

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

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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.

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

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 2:30-5:20PM. 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/>

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> . 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

1. Ault & Arnold, Comparative Income Taxation--A Structural Analysis, Third Edition, Aspen Publishers (2010)
2. John Diamond and George Zodrow, Fundamental Tax Reform: Issues, Choices and Implications (MIT Press 2008) available to rent or buy at <https://mitpress.mit.edu/books/taxing-ourselves-fifth-edition>
3. Joel Slemrod & Jon Bakija, Taxing Ourselves (MIT Press 5th ed. 2018)
4. Michael Graetz, Follow the Money: Essays on International Taxation (2016). Available at Amazon and for free download at <http://documents.law.yale.edu/follow-the-money>

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

Allison Christians, Introduction to Tax Policy Theory (2018), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3186791

Goals of a Tax System

Hanna, Chapters 1 and 2

Optional Additional Readings

1. Testimony of Mark Mazur, Pamela Olson, Jonathan Talisman, Eric Solomon Before the Senate Committee on Finance (July 18, 2017)
All available at: <https://www.finance.senate.gov/hearings/comprehensive-tax-reform-prospects-and-challenges>
2. Video: 100th Anniversary of the Income Tax, at: <http://www.taxhistory.org>
3. Joel Slemrod & Jon Bakija, TAXING OURSELVES; Chapter 2 (5th ed. 2018)
4. W. Elliot Brownlee, *Taxation for a Strong and Virtuous Republic*, 45 Tax Notes 1613 (Dec. 25, 1989)

Week 2: Rescheduled to Tuesday, September 3

Tax Policy from the Philosopher's Perspective

Progressivity and Distributive Justice

Hanna, chapter 7

Frank Sammartino, *Taxes & Income Inequality*, Tax Policy Center (June 15, 2017), at: <http://www.taxpolicycenter.org/publications/taxes-and-income-inequality/full>

Taxation & Democracy

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

Global Justice & Tax Competition

Peter Dietsch & Thomas Rixen, *Tax Competition and Global Background Justice*, 22 *J. Pol. Phil.* 150 (2014) (another version available on canvas).

Additional Reference Materials

Joseph Bankman & Thomas Griffith, *Social Welfare and the Rate Structure: A New Look at Progressive Taxation*, 75 *Cal. L. Rev.* 1905, 1905-1918 (1987)

Dan Throop Smith, *High Progressive Tax Rates: Inequity and Immorality?* 20 *U. FLA. L. REV.* 451 (1968)

Joseph Bankman & Thomas Griffith, *Social Welfare and the Rate Structure: A New Look at Progressive Taxation*, 75 *Cal. L. Rev.* 1905, 1905-1918 (1987)

Linda Sugin, *Theories of Distributive Justice and Limitations on Taxation: What Rawls Demands from Tax Systems*, 72 *Fordham L. Rev.* 1991 (2004) (sections I and II). Available at: <http://ir.lawnet.fordham.edu/flr/vol72/iss5/27>

Marc Fleurbaey, François Maniquet, *Fair Income Tax*, 73 *The Review of Economic Studies* 55 (2006) at <https://doi.org/10.1111/j.1467-937X.2006.00369.x>

Wolfgang Schön, *Taxation and Democracy* (2018). *Tax Law Review*, Vol. 72, Forthcoming; Working Paper of the Max Planck Institute for Tax Law and Public Finance No. 2018-13. Available at <https://ssrn.com/abstract=3267279>

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)

Allison Christians, *Human Rights at the Borders of Tax Sovereignty* (2017) at: <http://ssrn.com/abstract=2924925>

Week 3: Monday, September 9

Tax Policy from the Economist's Perspective: Efficiency

Taxing Capital, Taxing Income, Taxing Consumption

Hanna, Chapter 3

Noel B. Cunningham, [The Taxation of Capital Income and the Choice of Tax Base](#), 52 *Tax L. Rev.* 17 (1996)

