Course Information:

Course Number: LAW 512  
Course Name: Federal Tax Procedure/Professional Responsibility  
Professor Name: Davis G. Yee  
Number of Units: 2 units  
Semester/Year: Spring 2019

Professor Contact:

Office Number: Not applicable  
Phone: (415) 547-3803  
Email: dyee5@usfca.edu  
Office Hours: Generally via Zoom sessions (see below at Class Session section). In addition to Zoom sessions, Prof. Yee can also be reached by email to arrange a phone conversation at other times.

Course Schedule:

Meeting Day(s): Online  
Time(s): Online  
Classroom(s): Online  
Notes/Exceptions: For more information, please see below at Class Session section
**Course Description:**
An examination of the fundamental principles of civil federal tax procedure and litigation, including: administrative determinations of tax liability, statutes of limitations, civil penalties, the ruling process, tax collection issues, and professional responsibility in tax practice. The course will cover administrative procedures before the Internal Revenue Service, tax litigation procedures unique to the Tax Courts, and tax refund litigation in the U.S. District Courts and U.S. Claims Court. **Prerequisites:** Federal Income Taxation for JD students.

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**Hours of Work per Class**

*The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a ‘credit hour’ is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” This is a 2-credit hour class, meaning that we will spend three hours and forty-five minutes together per week for seven weeks. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending eleven hours and fifteen weeks per week (three hours and forty-five minutes in class and seven hours and fifteen minutes preparing for class) on course-related work.*

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**Course Materials (Required and Recommended):**

Chapter and page references in the syllabus are to Steven Johnson et al., *Civil Tax Procedure* (3rd ed. 2016) with ISBN 978-1-63280-965-0. For the text, the first page of each chapter provides citations to certain legal authorities, such as Internal Revenue Code provisions, treasury regulations, cases, administrative rulings, and tax forms. It is recommended that you skim those authorities. You may access many of those authorities through your law school accounts for Westlaw. References to other materials for assigned reading in the syllabus can be found on Canvas.

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**Learning Outcomes**

The Tax Program commits itself to designing curriculum to ensure that students achieve competence in all of the following:

1. Apply procedural tax law from federal jurisdictions;
2. Research and resolve tax law problems using legal sources;
3. Analyze and assess tax law problems using the IRAC method;
4. Effectively communicate advanced tax law topics to appropriate audiences in written form;
5. Incorporate professional responsibility and ethical obligations into resolution of tax problems.
Grading
Your letter grade for this course will be based on (1) the completion of certain homework problems and (2) an anonymously graded final examination.

Completion of the homework problems counts towards 24% of your grade. The specific problems to complete per week (with the exception of Week 7) are noted in the syllabus. To get credit (of 4% per week), the answers to those problems must be submitted via Canvas by the stated deadline. Late answer submissions—that is, failure to submit answers by the stated deadline—will automatically result in zero points. Professor Yee will review your answers and assign points during the workweek immediately following the submission deadline.

The examination counts towards 76% of your grade. It will be between three hours and four hours long and can be “checked out” during the following dates: February 25, 2019 and February 27, 2019. For the exam, you will be allowed to use the course materials and anything prepared by you (including your class session notes). A simple calculator may be used. All questions about final exams should be directed to the Law Registrar’s Office (lawregistrar@usfca.edu).

Class Schedule:
This is a seven-week course, the lecture modules for which students may access via Canvas starting the week of January 7, 2019. In addition, Prof. Yee will host one-hour Zoom sessions from 6:00-7:00 p.m. Pacific Standard Time on Wednesdays to answer any questions you have for that week’s lecture modules on Canvas. The Zoom sessions are not mandatory and will not be recorded. The first Zoom session will be on Wednesday, January 9, 2019, while the last Zoom session will be on Wednesday, February 20, 2019. The Zoom ID is 936-103-6415. You may have to sign up and/or download Zoom. USF Educational Technology Services provides helpful information about Zoom at the following website: https://myusf.usfca.edu/ets/educational-technologies/zoom.

Week 1
Learning Outcomes

- Knowledge of the structure of tax administration
- Understanding of the sources and authorities of tax law
- Familiarity with administrative law issues
- Understanding of filing and tax reporting obligations

Readings and Problems

- Read Chapter 1
- Read Mayo Foundation for Medical Education & Research v. United States, 562 U.S. 44 (2011)
- Watch Lecture 1: Structure of Tax Administration and Sources of Tax Law
• Read Chapter 2
• Read T.D. 9821
• **Watch Lecture 2**: Reporting Obligations
• Do Problems on pp. 75-76
• **Watch Lecture 3**: Solutions to Problems 1 through 12 on pp. 75-76
• On Canvas, submit the answers to Problems 13 and 14 on page 76 by 9:00 pm Pacific Standard Time, on January 13, 2019, a Sunday. (Note the typographical error in Problem 14, which should read “On what date is the 20x9 return treated as having been filed?”)

