

# LAW 7604: 3 CREDIT HOURS

## TAX EXEMPT ORGANIZATIONS

### SYLLABUS

PROF. WILLIS

OFFICE: 331

PHONE: 352-273-0680 (Tax Office)

OFFICE HOURS: Wednesday 10:30 – 2 (for TEO) plus most days from 10-2.

EMAIL: willis@law.ufl.edu; best way to contact is through Canvas.

#### REQUIRED:

- Internal Revenue Code and Regulations.
- TAX EXEMPT ELECTRONIC MATERIALS, available on Canvas. This includes Professor Willis' slides for most chapters. To use these, you must follow the instructions on Canvas. For the Fall Semester 2015, they are being revised, so some are dated 2016 and some are several years old. I will update them during the semester.
- Darryll K. Jones, Steven J. Willis, David A. Brennen, & Beverly I. Moran THE TAX LAW OF CHARITIES AND OTHER EXEMPT ORGANIZATIONS (3d Ed. LEXIS).

**COURSE OBJECTIVES:** SEE COURSE OBJECTIVES ON CANVAS.

#### PREPARATION:

- As a student, I preferred to spend about one-third of my study time preparing for class, and two-thirds reviewing. I strongly recommend you do the same. If you are under-prepared, for a particular class, please attend anyway.
- At a minimum, you should review:
  - All slides for the class.
  - All code sections for the class.
- Ideally, you should:
  - Read the assigned cases, regulations, and text.

#### PARTICIPATION AND ATTENDANCE:

- I enjoy questions and generally will try to answer all of them. Attendance and participation are important. They may affect your grade. I do not take attendance unless I begin to notice a sharp drop (unlikely in an LL.M. class).
- Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

#### STUDENT COURSE EVALUATIONS:

- Students are expected to provide feedback on the quality of instruction in this course based on 10 criteria. These evaluations are conducted online at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu>.

### **ACADEMIC HONESTY AND INTEGRITY:**

- Academic honesty and integrity are fundamental values of the University community. Students should understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>

### **EXAM AND EVALUATION:**

- The examination is open book, which includes anything written (printed or electronic). You may *not* work with another person, however. I will post the exam on Canvas on the first day of the exam period (it cannot be available earlier). It will be due on the last day of the exam period: you may take it anytime during that period.
- Your grade will be based 90% on the final exam and 10% on class participation and quizzes/assignments on Canvas (TBA). I expect most students will receive most points for participation and quizzes based on reasonable participation and attempts. Exceptional participation may result in a half-letter bump in grade.
- The law school policy on delay in taking exams can be found at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#12> **The grading policy generally does not apply to LL.M. courses.**

### **UF LAW GRADING POLICIES:**

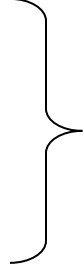
<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Points</u>
A (Excellent)	4.0	C+	2.33	D-	0.67
A-	3.67	C (Satisfactory)	2.00	E (Failure)	0.0
B+	3.33	C-	1.67		
B (Good)	3.00	D+	1.33		
B-	2.67	D (Poor)	1.00		

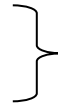
- The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>. **The grading policy generally does not apply to LL.M. courses.**


### **COURSE CONTENT:**

- Topic I:

Charitable Contributions	}	Weeks 1, 2 and part of 3
Charitable Solicitation		
Charitable Formation		

- Topic II:
  - Exempt Purposes
  - Illegality Doctrine
  - Private Inurement
  - Commerciality Doctrine
  - Private Benefit Doctrine

Weeks 3, 4, 5, and 6
- Topic III:
  - Lobbying and Political Activity Week 8
- Topic IV:
  - Unrelated Business Taxable Income
  - Unrelated Debt Financed Income

Weeks 9, 10, and 11
- Topic Five:
  - Private Foundations
  - Alternative to Private Foundations
  - Private Foundation Excise Taxes

Weeks 11, 12, 13, and 14

**Weeks One and Two:**

Topic:

- Charitable Contributions.

Book: Chapter 26. Also, read Chapter 1.

Slides: **Chapter 1 Slides**; **Chapter 26 Slides**.

Code: 170; 1011(b).

We will work the problems in class. The slides have answers to the problems. We will not be able to work them all. We will work a couple simple problems and then move on to the most complex.

Be careful with section 170(c). Compare the wording of (c)(2) to 501(c)(3): they are not quite identical.

The section 170 regulations are helpful, but they contain a great deal of old rules. For example, if a problem hypothetically considers a gift in 1955, it is applying the 1954 code, not the current statute. One important rule in the regulations is that cash contributions count first: see if you can find it.

Be careful with the rules on carryovers, as they are quite complicated.

We may not have time in class to cover bargain sales; however, you may see one on the exam, so work the problem and compare 1011(b) to Treas. Reg. 1.1015-4.

**Week Three (or possibly beginning in week two):**

Topic:

Continue with prior topic, plus:

- Solicitation of Contributions
- Formation of Exempt Organizations and some Procedural rules.