The Corporate Tax

Hanna, Chapter 8

Economic Efficiency in Cross-Border Taxation

Hanna Chapter 9

Additional Reference Materials

1. Dan Shaviro, *Replacing the Income Tax with a Progressive Consumption Tax*, 103 TAX NOTES 91 (APR. 5, 2004) (sections I-III) Find at www.TaxNotes.com with instructions at top of table.
2. David F. Bradford, *A Tax System for the Twenty-First Century, in Toward Fundamental Tax Reform* (Alan Auerbach & Kevin Hassett, eds. 2005) (available on canvas)
3. Reuven S. Avi-Yonah, [Corporations, Society, and the State: A Defense of the Corporate Tax](#), 90 VA. L. REV. 1193, 1231-1249 (2004).
4. Benjamin H. Harris, *Corporate Tax Incidence and Its Implications for Progressivity* (Tax Policy Center 2009) at <http://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/1001349-Corporate-Tax-Incidence-and-Its-Implications-for-Progressivity.PDF>

Week 4: Monday, September 16

Tax Policy as Social Engineering

Sin Taxes (Soda Taxes, Cigarette Taxes)

Tax Policy Center, *Who bears the burden of federal excise taxes?* <https://www.taxpolicycenter.org/briefing-book/who-bears-burden-federal-excise-taxes>.

Billy Hamilton, *The Soda Tax Wars*, 90 STATE TAX NOTES 307 (OCT. 22, 2018) available at <https://www.taxnotes.com/tax-notes-state/excise-taxes/soda-tax-wars/2018/10/22/28j7t?highlight=%22sin%20tax%22>

Joseph Thorndike, *Tax History: My Brother's Keeper: Taxes, Paternalism, and Public Health*, 149 TAX NOTES 1442 (Dec. 21, 2015), available at <https://www.taxnotes.com/tax-notes-today-federal/tax-history/tax-history-my-brothers-keeper-taxes-paternalism-and-public-health/2015/12/21/g113?highlight=thorndike%20soda>

Tax Incentives

Felix Mormann, *Beyond Tax Credits – Smarter Tax Policy for a Cleaner, More Democratic Energy Future* (2013). 31 Yale Journal on Regulation, 303 (2014); available at SSRN: <https://ssrn.com/abstract=2367780> **Pp. 305-311**

Tax & Trade: Tariffs

Mindy Herzfeld, *Tariffs, Taxes and Trade: Shifting Dynamics* (2019), available at: <https://www.taxnotes.com/tax-notes-today-international/trade/tariffs-taxes-and-trade-shifting-dynamics/2019/05/28/29jgk?highlight=herzfeld%20tariffs>

Tax Policy Center, *What is a Tariff and Who Pays It?* (2018), available at: <https://www.taxpolicycenter.org/taxvox/what-tariff-and-who-pays-it>

Week 5: Monday, September 23 (Rescheduled to Tuesday, September 24)

Tax Policy from the Administrator's Perspective

The Tax Gap

IRS Report, Tax Gap Estimates for Tax Years 2008–2010, at:

<https://www.irs.gov/pub/newsroom/tax%20gap%20estimates%20for%202008%20through%202010.pdf>

Aparna Mathur, *How to Help Close the Tax Gap*, Forbes (May 27, 2016), at:

<http://www.aei.org/publication/how-to-help-close-the-tax-gap/>

Tax Expenditures

Tax Policy Center, *What are Tax Expenditures?* at: <https://www.taxpolicycenter.org/briefing-book/what-are-tax-expenditures-and-how-are-they-structured>

U.S. Department of Treasury, Tax Expenditures FY2019, at <https://home.treasury.gov/policy-issues/tax-policy/tax-expenditures>, pp 1-3; 34-37

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

U.S. Dep't. of the Treasury, Update of Reducing the federal Tax Gap and Improving Voluntary Compliance (2009) https://www.irs.gov/pub/newsroom/tax_gap_report_-_final_version.pdf (optional)

Alex Raskolnikov, *Crime and Punishment in Taxation: Deceit, Deterrence, and the Self-Adjusting Penalty*, 106 COLUM. L. REV. 569 (2006) (through p.6)

Eric A. Posner, *Law and Social Norms: The Case of Tax Compliance*, 86 Va. L. Rev. 1781, 1781- 1805, 1811-1813 (2000)

Rita de la Fiera, Tax Fraud and the Rule of Law, Oxford Working Paper Series 18/02 (Jan. 2018), available at https://www.sbs.ox.ac.uk/sites/default/files/Business_Taxation/Events/conferences/2018/Symposium/delaferia-TaxFraud-WP1802.pdf (pp. 1-18).

