**Corporate Taxation II (LAW 7613)**

T/Th 10:30 a.m.-11:55 a.m.; Room 359 and online

Spring 2021 Syllabus

Prof. Charlene Luke

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Virtual Office hours:

(1) Zoom: W/Th 2:00 p.m. – 3:00 p.m. eastern

Link: <https://ufl.zoom.us/j/3910352185>

Meeting ID: 391 035 2185

(2) By appointment.

**The classroom and Zoom protocols described below may need to be adjusted to take into account changing circumstances. Please be sure to check your email and the class Canvas site regularly.**

**Course Description and Preparation Time:**

This course focuses on taxable and nontaxable mergers, acquisitions, divisions, and other restructurings involving U.S. “C” corporations. This course focuses on U.S. domestic law and does not examine the issues that would be raised by cross-border transactions. This course is 3 credits. You should spend at least 2 full hours preparing for each hour of class time. This is the minimum preparation time needed for you to be able to follow class discussion; the material is complex and will require many more hours of study for mastery. You will likely need to review concepts discussed in Corporate Taxation I; specifically, you are expected to be able to recall and apply §§ 301, 302, 312, 316, 318, 331, 332, 334, 336, 337, 351, 357, 358, 362, and 1032.

**Course Expectations and Learning Outcomes:**

* Apply a selection of Internal Revenue Code provisions relating to C corporation acquisitions and divisions.
* Explain the difference between a taxable and nontaxable acquisition or division; explain the types of nontaxable acquisitive reorganizations (e.g., type (A), reverse triangular merger, type (B)) and the forms of nontaxable corporate divisions (e.g., spin-off).
* Improve ability to interpret and apply tax statutes and regulations.
* Establish a base from which to acquire further tax expertise.

**Course Prerequisite:**

You must have taken Corporate Taxation I or receive permission from Professor Luke.

**Methodology & Course Materials:**

In-person/synchronous class meetings will be spent primarily on discussing Problem Sets. Asynchronous lectures may be posted to Canvas to facilitate completing the material. Students will be expected to watch asynchronous lectures that are posted, and completing those lectures is required for purposes of the participation grade.

Students will need to able to access and use the app Socrative during class (https://www.socrative.com/; the primary Socrative room for this course is Luke368).

A slideshow review of the key concepts discussed during class will be made available through Canvas for each course segment, but it will not be made available until after a segment is completed in class. Class time will not be used to review the slides (or other review materials that may be provided). Virtual, optional review sessions will be scheduled.

The casebook is *Federal Income Taxation of Corporations* (5th ed., McMahon, Simmons, Luke & Wells). You are also required to study various provisions of the current Internal Revenue Code and Treasury regulations; if you prefer to access these online at Bloomberg, Lexis, Westlaw or similar, that will be fine. If there are changes to the law, there may be changes to the assigned material and additional reading may be added to Canvas.

If you wish to consult a supplementary book on corporate tax, I recommend (1) Leandra Lederman & Michelle Kwon, *Understanding Corporate Taxation* (3d ed.) (this is a relatively short overview book with examples); and (2) *Bittker & Eustice:* *Federal Income Taxation of Corporations and Shareholders* (this is a WG&L treatise, available on Westlaw).

**Outline of Topics and Assignments:**

Topics for the course are provided at the end of this syllabus. The topics to be covered may be revised to reflect the pace of class discussion and/or any new legal developments. For the first class meeting, complete the material in Topic I. Unless otherwise advised, you should assume that 5 problem subparts will be covered per class session, and you should prepare accordingly.

**Notice of Recording and Conduct Rules Relating to Photos and Recordings**

Our class sessions will be audio and visually recorded. By registering for this course you are agreeing to have your video, image, and voice recorded. I will provide access to all the recordings to all students through Canvas.

Students are expected to treat each other with respect at all times. Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. I do, however, permit students to take a photo or screenshot of the whiteboard for personal study use only and not for circulation or external posting.

Professors and TAs also will not take, circulate, or post photos or videos of class beyond the recording noted above for the benefit of the entire class.

Students failing to follow these rules will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

**Evaluation, Etiquette & Class Attendance Policy**

Grade

20 percent: Participation & Attendance

80 percent: Final Exam

Participation & Attendance Expectations: All Students

You are required to attend at the times listed above in your chosen section—i.e., in person or synchronous online. You are expected to be prepared to respond to questions about the assigned problems and reading, including through participation in interactive Socrative polls. Attendance will be taken each day and spot checks for attendance may be taken.