**Week 2**

**Learning Outcomes**

• Understanding of the tax audit procedures
• Understanding of the methods for information gathering either by the IRS or by the taxpayer
• Familiarity with audit procedures of partnerships
• Knowledge of the assessment procedures
• Understanding of the statute of limitations on assessment

**Readings and Problems**

• Read Chapter 4
• **Watch Lecture 4**: Examination of Returns
• Do Problems on pp. 138-139
• **Watch Lecture 5**: Solution to Problems on pp. 138-139
• Read Chapter 6B
• Read I.R.C. §§ 6221 through 6241
• Skim T.D. 9829
• Skim Proposed Regulations for Centralized Partnership Audit Regime
• **Watch Lecture 6**: Examination of Partnerships (BBA)
• Read Chapter 5
• **Watch Lecture 7**: Assessment Procedures and Matters Relating to the Statutes of Limitations on Assessment
• Do Problems on pp. 165-167
• **Watch Lecture 8**: Solution to Problems on pp. 165-167
• On Canvas, submit the answer to Problem 8 on page 167 by 9:00 pm Pacific Standard Time, on January 20, 2019, a Sunday.

**Week 3**

**Learning Outcomes**

• Understanding of the elements and purposes of a notice of deficiency
• Familiarity with the phases of a Tax Court case
• Knowledge of the considerations and procedural issues for a deficiency proceeding
• Knowledge of the procedures for obtaining relief from tax liability under I.R.C. § 66
• Knowledge of the different methods and procedures for obtaining relief from tax liability under I.R.C. § 6015

Readings and Problems

• Read Chapter 8, except for pp. 255-257
• Read Galloway v. Commissioner, 149 T.C. No. 19 (filed Oct. 10, 2017)
• Watch Lecture 9: Tax Court Litigation of Deficiency Determinations
• Do Problems on pp. 257-259
• Watch Lecture 10: Solution to Problems (except for Problem 11) on pp. 257-259
• Read Chapter 3
• Watch Lecture 11: Spousal Relief
• Do Problems on pp. 99-102
• Watch Lecture 12: Solution to Problems on pp. 99-102
• On Canvas, submit the answer to Problem 11 on page 259 by 9:00 pm Pacific Standard Time, on January 27, 2019, a Sunday.

Week 4

Learning Outcomes

• Knowledge of the statute of limitations on collection
• Understanding of collection methods and alternatives
• Understanding of the procedures and safeguards for collection due process
• Knowledge of conditions justifying termination and jeopardy assessment and levy
• Understanding of the procedural safeguards regarding such assessments and levies

Readings and Problems

• Read Chapter 13
• Read Lindsay Manor Nursing Home, Inc. v. Commissioner, 148 T.C. No. 9 (filed March 23, 2017)
• Read Order in Strong v. Commissioner, docket No. 26929-15L
• Watch Lecture 13: Collection of Tax
• Do Problems on pp. 408-410
• Watch Lecture 14: Solution to Problems (except for Problem 3) on pp. 408-410
• Read Chapter 7
• Watch Lecture 15: Termination and Jeopardy Assessments
• Do Problem on pp. 222-224
• Watch Lecture 16: Solution to Problems on pp. 222-224
• On Canvas, submit the answer to Problem 3 on page 410 by 9:00 pm Pacific Standard Time, on February 3, 2019, a Sunday.
Week 5

Learning Outcomes

- Knowledge of the administrative procedures to seek a refund
- Understanding of the statute of limitations for a refund claim
- Understanding of the jurisdictional authority of the various federal courts
- Familiarity with the rules regarding interest on underpayments
- Familiarity with the rules regarding interest on overpayments
- Understanding of the Tax Court’s jurisdiction over interest determinations

Readings and Problems

- Read Chapter 9
- Read Palomares v. Commissioner, No. 15-70659, 2017 WL 2364441 (9th Cir. May 31, 2017)
- Read Borenstein v. Commissioner, 149 T.C. No. 10 (filed Aug. 30, 2017)
- Watch Lecture 17: Overpayment—Claims for Refund
- Do Problems at pp. 286-288
- Watch Lecture 18: Solution to Problem 1 at pp. 286-288
- Skim Chapter 12
- Skim Ford Motor Company v. United States, 768 F.3d 580 (6th Cir. 2014)
- Watch Lecture 19: Interest
- On Canvas, submit the answer to Problem 2 on page 288 by 9:00 pm Pacific Standard Time, on February 10, 2019, a Sunday.