Bruce Bartlett, *Misunderstanding Tax Expenditures and Tax Rates* 129 Tax Notes 931 (Nov. 22, 2010) Available at SSRN: <https://ssrn.com/abstract=1713275> or <http://dx.doi.org/10.2139/ssrn.1713275>

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

Ruud A. De Mooij & Sjeff Ederveen, *Taxation and Foreign Direct Investment: A Synthesis of Empirical Research*, 10 Int'l Tax & Pub. Fin. 673, 690 (2003)

IMF, SPILLOVERS IN INTERNATIONAL CORPORATE TAXATION 14 (2014), at: <https://www.imf.org/external/np/pp/eng/2014/050914.pdf> [<https://perma.cc/P5G5H-29GH>]

Eric Zolt, *Tax Incentives: Protecting the tax base*, Paper for Workshop on Tax Incentives and Base Protection (April 2015), at: http://www.un.org/esa/ffd/wp-content/uploads/2015/04/2015TIBP_PaperZolt.pdf

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
3. Congressional Research Service Report, Corporate Expatriation, Inversions, and Mergers: Tax Issues, R43568 (updated Mar. 12, 2019)

Case Study 2: Choice of Entity

1. The Tax Foundation, *Pass-Through Businesses: Data and Policy* (Jan. 17, 2017) at <https://taxfoundation.org/pass-through-businesses-data-and-policy/>
2. Michael Cooper et al., *Business in the United States: Who Owns it and How Much Tax do they Pay?* NBER Working Paper 21651 (2015) <http://www.nber.org/papers/w21651>

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

1. Section 482
2. OECD Model Treaty Art. 9
3. John Neighbor, *Keeping it at Arms Length*, 230 OECD Observer (2002) http://oecdobserver.org/news/archivestory.php/aid/670/Transfer_pricing:_Keeping_it_at_a_rms_length.html

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

1. Edward J. McCaffey & Linda R. Cohen, *Shakedown at Gucci Gulch: The New Logic of Collective Action*, 84 N.C. Law Rev. 1159 (2006) (Part II)
2. Overview of the Joint Committee Revenue Estimating Process [JCX-2-17](#) (January 23, 2017) (to skim)
3. Jt. Comm. on Taxation, Estimating Changes in the Federal Individual Income Tax: Exploring the Elasticity of Taxable Income, JCX -2-17 (2017) <https://www.jct.gov/publications.html?func=startdown&id=4967> (to skim)

Rewriting Global Tax Rules

1. Mindy Herzfeld, The Case Against BEPS – Lessons for Coordination, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2985752
2. Tsilly Dagan, *The Marketization of Tax Sovereignty* (2017).: <https://ssrn.com/abstract=2953220> or <http://dx.doi.org/10.2139/ssrn.2953220>

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

Bank, Steven A., *The Progressive Consumption Tax Revisited* (2004). Available at SSRN: <https://ssrn.com/abstract=515502>

Shaviro, Daniel, *Replacing the Income Tax with a Progressive Consumption Tax* (September 2003). NYU Law School, Public Law Research Paper No. 70; and NYU, Ctr for Law and Business Research Paper No. 03-18. Available at SSRN: <https://ssrn.com/abstract=444221> or <http://dx.doi.org/10.2139/ssrn.444221>

Engler, Mitchell L., *Progressive Consumption Taxes*. *Hastings Law Journal*, Vol. 57, pp. 55-91, 2005. Available at SSRN: <https://ssrn.com/abstract=896799>

Graetz, Michael J., *Taxes That Work: A Simple American Plan*, Faculty Scholarship Series. 1571 (2006). Available at https://digitalcommons.law.yale.edu/fss_papers/1571.