At least 2, and as many as 6, of our regularly scheduled in person/synchronous class sessions will instead be held through asynchronous lectures. The dates we will not meet in person/synchronously will be announced as the semester progresses, and you will be asked to verify completion of watching assigned asynchronous lecture material in order to avoid an unexcused absence relating to this asynchronous material.

Repeated lack of preparedness or participation, including not responding by turning audio/video on when asked a direct question, not completing verifications relating to asynchronous material, or not responding to in-class polling, may be counted as unexcused absences. Repeated class disruption (e.g., excessive noise, texting, personal internet use, leaving early, or arriving late) may be counted as an unexcused absence. You will be notified if you accrue an unexcused absence on account of lack of preparedness and/or disruptive behavior.

Absences taken for observance of religious holidays will be excused with completion of a makeup assignment. If you are planning to miss class for a religious holiday, please let me know. If you are absent because of a special situation (sickness, family emergency, job interview, etc.), the absence **may** be excused at my discretion **(1)** after you have provided any documentation of the situation requested by me (please note I will respect your privacy—e.g., I may request a note from a doctor that your absence should be excused, but I will not ask to know the underlying issue), **and** (2) you have completed a make-up assignment.

**If you have more than three unexcused absences, your participation grade will be 0, you *may* be barred from taking exams, and you *will* be barred from participating in the retesting process (see below).**

Additional Expectations: In Person Students

You are required to follow UF Law safety protocols at all times in the classroom, including wearing a mask over your mouth and nose that meets UF Health guidelines at all times and maintaining physical distance. You need to follow my direction and the TA’s direction with respect to physical distancing. If you forget to bring a mask, we will have some available; please contact me or the TA.

You need to arrive at least 5 minutes before class starts and enter your assigned classroom through the entrance door; you will be asked to take the most distant open seat available from the entry door. You may sit only in seats that have been designated as open through placement of the plexiglass shields. You are not to move these shields. Sanitizing supplies will be available in the classroom if you wish to wipe down your desk prior to sitting down. Please place your name plate where it will be visible as these protocols will prevent the use of a seating chart.

Please stay in your assigned classroom during the entire scheduled time for each block. If you need to exit, please do so as quickly and with as little disruption as possible. Eating and drinking are not permitted in the classroom because masks must be worn at all times over the mouth and nose.

Do not log in to the Zoom feed for the class while in the classroom; only remote students should be using the Zoom feed. (This will ensure that I am able to see who is in attendance remotely and helps limit microphone feedback issues.)

When class ends, I will exit first through the exit door. You will not be able to linger in the classroom. You will not be able to approach the podium to ask questions or follow to my office. You will need to attend virtual office hours or email to ask questions, and I will work to ensure you have many opportunities to do that.

If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), do not come to campus or, if you are already on campus, please immediately leave campus. Use the UF Health screening system and follow the instructions about when you are able to return to campus (<https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>). If you learn from UF Health that are no longer cleared to be on campus, you may return to campus only when instructed to do so by UF Health. If you have been notified by a different health department that you have been in contact with someone who has tested positive, you should reach out to UF Health for instruction.

If you are not cleared to be on campus but you are feeling well enough to attend remotely, you are expected to attend synchronously remotely and should contact me or the TA to let us know you request remote participation to count as attendance (please note that there is no need to disclose to me or the TA your private medical details; we will follow student and health privacy rules, although I may ask you to reach out to UF Health and/or Student Affairs). If you want to attend a class remotely for other reasons and have that participation counted as attendance, you also need to email for permission before attending the class remotely. When attending remotely, you will need to follow the same procedures outlined below in “Additional Expectations: Remote Students.”

**These protocols are intended to foster a safe environment. Failure to follow these protocols, including failure to wear a mask over your mouth and nose, will count as an unexcused absence.** **Failure to correct behavior will also lead to a report to the Office of Student Conduct and Conflict Resolution, and you also will no longer be permitted on the UF Law campus. Finally, noncompliance will be reported to the relevant state board of bar examiners.**

Additional Expectations: Remote Students

Please ensure your Zoom screen name matches your preferred name and with your last name also shown. If you are attending class remotely, you are expected to turn on video of yourself until after attendance is taken and when responding to or asking questions. You do not need to have video on when taking notes and listening to the class, but you need to be ready to respond to questions, whether directed to you individually or in the form of class polls. You are expected to keep your microphone on mute unless you have been called on to ask or answer a question.

**Do not use the chat function to ask questions directed to me during class; it will not be monitored by me, and students attending in person will not be able to see it.** If you are trying to ask a question but your “virtual hand” is not being seen by me, please contact the TA. If you have a technical problem during the class, please contact UF IT (https://www.law.ufl.edu/technology-services).

