Tax Policy

Professor Mindy Herzfeld

University of Florida Levin College of Law
Graduate Tax Program

Syllabus

Fall Semester 2019
TAX POLICY
LAW 7660 Section 0895
LAW 6930 Section 14G4

Professor Mindy Herzfeld
Office: 325C
Phone: 352-273-0932
Office Hours: Tuesday 8:30 am-10:30 a.m. or by appointment, scheduled by email.

A. Course Materials: The required reading can be accessed through links provided below or is posted on Canvas.

B. Topics: The topics for class, along with the assigned readings are described in the pages that follow.

C. Grade: Your grade will be based on the following:
(1) 4 writing assignments you will complete during the semester (more on that below) (60% of grade)
(2) An in-class presentation at the end of the semester (more on that below) (20% of grade)
(3) In lieu of an exam, a write-up on the topic of your presentation (20% of grade) that will be due during the exam period.

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<thead>
<tr>
<th>Letter Grade</th>
<th>Point Equivalent</th>
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<tbody>
<tr>
<td>A (Excellent)</td>
<td>4.0</td>
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<tr>
<td>A-</td>
<td>3.67</td>
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<td>B+</td>
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<td>B</td>
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<td>B-</td>
<td>2.67</td>
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<td>C+</td>
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<td>C (Satisfactory)</td>
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<td>C-</td>
<td>1.67</td>
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<td>D+</td>
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<td>D (Poor)</td>
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<td>D-</td>
<td>0.67</td>
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<td>E (Failure)</td>
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D. Assignments. Due dates for the 4 assignments are noted in the syllabus. Appendix A lists the assignment questions and provides suggested reading for answering the questions. The readings are suggestions by way of a bibliography, and you are NOT expected to read all of the material! Maximum word limit for each essay is 1000 words (including footnote text other than citations).

Essays will be graded on the following metrics (maximum 15 points):

- Clarity of writing
- Familiarity with subject matter
- Developing coherent argument of one’s own
- Timeliness
- Following instructions re word limit requirements and proper citation. Bluebook citation required.

NOTE THAT MANY POTENTIAL EMPLOYERS REQUEST A WRITING SAMPLE AS PART OF RECRUITING PROCESS AND THESE SHORT ESSAYS CAN BE TAILORED TO MEET THOSE REQUIREMENTS.

1 point will be deducted for every 24 hours late. No excuses except upon consultation with Office of Student Affairs.

E. Reading Assignments. This course is scheduled for Mondays 2:30-5:20 PM. You should be prepared to discuss the reading assignment for each class. This class will not meet on the following dates: Monday September 2 (Labor Day) (rescheduled to Tuesday September 3; Monday September 23 (rescheduled to Tuesday September 24); Monday September 30 (Jewish New Year); Monday October 14; Monday October 21; Monday November 11 (Veterans Day) (possible reschedule to Tuesday November 12).

F. Attendance. Per ABA requirements, you will be expected to attend all classes, unless you e-mail me in advance with a legitimate excuse. Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx.

G. Class Presentations

During the last class of the semester, each group will present the pros and cons of one of the topics that are listed in Appendix B. Students will need to sign up for each topic (pro or con) in Canvas under a tab for “Class Presentations.” Maximum 3 students for each topic. Sign-ups will open on September 2. If you are in the International Tax LLM and you are taking the course in fulfillment of your International Tax credit requirement, you are expected to address a topic related to, or from the perspective of, international tax.

The reading assignments are expected to take you approximately 3 hours per week.

H. Guest Lecturers. There will be a number of guest lectures during the semester as indicated in the syllabus. You will need to be prepared with assigned readings and any written assignment as if it was a regular class.

Summary of the Course

Tax policy is the study of different types of taxes, the reasons for taxes, and the reasoning underlying them. It is interdisciplinary, incorporating principles from economics, philosophy, politics, psychology, and public policy. You will not be expected to be an expert in, or to become one, in all of these topics, but familiarity with one or more of them will be helpful for the course.

We will consider issues related to both domestic and international tax policy. While we will to some extent focus our discussion on concerns unique to the United States, most of the topics we cover are relevant to all jurisdictions. In the international tax context, we will touch on many hot topics that were relevant to the recent U.S. tax reform and remain relevant both in the U.S. and with respect to global tax reform initiatives.