Assignment 2: Tax Transparency?

Should corporate tax information be made public?

Reference Materials

Noam Noked, *Public Country-by-Country Reporting: The Shareholders' Case for Mandatory Disclosure*, 90 *TAX NOTES INT'L* 1501 (Jun. 25, 2018)

Michelle Hanlon, "Country by Country Reporting and the International Allocation of Taxing Rights," *IBFD* (forthcoming, 2018)

Arthur Cockfield and Carl MacArthur, "Country-by-Country Reporting and Commercial Confidentiality," 63 *Canadian Tax J.* 627 (2015)

Reuven S. Avi-Yonah, "Country by Country Reporting and Corporate Privacy: Some Unanswered Questions," 8 *Colum. J. Tax L.* 1 (2016)

Joshua Blank, *Reconsidering Corporate Tax Privacy*, 11 *N.Y.U. J. L. & Bus.* 31, 108 (2014)

Joshua Blank, *What's Wrong With Shaming Corporate Tax Abuse?* 62 *Tax L. Rev.* 539 (2009)

Lowell D. Yoder, David G. Noren, and Elizabeth Chao, *Public CBC Reporting Will Not Achieve Its Goals*, 8 *Colum. J. Tax L.* 12 (2016)

Maria Theresia Evers, Ina Meier, and Christoph Spengel, *Country-by-Country Reporting: Tension Between Transparency and Tax Planning?* ZEW Centre for European Economic Research Discussion Paper No. 17-008 (Nov. 2016)

EU Proposal for a Directive on Corporate Tax Transparency, available at https://ec.europa.eu/info/publications/proposal-directive-corporate-tax-transparency-country-country-reporting_en

UK public briefing, Public Country by Country Reporting, Number CDP-2017-0233, 20 November 2017

Assignment 3: Estate Tax

Should the estate tax be abolished, or increased?

Reference Materials

Lily Batchelder, *The “Silver Spoon” Tax: How to Strengthen Wealth Transfer Taxation* (Oct. 31, 2016), at: <http://equitablegrowth.org/tax-finance/silver-spoon-tax/>

Jt Econ. Comm. Republicans, *Cost and Consequences of the Federal Estate Tax: An Update* (July 25, 2012) at https://www.jec.senate.gov/public/_cache/files/bc9424c1-8897-4dbd-b14c-a17c9c5380a3/costs-and-consequences-of-the-federal-estate-tax-july-25-2012.pdf

Daniel H. Cooper, Byron F. Lutz & Michael G. Palumbo, Quantifying the Role of Federal and State Taxes in Mitigating Wage Inequality 17–18 (Fin. and Econ. Discussion Series Div. of Research & Statistics and Monetary Affairs Fed. Reserve Bd., Working Paper No. 2012-5, Jan. 12, 2012), available at www.federalreserve.gov/pubs/feds/2012/201205/201205pap.pdf

Paul L. Caron & James R. Repetti, *The Estate Tax Non-Gap, Why Repeal a “Voluntary” Tax?*, 20 Stan. L. & Pol’y Rev. 153 (2009)

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

Edward J. McCaffery, *A Progressive’s Silver Linings Playbook: The Case for Repealing Stepped-Up Basis*, 138 TAX NOTES 969 (Feb. 25, 2013)

Edward J. McCaffery, *The Dirty Little Secret of (Estate) Tax Reform*, 65 STAN. L. REV. ONLINE 21 (2012)

Edward J. McCaffery, *A Voluntary Tax, Revisited*, NAT’L TAX ASS’N PROCEEDINGS 268 (2000)

Edward J. McCaffery, *Distracted from Distraction by Distraction: Reimagining Estate Tax Reform*, 40 PEPP. L. REV. 1235 (2013)

Curtis Dubay, *The Economic Case Against the Death Tax*, The Heritage Foundation (2010) http://www.heritage.org/taxes/report/the-economic-case-against-the-death-tax#_ftn16

Paul L. Caron & James R. Repetti, *Occupy the Tax Code: Using The Estate Tax to Reduce Inequality and Spur Economic Growth*, 40 Pepp. L. Rev. 5 (2013)

