
26 U.S.C. § 6663
Allen v. Commissioner, 128 T.C. 4 (2007)
11 U.S.C. 727

13 Apr 2018

Vol. 1, Chapter 9 – Civil Trial Issues

20 Apr 2018

Vol. 1, Chapter 10 – Civil Defense Strategies/Techniques

Exam Period:

04/27/18 - 05/10/18