Part of the course will focus on the economics and moral rationales for tax policy – what makes
good tax policy, and why? We will also be studying the politics of tax, a discipline referred to as political economy. We will be bringing the more theoretical discussions of ideal tax policies into the real world by considering what makes tax reform possible, and where and why it deviates from the ideal. We will also be considering the more practical aspects of writing good tax policy, that is, tax policy from the administrators’ perspective. Finally, we will take a look at why getting the law right is so important as a technical matter.

Assigned readings are noted below.

Objectives of the course

This course has a number of objectives:

1. To gain an understanding of the disciplines and rationales that underlie tax policies;
2. To be able to distinguish between different types of taxes and the pros and cons of each;
3. To familiarize you with current scholarship in the field of tax policy;
4. To expose you to practical and political considerations relevant to tax policy making;
5. To become expert in current domestic and international tax policy debates;
6. To appreciate to the importance of policy considerations in analyzing the statute; and
7. To develop analytical writing skills relevant for professional communications.

1. Required Course Materials

There will be assigned readings from Christopher Hanna, *Tax Policy in a Nutshell* (2018) throughout the semester. In lieu of purchasing the book, I am told by West (publisher) that you can access it in the following manner:

To access Study Aid Subscription, go to the website link below. You will have to log in and note your school but otherwise it is fully accessible and free (this is a flat subscription already paid):

- [https://subscription.westacademic.com/](https://subscription.westacademic.com/)

There are also a number of assigned readings from Joel Slemrod & Jon Bakija, *Taxing Ourselves* (MIT Press 5th ed. 2018). This book is available to buy or rent from MIT Press at [https://mitpress.mit.edu/books/taxing-ourselves-fifth-edition](https://mitpress.mit.edu/books/taxing-ourselves-fifth-edition). A copy of the book has also been placed on reserve in the library.

All other required course materials are posted in canvas or linked to in the syllabus.

2. Reference Materials. I have included below a list of Reference Materials that can be consulted for further study. There are also additional reference materials noted for each class and in the appendices.

3. Office Hours. My scheduled office hours are Tuesday 8:30AM-10:30AM. I am also available outside of office hours for in-person or phone consultations. These can be scheduled by email at herzfeld@law.ufl.edu.
Reference Materials


Other reference materials are noted throughout the syllabus and in the Appendices.

NOTE: For all Tax Notes articles, you will need a free account at TaxNotes.com. Once logged in, hover “Publications,” select either Tax Notes or Tax Notes International. Browse for the issue using the box on the right side menu labeled “Past Issues” by first selecting the correct year from the dropdown, and then the specific issue. Use CTRL+ F to find the article in the use.

Week 1: Monday, August 26
Structure of the Course
Tools for the Study of Tax Policy

Goals of a Tax System
Hanna, Chapters 1 and 2

Optional Additional Readings

Week 2: Rescheduled to Tuesday, September 3
Tax Policy from the Philosopher’s Perspective

Progressivity and Distributive Justice

Hanna, chapter 7


Taxation & Democracy

Joel Slemrod & Jon Bakija, *TAXING OURSELVES*; Chapter 3 (5th ed. 2018)

Global Justice & Tax Competition


Additional Reference Materials


Julie Roin, *Taxation without Coordination*, 1 J. of Legal of Studies, No. 1, Part 2, at: https://ssrn.com/abstract=302141 (also available on campus)


Week 3: Monday, September 9

Tax Policy from the Economist’s Perspective: Efficiency

Taxing Capital, Taxing Income, Taxing Consumption

Hanna, Chapter 3


The Corporate Tax

Hanna, Chapter 8
Economic Efficiency in Cross-Border Taxation

Hanna Chapter 9

Additional Reference Materials


Week 4: Monday, September 16

Tax Policy as Social Engineering

*Sin Taxes (Soda Taxes, Cigarette Taxes)*


*Tax Incentives*


*Tax & Trade: Tariffs*


Week 5: Monday, September 23 (Rescheduled to Tuesday, September 24)
Tax Policy from the Administrator’s Perspective

The Tax Gap


Tax Expenditures


Tax Administration in Developing Countries

Mohammed Abdullahi Umar and Nyende Festo Tusubira, Challenges of Tax Administration in Developing Countries, 3 J. Tax Admin. 2 (2017) (available on canvas)

Additional Reference Materials


Roel Dom and Mark Miller, Reforming tax systems in the developing world: What can we learn from the past? (ODI 2018) (available on canvas)