Jt Econ. Comm. Republicans, *Cost and Consequences of the Federal Estate Tax: An Update* (July 25, 2012) at https://www.jec.senate.gov/public/_cache/files/bc9424c1-8897-4dbd-b14c-

a17c9c5380a3/costs-and-consequences-of-the-federal-estate-tax-july-25-2012.pdf

Assignment 4: Formulary Apportionment

Resolved: The OECD should adopt a formulary apportionment system

Suggested Readings

Reuven Avi-Yonah, *Between Formulary Apportionment and the OECD Guidelines: A Proposal for Reconciliation*, World Tax J. 2, no. 1 (2010): 3-18

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

Stanley I. Langbein, *The Unitary Method and the Myth of Arm's Length*, 30 Tax Notes 625 (Feb. 17, 1986)

John Turro, *The Battle Over Arm's Length and Formulary Apportionment*, 65 Tax Notes 1595 (Dec. 26, 1994)

William I. Wilkins & Kenneth W. Gideon, *Memorandum to Worldwide Formulary Apportionment*, 65 Tax Notes 1259 (Dec. 5, 1994)

Jerome R. Hellerstein, *Federal Income Taxation of Multinationals: Replacement of Separate Accounting with Formulary Apportionment*, 60 Tax Notes 1131 (Aug. 23, 1993)

Louis M. Kauder, *The Unspecific Federal Tax Policy of Arm's Length: A Comment on the Continuing Vitality of Formulary Apportionment at the Federal Level*, 60 Tax Notes 1147 (Aug. 23, 1993)

Reuven S. Avi-Yonah, *The Rise and Fall of Arm's Length: A Study in the Evolution of U.S. International Taxation*, U.Mich. Law & Economics Working Papers (2007)
http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1074&context=law_econ_archive

Rosanne Altshuler & Harry Grubert, *Formulary Apportionment: Is It Better than the Current System and Are There Better Alternatives?*, 63 Nat'l Tax J. 1145 (2010)

Paul R. McDaniel, *Formulary Taxation in the North American Free Trade Zone*, 49 TAX L. REV. 691, 702-38 (1994)

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

Sol Piciotto, *Taxing Multinational Enterprises as Unitary Entities*, 82 TAX NOTES INT'L 895 (MAY 30, 2016).

Appendix B: Alternative Revenue Sources

Suggested Readings

On Digital Services Taxes

1. OECD Interim Report on the Digital Economy, available at: <http://www.oecd.org/ctp/tax-challenges-arising-from-digitalisation-interim-report-9789264293083-en.htm>
2. UK Position Paper on Digital Economy and Corporate Taxation, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/689240/corporate_tax_and_the_digital_economy_update_web.pdf
3. EU Proposals for Fair Taxation of the Digital Economy, available at https://ec.europa.eu/taxation_customs/business/company-tax/fair-taxation-digital-economy_en
4. Mindy Herzfeld, *Splitting Digital in Two*, Tax Notes (Jul. 9, 2018)

On Carbon Tax

1. Effects of a Carbon Tax on the Economy and the Environment Congressional Budget Office, May 2013 https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/44223_Carbon_0.pdf
2. Gilbert E. Metcalf, Implementing a Carbon Tax (May 2017) http://www.rff.org/files/document/file/RFF-Rpt-Metcalf_carbontax.pdf
3. Aparna Mathur & Adele Morris, *A Carbon Tax in Broader U.S. Fiscal Reform*, at <https://www.brookings.edu/research/a-carbon-tax-in-broader-u-s-fiscal-reform/> pages 13-29
4. Congressman Curbelo's Carbon Tax Proposal (July 23, 2018) https://curbelo.house.gov/uploadedfiles/mkt_choice_act_key_elements.pdf
5. Video: <http://www.aei.org/events/carbon-taxes-a-problem-or-a-solution-remarks-from-sen-sheldon-whitehouse-d-ri-and-sen-brian-schatz-d-hi/> (Links to an external site.)