Final Exam

The final exam will be 4 hours and will consist of essay questions. It will be given on the day scheduled by the law school. You will be required to use the software and process designated by the law school when taking the exam. The exam will be open book, but communication with anyone will be prohibited and will violate the Honor Code (the only exception is if you need to contact Student Affairs or UF IT because of technical issues, illness, or similar).

Retesting Process

Students who receive a grade in the course lower than a B **and** who have accrued three or fewer unexcused absences (see above) will have the opportunity to retest for a grade increase. The highest possible exam grade obtainable through the retesting process will be the lower of (1) a B or (2) one full grade increase from the initial grade earned in the course. For example, a student receiving a B- and who has met the attendance requirement would be eligible to retest for a course grade no higher than a B. A student receiving a C- and who has met the attendance requirement would be eligible to retest for a grade no higher than a B-. The retesting process will not be used to lower grades. Re-testing is scheduled through discussion between the individual student and Prof. Luke, but re-testing must be completed no later than 2 months after grades are posted (note, this is separate from any requirement imposed by UF for graduation).

Exam delays and accommodations, including additional time if your first language is not English, must be arranged exclusively through the Student Affairs Office. See <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>; “Disability Accommodation,” below).

Grade Scale & Grading Policies:

Grade Points

A 4.0

A- 3.67

B+ 3.33

B 3.00

B- 2.67

C+ 2.33

C 2.00

C- 1.67

D+ 1.33

D 1.00

D- 0.67

E 0.00

The law school grading policy is available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. **Note that the mandatory mean does not apply to LL.M. students.**

**Disability Accommodation**

Students requesting class and/or testing accommodations must first register with the Office of Disability Resources. The UF Office of Disability Resources (<https://disability.ufl.edu/students/get-started/>) will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation. Student Affairs will then communicate with Prof. Luke as needed to assure the accommodation is provided. (Note: for guidance on requesting exam delays for other reasons (e.g., accident), see “Final Exam” section above). If you are seeking additional time because English is not your first language, please contact Student Affairs directly.

**Honor Code and Other Polices:**

Students are required to follow the Honor Code. To review its requirements see <http://www.law.ufl.edu/student-affairs/additional-information/honor-code-and-committee>. Students who fail to follow UF safety protocols or the prohibition on circulating or posting class material will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. **Complete student anonymity is preserved during and after the evaluation process.** Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.”

**Topic Assignments**

The problem and reading assignments are listed below. You are also responsible for reading the related Code provisions and Treasury regulations. The schedule may be revised to reflect the pace of class discussion or any new legal developments. Unless otherwise advised, you should assume that five problem subparts will be covered per class session, and you should prepare accordingly. For the first class meeting, complete Topic I.

You are expected to be able to recall and apply §§ 301, 302, 312, 316, 318, 331, 332, 334, 336, 337, 351, 357, 358, 362, and 1032 from Corporate Tax I. You should plan to review Corporate Tax I material as necessary.

I. Code § 304

Reading: Chapter 5, pgs. 320–22 (omit *Fehrs* case), 328–337

Problem Set: Chapter 5, Problem Set 6

II. “Bootstrap” Acquisitions

Reading: Chapter 9, pgs. 473–97

Problem Sets: Chapter 9, Problem Set 1 (omit Problem 3) & Problem Set 2

III. Qualifying Type “A” and Type “B” Reorganizations

Reading: Chapter 10, pgs. 510–512, 518–599

Problem Sets: Chapter 10, Problem Sets 2–7

IV. Taxable Acquisitions

Reading: Chapter 8

Problem Sets: All Chapter 8 Problem Sets

V. Qualifying Type “C,” Triangular, and Acquisitive Type “D” Reorganizations

Reading: Chapter 10, pgs. 510–16, 599–646

Problem Sets: Chapter 10, Problem Sets 8–10

VI. Corporate Divisions

Reading: Chapter 12

Problem Sets: All Chapter 12 Problem Sets

VII. Judicial Doctrines and Limitations

Reading: Chapter 10, pgs. 659–694

Problem Set: Chapter 10, Problem Set 11

VIII. Single-Corporation Reorganizations

Reading: Skim Chapter 11

Problem Sets: None Assigned

IX. Corporate Attributes in Reorganizations

Reading: Skim Chapter 13

Problem Sets: None Assigned

X. Affiliated Corporations

Reading: Skim Chapter 15

Problem Sets: None Assigned