Week 6: No Class, Assignment 1 Due

Week 7: Monday, October 7

Tax Policy: The Role of Law

Case Study 1: Inversions

1. Section 367(a)
2. Section 7874

Case Study 2: Choice of Entity


Case Study 3: Law, or Economics: The Rise of Transfer Pricing

1. Section 482
2. OECD Model Treaty Art. 9

Week 8: Monday, October 14

No class, Assignment 2 Due

Week 9: Monday, October 23

No class, Assignment 3 Due

Week 10: Monday, November 4

Tax Policy: The Political Economy Perspective

Domestic Politics: Getting to Tax reform

2. Overview of the Joint Committee Revenue Estimating Process JCX-2-17 (January 23, 2017) (to skim)
Rewriting Global Tax Rules


Week 11: Monday, November 11
No Class, Assignment 4 Due

Week 12: Monday, November 18
Alternative Revenue Raisers -- Debate
Carbon Tax
VAT
Digital Services Tax
Wealth Tax
Financial Transactions Tax
(For readings see Appendix B)

Week 13: Monday, November 25
Will be used for make-up class if needed

University Policy on Accommodating 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 Office of Student Affairs 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.

University Policy on Academic Misconduct:

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

**Netiquette: Communication Courtesy: All members of the class are expected to follow rules of common courtesy in all email messages, threaded discussions and chats. http://teach.ufl.edu/docs/NetiquetteGuideforOnlineCourses.pdf

Getting Help:
For issues with technical difficulties for E-learning in Sakai, please contact the UF Help Desk at:
** Learning-support@ufl.edu

** (352) 392-HELP - select option 2

** https://lss.at.ufl.edu/help.shtml

** Any requests for make-ups due to technical issues MUST be accompanied by the ticket number received from LSS when the problem was reported to them. The ticket number will document the time and date of the problem. You MUST e-mail your instructor within 24 hours of the technical difficulty if you wish to request a make-up.

Other resources are available at http://www.distance.ufl.edu/getting-help for:

- Counseling and Wellness resources
- Disability resources
- Resources for handling student concerns and complaints
- Library Help Desk support

Should you have any complaints with your experience in this course please visit http://www.distance.ufl.edu/student-complaints to submit a complaint.

**Class Preparation/Workload:**

- Students should expect to spend, on average, approximately two hours preparing for every hour of class. Reading assignments are posted on Canvas linked to the class date.
- 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.
- ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. (Course) has 2 “classroom hours” of in-class instruction each week, requiring at least 4 hours of preparation outside of class. Accordingly, you will have about 40 pages of reading each week. Because the course includes excerpts from economics and philosophical theory that require careful reading, you should spend at least one hour on every 10-15 pages of reading.

**Course evaluation:**

“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/. 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, or via https://ufl.bluera.com/ufl/. Summaries of course evaluation results are available to students at https://gatorevals.aa.ufl.edu/public-results/.”
Appendix A: Assignments

Assignment 1: Progressivity & Distributive Justice

Resolved: An income tax is more progressive than a consumption tax

Reference materials posted for classes 2 and 3


Assignment 2: Tax Transparency?

Should corporate tax information be made public?

Reference Materials


EU Proposal for a Directive on Corporate Tax Transparency, available at


Assignment 3: Estate Tax

Should the estate tax be abolished, or increased?

Reference Materials


George Cooper, A Voluntary Tax? New Perspectives on Sophisticated Estate Tax Avoidance, 77 Colum. L. Rev. 161 (1977)


Assignment 4: Formulary Apportionment

Resolved: The OECD should adopt a formulary apportionment system

Suggested Readings

http://repository.law.umich.edu/cgi/viewcontent.cgi?article=2179&context=articles


http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1074&context=law_econ_archive


Jt. Comm. on Taxation, PRESENT LAW AND BACKGROUND RELATED TO POSSIBLE INCOME SHIFTING AND TRANSFER PRICING, JCX-37-10 (July 20, 2010)

Appendix B: Alternative Revenue Sources

Suggested Readings

On Digital Services Taxes


4. Mindy Herzfeld, Splitting Digital in Two, Tax Notes (Jul. 9, 2018)

On Carbon Tax


On VAT


5. David Bradford, *Addressing the Transfer-Pricing Problem in an Origin-Basis X-Tax*


On Wealth Taxes


On Financial Transaction Tax


