GEORGETOWN UNIVERSITY LAW CENTER
LLM PROGRAM

SALES & USE TAXES

Fall 2016

Professors Donald Griswold and Walter Nagel

Texts to be provided gratis:

<table>
<thead>
<tr>
<th>CLASS</th>
<th>TOPIC</th>
<th>ASSIGNED READING *</th>
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<tbody>
<tr>
<td>Class #1</td>
<td>1. Course &amp; topic introduction</td>
<td>Portfolio Sections 1300.01 – 1300.03 &amp; 1300.11</td>
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<tr>
<td></td>
<td>2. Basic structure</td>
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<td></td>
<td>5. Imposition</td>
<td>• Iowa Code s. 423.2</td>
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<td></td>
<td>6. Registration</td>
<td>• Hawaii Rev Stat s. 237-13</td>
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<td>7. Direct pay permits</td>
<td>• Kozlowski Indictment</td>
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<td></td>
<td>8. Failure to collect</td>
<td>• NYT: <em>Ex-Tyco Chief to Settle Tax Evasion Charges</em></td>
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<td></td>
<td>9. Failure to remit / personal liability</td>
<td>• NY Resident Income Tax Return</td>
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<td>10. Penalties</td>
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<tr>
<td>Aug. 29</td>
<td>Introduction &amp; Mechanics</td>
<td></td>
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<tr>
<td>Class #2</td>
<td><em>Tangible vs Intangible Property or Services</em></td>
<td>Portfolio Sections 1300.04 – 1300.05</td>
</tr>
<tr>
<td>Sept. 12</td>
<td><em>Mixed Sales</em> (part 1)</td>
<td>• <em>Southern Bell Tel v. FL</em>, 366 So. 2d 30 (1978)</td>
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<td>• <em>Bartlett Grain</em>, slip. op. (MO 2016)</td>
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</tbody>
</table>
### Class #3: Mixed Sales (part 2)
- **Sept. 19**
  - **4. True Object Test**
  - **5. Tangible vs Real Property**
  - **6. Warranties and Maintenance**
  - **7. Wrapping Supplies**

### Class #4: Multi-State Transactions
- **Sept. 26**
  - **1. Transfer of title & destination rule**
  - **2. First use**
  - **3. Compensatory tax doctrine**

### Class #5: Exemptions
- **Oct. 3**
  - **A. Transaction-based exemptions**
    - **1. Ingredient or component**
    - **2. Manufacturing**
    - **3. Sale for resale**
    - **4. Casual sale**
    - **5. Other**

### Citations
- **Ohio Valley Aluminum**, KY Ct. App 2014
- **Proctor & Gamble v. PA.**, 29 A.3d 1221 (2011)
- **Frisch, et al v. Wisc.**, 133 Wis. 2d 444 (1986)
- **NY TSB-A-99(47)S**
- **New England Yacht Sales**, 198 Conn. 624 (1986)
- **Yacht Futura**, 510 So. 2d 1047 (1987)
- **Portfolio Section 1300.09**
- **McDonald’s v. Mass.**, 2005 Mass Tax Lexis 19
- **McDonald’s v. Oklahoma**, 563 P. 2d 635, 1977
### B. Entity-based exemptions

1. Federal government  
2. State & local governments  
3. Native American reservations  
4. Foreign governments/diplomats  
5. Non-profits

### C. Property-based exemptions

1. Food  
2. Clothing  
3. Medical  
4. News  
5. Other

- **NJ Maher 212 NJ Super 164**  
- **Canteen Meals 592 SW2d 754**  
- **Matter of Lee Seed Company, Iowa 1994**  
- **Marriott Meals 189 Ariz 175**  
- **Minnesota Revenue Notice 10.01 - 2010**

### Constitutional Issues

- **1st Amendment**  
- **Equal Protection**  
- **Due Process – nexus**  
- **Commerce Clause**  
  - nexus, apportionment, discrimination  
- **Remedies**  
- **Tax Injunction Act**  
- **Other**