Book: Chapter Eight for Formation

Slides, Chapter 28 for substantiation and solicitation (no corresponding chapter in the text).

Code: 6033; 6104; 7428

Florida Statutes: Chapter 496. For other states, please check your own state statute, if any, regarding charitable solicitations. Most states follow a model act, but some have very different provisions. Check to see who must register, how much registration costs, and the penalties for solicitation of contributions without registration: often they are criminal (in Florida, it is a third degree felony). Check for the disclosure rules and reporting requirements in your state, as well.

Examine a Form 1023 and 1023EZ. In particular, look at the income statement and balance sheet requirements for the 1023.

Examine a Form 990 and 990EZ.

**Week Four:**

Topic: Exempt Purposes and the Illegality Doctrine.

Book: Read Chapter Two, emphasizing the *Bob Jones* decision. You should look at chapters Three, Four, Five, and Six. We will survey them quickly in class. In Chapter Three, the *Walz* and *VIA* decisions are particularly noteworthy. Glance at the church audit rules. In Chapter Four, *Big Mama Rag* and Rev. Proc. 86-43 are most important. In Chapter Five, *Washington Research Foundation* and Rev. Rul. 76-296 deserve your attention. In Chapter Six, Rev. Ruls. 69-545 and 83-157 are most important. The *Eastern Kentucky* case provides interesting background on hospitals and health care. If time permits, we will cover *Geisinger* and *Sound Health*, which deal with HMOs.

Code: 501(c)(3).

We will not cover the problems in any of these chapters.

**Week Five:**

Topic: Commerciality Doctrine.

Book: Chapter Seven.

Note: We will not be able to cover all the material in this long chapter. We will concentrate more on pages 166 through 213. Of particular importance are the *Federation Pharmacy*, *Presbyterian, D.A.V.*, *Golden Rule*, and *Orton Cone* cases. The slides on sections 1381 et seq. are also important.

**Weeks Six and Seven:**

Topic: Private Inurement and Private Benefit Doctrines

Book: Chapters Nine and Ten.

Code: 4958; 6684

Note: This is a huge area. We will not be able to cover it all in one week. We will deal more with Chapter Nine than Chapter Ten, which may not be covered in class at all.

*United Cancer Council* is very important. The *Wendy Parker* case is quite interesting and surprising to many people. Rev. Rul. 69-545 is also important and has been covered in prior chapters. The two materials on art groups are important – *Goldsboro Arts League* and Rev. Rul. 71-395, especially as they compare to each other. *Easter House* and *Anclote Psychiatric Center* are good examples of what not to do – the results are somewhat predictable.

We will spend about half the class on section 4958, so be familiar with it. The slides should guide you through it.

**Week Eight:**

Topics: • Lobbying and Political Activity

Book: Chapters Eleven and Twelve

We will spend most of our time on Chapter Eleven, which deals with lobbying. Political Activity is an interesting topic, but what is most important is that a charity can do none of it – so you need to know what little politically related activities do not constitute forbidden “political activity.”

In Chapter Eleven, the cases are not particularly important . . . the slide coverage is probably sufficient (although, if you have time, please read them). Concentrate on sections 501(h) and 4911. We will work the problems. The regulations cited in the slides are very important.

**Week Nine:**

Topic: Unrelated Business Income Tax.

Book: Chapter 21. We will begin Chapter 22.

Code: 511-13.

The *American Bar Endowment* and *American College of Physicians* cases are important – the *ABE* case has arisen in a prior chapter. The *NCAA* case is also important. Within the regulations, concentrate on the corporate sponsorship rules. Read sections 511, 512, and 513.

**Week Ten:**

Book: Chapters 22 and 23

Code: 511-13.

Note: The topics from Weeks Eight and Nine may spill over into Week Ten.

Chapter Twenty-two will take about half the class. The *Sierra Club* case is important. Otherwise, concentrate on the modifications listed in 512(b) as well as the provisions of section 513, especially 513(a)(1),(2), and (3). The regulations dealing with exploited activities are very important.

Chapter Twenty-three will take about half the class. Read section 512(b)(13) carefully.

**Week Eleven:**

Topic: Unrelated Debt Financed Income

Book: Chapter 24

Code: 514

The *Clay Brown* decision is historically important and may help you understand the purpose of section 514. Mostly, you should concentrate on section 514. Read it very carefully. The slides should guide you through it.

**Weeks Twelve and Thirteen:**

Topic: Private foundations

Book: Chapter Thirteen.

Code: 509; 4946.

For Chapter Thirteen, mostly be familiar with the Code and Regulations provisions. Concentrate on 1.170A-9 plus section 509 plus section 4946 (which is extremely complicated).

**Week Fourteen:**

Topic: Private Foundation Excise Taxes and Alternatives to Private Foundation Status.

Book: Chapters Fourteen and Fifteen

For Chapter Fourteen, mostly be familiar with the code sections 4940 through 4945.

Read Chapter Fifteen.