

TAX FRAUD AND EVASION  
Course No. 7641  
2 Credits  
University of Florida  
Master of Laws in Taxation (LL.M.)  
Spring 2020  
F 10:00a – 12:00p

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**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 required. These materials are available to students via online access. Supplemental Materials noted below from the Internal Revenue Code, Regulations, case law are likewise mandatory, as well as the third-party materials to be provided.

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 demonstrated in-class participation as well as a 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.

Academic Honesty: 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>.

Grading information (what the final grade will consist of) and the grading scale: The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

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

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

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 Follows Next Page --

## Materials for Preparation

17 Jan 2020	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)
24 Jan 2020	Vol. 1. Chapter 2 & 3- T26 Offenses (cont'd); 18 U.S.C. §§ 1001, 287, 2, 371, 1341, 1343; T.D. 128
31 Jan 2020	Vol. 1. Chapter 2 & 3-T26 & T18 Offenses (cont'd)
07 Feb 2020	Vol. 1. Chapter 3 - T18 Offenses (cont'd)
14 Feb 2020	Vol. 1 Chapter 4 - Criminal Investigative Techniques; Supp. 4.0. Search Warrant Affidavit; <u>United States v. Ofshe</u> , 817 F.2d 1508 (11th 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 (9th Cir. 1992)
21 Feb 2020	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. GJ Subpoena, Supp. 5.1 JDA, Supp. 5.2. Indictments
28 Feb 2020	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 (5th Cir. 1977)
13 Mar 2020	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 (7th Cir. 1995); <u>United States v. Stein</u> , 541 F.3d 130 (2d Cir. 2008)
20 Mar 2020	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
27 Mar 2020	Vol. 1, Chapter 7 - Criminal Trial Issues; Supp. 7.1.JI and 7.1.JIS
03 Apr 2020	Vol. 2, Chapters 16 & 17 - Sentencing for Criminal Tax Offenses; 18 U.S.C. § 3553, U.S.S.G. §§ 1B1.3, 2T1.1, 2T4.1; Supp. 16 Sentencing Supp. 6.0 Plea Agreement
10 Apr 2020	Vol. 1, Chapter 8 - Civil Fraud Penalties; 26 U.S.C. § 6663; <u>Allen v. Commissioner</u> , 128 T.C. 4 (2007); 11 U.S.C. 727
17 Apr 2020	Vol. 1, Chapter 9 – Civil Trial Issues; Vol. 1, Chapter 10 - Civil Defense Strategies/Techniques

Exam Period: 04/24/20 - 05/07/20