Week 6

Learning Outcome

- Knowledge of various additions to tax and penalties
- Understanding of the reasonable cause defense

Readings and Problems

- Read Chapter 11
- Read I.R.C. § 6751
- Skim Tax Court Order in Hill v. Commissioner, docket No. 7578-16L (regarding Form 8278)
- Read Chai v. Commissioner, 851 F.3d 190 (2nd Cir. 2017)
- Skim IRM 20.1.1.3.3.2.1 (Nov. 21, 2017) (regarding administrative first time abatement policy)
- Watch Lecture 20: Penalties
- Do Problems at pp. 337-338
- Watch Lecture 21: Solution to Problems at pp. 337-338
- Do Problems at pp. 361-362
- Watch Lecture 22: Solution to Problems 1 through 3 on pp. 361-362
On Canvas, submit the answers to Problems 4, 5, and 6 on page 362 by 9:00 pm Pacific Standard Time, on February 17, 2019, a Sunday.

Week 7

Learning Outcomes

- Understanding the trust fund recovery penalty
- Understanding of requirements to obtain attorneys’ fees and costs
- Understanding of the issues concerning the professional responsibilities of tax practitioners

Readings and Problems

- Read Chapter 14
- **Watch Lecture 23**: The Section 6672 “Trust Fund Recovery Penalty”
- Do Problems at pp. 432-434
- **Watch Lecture 24**: Solution to Problems at pp. 432-434
- Read pp. 255-257 of Chapter 8
- **Watch Lecture 25**: Attorney’s Fees and Costs
- Re-read pp. 68-70 of Chapter 2
- Read I.R.C. § 6695(g)
- Skim T.D. 9842
- Skim Circular 230
- Read Order in *Sexton v. Hawkins*
- Skim Tax Notes Article “How Far Does Circular 230 Exceed Treasury’s Statutory Authority”
- Skim Order in *Acholonu v. Commissioner*
- Read *Gebman v. Commissioner*, T.C. Memo. 2017-184
- Read Rule 5.4 of ABA Model Rules of Professional Conduct
- **Watch Lecture 26**: Professional Responsibility Issues

Attendance:

**Policy:**
The School of Law requires students to attend classes regularly, complete assignments in a timely manner, and be prepared for and participate in class. The law school attendance policy follows the ABA standard that students must attend at least 80% of the scheduled class sessions for any given course in order to receive credit. If a student has exceeded the allowable class absences, she/he may be administratively withdrawn and/or receive a failing grade for the course. For full detail, please see the [Academic Policies for the JD & Graduate Tax Programs](https://myusf.usfca.edu/law/student-services)

**Tracking:**
Taking attendance is required at the School of Law. A sign-in sheet will be circulated during each class meeting. USF policy requires that I notify the Registrar if a student is in danger of exceeding the
permissible number of absences. You are responsible for signing attendance sheets *yourself* when you are present and failure to attend may have consequences in grading and receipt of class credit. Compliance with attendance rules is regulated by the Honor Code.

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**Americans with Disabilities Act Accommodations:**
USF affords all students with disabilities equal access under the law. If you are in need of accommodation under the Americans with Disabilities Act (ADA) or similar enactment, you must contact the University Student Disability Services Office at 415.422.2613 or sds@usfca.edu to obtain the appropriate accommodation.

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**Academic Dishonesty**
The law school defines academic dishonesty as engaging in any dishonest conduct in connection with any examination, written work, or other academic activity. The University of San Francisco takes academic dishonesty very seriously. You are responsible for knowing and adhering to the explicit details of our policy as listed here in the *School of Law Honor Code*: [https://myusf.usfca.edu/law/student-services](https://myusf.usfca.edu/law/student-services)

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**Academic and Bar Exam Success Program (ABES)**
ABES offers individual appointments and workshops that teach study techniques and exam-taking strategies to help first-year students transition into law school and excel on their final exams. ABES also provides MPRE and bar preparation services to second-year and third-year students through various programs and one-on-one meetings. To learn more about ABES, please contact Professor Christina Chong at cschong@usfca.edu.