- **Portfolio Section 1300.07 and SBT Chapter 10**  
- **Amazon.com, 877 NYS2d 842 (2009)**  
- **Arkansas Writers’ Project, 481 US 221 (1987)**  
- **Bacchus Imports, 468 U.S. 263 (1984)**  
- **Complete Auto Transit, 430 U.S. 274 (1977)**  
- **Gordon v. Holder, DC Cir (2013)**  
- **Quill, 504 U.S. 298 (1992)**
<table>
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<th>Class #7</th>
<th>Unique Industries</th>
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</table>
| Oct. 17 | Food & restaurant meals  
2. Gasoline  
3. “Sin” taxes  
4. Satellite broadcasting  
   Leases: finance vs operating |
|         | Portfolio Section 1300.12 and SBT Chapter 11  
   - *O’Boyle’s Ice Cream*, 553 A.2d 1033 (PA Cmmw 1989)  
   - *National Amusement*, 163 N.W. 2d 625 (WI 1969)  
   - *Pooh-Bah Enterprises*, 905 NE2d 781 (IL 2009)  
   - *Automotive Merch*, 400 A.2d 62 (NJ Super. 1979) |

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<th>Class #8</th>
<th>Special Situations</th>
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</table>
| Oct. 24 (Tuesday!) | M&A and bulk sales  
2. Drop shipments  
3. Disregarded entities  
4. Bad debts  
5. Qui Tam and Class Actions  
6. Difficult issues |
|         | Portfolio Section 1300.08, 1300.10 & 1300.12  
   - *Steelcase v. CT*, 680 A.2d 289 (CT’96)  

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<tr>
<th>Class #9</th>
<th>Digital Goods/Services</th>
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| Oct.31 | Digital goods (iTunes®, etc.)  
2. Telecommunications  
3. “Cloud” computing; “SaaS”/storage  
4. On-line research |
|         | SBT Chapter 7  
   - *Thomson Reuters v Mi. Dept Rev.* (2014)  
   - *Goldberg v. Sweet*  
   - *Flip Flop Foto*  
   - *Ball Aerospace* |
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<tr>
<th><strong>Class #10</strong></th>
<th><strong>Nov. 7</strong></th>
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| **The Sharing Economy & E-Commerce** | 1. Taxation and Distintermediation  
2. Groupon ® & Coupons  
3. Hotels and Online Booking  
4. Uber®, airbnb® | • California SBE Info Pub No 113 (2014)  
• Massachusetts DOR Directive No 12-4 (2012)  
• Illinois DOR General Info Letter ST 12-0009 (2012)  
• Hotels.com, 590 F.3d 381 (6th Cir. 2009)  
• Expedia, 110 So. 3d 991 (Fl. App. 2015)  
• Travelocity.com, 346 P.3d 157 (HI 2015)  
• The Airbnb “Community Compact”  
• Hawaii Governor’s Veto Letter  
• Hotel Industry Letter Supporting Maryland Veto Override |

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<th><strong>Class #11</strong></th>
<th><strong>Nov. 14</strong></th>
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| **Legislative Topics** | 1. Streamlined Sales Tax Project  
2. Proposed Congressional Legislation  
3. Retroactive tax legislation | Portfolio Section 1300.13  

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<th><strong>Class #12</strong></th>
<th><strong>Nov. 21</strong></th>
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<tr>
<td><strong>Guest Speaker</strong></td>
<td>To be announced</td>
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<tr>
<td>Class #13</td>
<td>Exam Review</td>
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<td>Nov. 28</td>
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<tr>
<td>Review</td>
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<td>(Last Class)</td>
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- Open book
- 3 hours
- Take home / timed
- 4-6 essays; weighted equally
- 500 word limit per answer; minimum 12 point font

* Citations are not in “Bluebook” format to conserve space