On VAT

1. Alvin Warren, *"Would a Consumption Tax Be Fairer Than an Income Tax?"* 89 *Yale L.J.* 1081, 1108 (1981)
2. William M. Gentry and R. Glenn Hubbard, *"Distributional Implications of Introducing a Broad-Based Consumption Tax,"* in James M. Poterba (ed.), *Tax Policy and the Economy*, vol. 11 at 4-9 (1997)
3. David F. Bradford, *Blueprint for International Tax Reform*, 26 *Brooklyn L. Rev.* 1449 (2001)
4. David F. Bradford, *Treatment of Financial Services Under Income and Consumption Taxes*, in Henry Aaron and William Gale (eds.), *Economic Effects of Fundamental Tax Reform* (1996)

5. David Bradford, *Addressing the Transfer-Pricing Problem in an Origin-Basis X- Tax*
6. Michael J. Graetz, *100 Million Unnecessary Returns: A Fresh Start for the U.S. Tax System* (2002), at: http://digitalcommons.law.yale.edu/fss_papers/1617

On Wealth Taxes

1. Johnsen, Dawn Elizabeth and Dellinger, Walter E., *The Constitutionality of a National Wealth Tax* (2018). Indiana Law Journal, Vol. 93, No. 8, 2018; Indiana Legal Studies Research Paper ; Duke Law School Public Law & Legal Theory Series No. 2019-18. Available at SSRN: <https://ssrn.com/abstract=3332749>
2. Shakow, David J. and Shuldiner, Reed, *A Comprehensive Wealth Tax* (September 1998). Tax Law Review, Vol. 53, Issue 3. Available at SSRN: <https://ssrn.com/abstract=223519>
3. FT, *Can Today's Ultra-Rich Make Peace with a Wealth Tax?* <https://www.ft.com/content/f9036af0-4009-11e9-9499-290979c9807a>
4. Jason Oh and Eric Zolt, *Wealth Tax Add-Ons: An Alternative to Comprehensive Wealth Taxes*, Tax Notes (2018) <https://www.taxnotes.com/tax-notes-today-federal/international-taxation/wealth-tax-add-ons-alternative-comprehensive-wealth-taxes/2018/04/03/26x27?highlight=%22wealth%20tax%22>
5. Ulrich, Roy, *A Wealth Tax for the States* (January 20, 2015). Available at SSRN: <https://ssrn.com/abstract=2552968> or <http://dx.doi.org/10.2139/ssrn.2552968>
6. Morris Lehner, *The European Experience with a Wealth Tax: A Comparative Discussion*, 53 Tax L. Rev. 615 (1999-2000) <https://heinonline.org/HOL/LandingPage?handle=hein.journals/taxlr53&div=29&id=&page=&t=1560976130>
7. *Warren Wealth Tax Proposal*: <https://www.newyorker.com/news/our-columnists/elizabeth-warrens-wealth-tax-is-an-old-idea-and-its-time-has-come>; <https://taxfoundation.org/property-tax-wealth-tax/>

On Financial Transaction Tax

1. Englisch, Joachim and Vella, John and Cédelle, Anzhela, *The Financial Transaction Tax Proposal Under The Enhanced Cooperation Procedure: Legal and Practical Considerations* (February 2013). British Tax Review 2013, S. 223. Available at SSRN: <https://ssrn.com/abstract=2284733>
2. Shaviro, Daniel, *The Financial Transactions Tax versus (?) the Financial Activities Tax* (March 1, 2012). NYU Law and Economics Research Paper No. 12-04. Available at SSRN: <https://ssrn.com/abstract=1989163> or <http://dx.doi.org/10.2139/ssrn.1989163>
3. Formosa, Carmel Said, *The Impact of Financial Transaction Tax on Companies - A Discussion* (2015). WU International Taxation Research Paper Series No. 2015 - 17. Available at SSRN: <https://ssrn.com/abstract=2610590> or <http://dx.doi.org/10.2139/ssrn.2610590>
4. S. 1587, the Inclusive Prosperity Act of 2019, introduced by Sen. Bernie Sanders, I-Vt., (2019)