GEORGETOWN UNIVERSITY LAW CENTER

TAX TREATMENT OF CHARITIES
AND
OTHER NONPROFIT ORGANIZATIONS*

SYLLABUS

Fall 2016

RECOMMENDED TEXTS:


(Available at Reserve Desk.)

ADDITIONAL READING/GULC CANVAS:

Additional reading assignments, exam information and current developments in the field will be posted to the Canvas course site. The URL link is:

Please check the site each week prior to class.

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* Under the revised course withdrawal rules, you may withdraw from this class with an Academic Advisor's permission up until the last scheduled class for this course (November 30, 2016, as specified in this syllabus). Please refer to the Student Handbook for more information about requesting to withdraw from a course after add/drop.
SCHEDULE OF CLASSES AND ASSIGNMENTS

CLASS I: AUGUST 31 SANDERS

TOPIC: Introduction. Brief overview of subject matter; background of tax-exempt organizations; discussion of rationale underlying tax exemption; exemption as an instrument of social policy, and recent Congressional action.

ASSIGNMENT: (1) Reading Supplement Compendium I (Skim)

(2) Optional: Sanders, Chapter Two, Sections 2.1-2.5

CLASS II: SEPTEMBER 7 SANDERS/ST JOHN/SCHULTZ

TOPIC: Obtaining and Maintaining Tax-Exempt Status. IRS procedures for applying for exemption; ruling requests and technical advice memoranda; reliance by donors; appeals; IRS abusive tax shelter program; declaratory judgment procedures; reporting and filing requirements including new Form 990 and schedules, and disclosure of returns; IRS revocation of tax-exempt status of 275,000 organizations for failure to file annual returns for three years and the reinstatement process; June 2012 Advisory Committee Report: Recommendations for Revising Form 1023; IRS backlog.

ASSIGNMENT: (1) IRC: §§ 508, 7428, 170(f)(8), 6033(a)-(b), (e), (j), (k) [skim: (c)-(d), (g)-(i), (k)-(l)], 6104(a)(1)(A), (b), (c)(1), (d) [skim: (a)(1)(B)-(a)(3), (c)(2)], 6652(c), 6685.


(4) IRS Form 1023 and Checklist, Application for Recognition of Exemption. [Skim.]

(5) IRS Form 1023-EZ and Worksheet. [Skim.]

(6) IRS Form 990, Return of Organization Exempt From Income Tax (available at irs.gov). [Skim.]

(7) Reading Supplement Compendium II

(8) Optional: Sanders, Chapter Two, Sections 2.6-2.7 and Section 2.9.
CLASS III: SEPTEMBER 14  

TOPIC: Charitable Organizations and Tax Exemption. Organizational and operational tests; “public benefit”; “private inurement”; “intermediate sanctions”; and discussion of rulings on “charitable” organizations, including IRS Final Report on Nonprofit Colleges and Universities compliance project.

ASSIGNMENT:
(1) IRC: §§ 170(c), 501(c)(3), 501(e), 4958
(2) Treas. Regs.: §§ 1.501(c)(3)-1(b), 1.501(c)(3)-1(c), 1.501(c)(3)-1(e), 1.501(c)(3)-1(d)(2), 53.4958-1 through 53.4958-8 [skim].
(3) IHC Health Plans, Inc., v. Commissioner, 325 F.3d 1188 (10th Cir. 2003).
(4) United Cancer Council, Inc. v. Commissioner, 165 F.3d 1173 (7th Cir. 1999).

CLASS IV: SEPTEMBER 21  

SANDERS/SULLIVAN

TOPIC: Hospitals, Charitable Organizations, Tax Exemption, Social Policy and IRC §501(r) and related provisions, and the impact of recent Supreme Court decisions on the Affordable Care Act; introducing joint ventures.

ASSIGNMENT:  

CLASS V: SEPTEMBER 28  

SANDERS

TOPIC: Charitable Organizations and Tax Exemption, Social Policy (continued) and Social Entrepreneurial. Race and sex discrimination rules; educational organizations, homes for the aged, and hospices; religious organizations and governance of nonprofit organizations.

ASSIGNMENT:  
(1) IRC § 7611; § 501(c)(3), § 501(r); § 4959; § 6033(b)(15).
(2) Big Mama Rag, Inc. v. United States, 631 F.2d 1030 (D.C. Cir. 1980).
Bob Jones University Museum And Gallery, Inc. v.
Commissioner, T.C. Memo 1996-247.

(4) Optional: Sanders, Chapter Two, Sections 2.5 and 2.7;
Chapter 12, Section 12.11.

(5) Reading Supplement Compendium III: Social
Entrepreneurship; Hybrid Ventures, Foregoing Tax
Exemption; excerpt from Supreme Court Hobby Lobby
decision.

(6) Optional: Sanders, Chapter Six, Sections 6.7-6.8.

CLASS VI: OCTOBER 5

TOPIC: International Activities of Charities; Non-Charitable Exempt
Organizations. Introduction to non-charitable exempt organizations; social welfare
organizations; labor unions; and title holding companies; charitable activities in foreign
countries, including "friends" organizations, activities of domestic charities abroad;
implications of global terrorism; Treasury guidelines; FBAR; US Patriot Act, etc.

ASSIGNMENT: (1) IRC: §§ 501(c) and (p), Regulations thereunder.

(2) Form 1024 and Instructions [skim].


(5) Form 990: Schedule F

(6) Sanders, Section 17.12(a)-(c).

(7) Reading Supplement Compendium IV: FBAR filing
Requirements; see http://bsaefiling.fincen.treas.gov

(8) Optional: Sanders, Chapter Seventeen.
TOPIC: Joint Ventures Involving Tax Exempt Organizations; Introduction: Private Foundation v. “Public Charity.” Background and overview of 1969 Foundation legislation; key definitions; support tests; statutory scheme for enforcement; regulation; and reporting and termination of private foundation status.

ASSIGNMENT:

1. IRC: §§ 509, 170(b), 507(d)(2) [skim remaining subsections of 507], 508, 4940(d), 4962, 6684, 6033(c) [skim], 6104(c)-(d) [skim], 4942(g)(4), 4942(j)(2).

2. Treas. Regs.: §§ 1.170A-9, 1.509(a)-1 et seq. [Skim].


7. IRS Form 990 Schedule R and model joint venture participation policy [skim].

8. Optional: Sanders, Chapter Four, Sections 4.1-4.2 and Chapter Ten.
TOPIC: Unrelated Trade or Business; Corporate Sponsorship; Unrelated Debt-Financed Income.

ASSIGNMENT: (1) IRC: §§ 511, 512(a)(1), 512(b) [skim the remaining subsections of 512], 513(a), 513(i) [skim the remaining subsections of 513], 514(a)-(b) [skim the remaining subsections of 514].

(2) Treas. Regs.: Regulations thereunder; especially corporate sponsorship regulations § 1.513-4 (65 FR 11012).

(3) UBIT: Understanding the Rules and Current Issues (Howard Schoenfeld)

(4) IRS Form 990-T (skim).

(5) Sierra Club v. Commissioner, 86 F.3d 1526 (9th Cir. 1996). Sierra Club v. Commissioner, T.C. Memo 1999-86.


(7) Reading Supplement Compendium V: UBIT Certification (skim).

(8) Optional: Sanders, Chapter Eight, Section 8.4, Chapter Nine and Chapter Fifteen, Section 15.3.

CLASS IX: OCTOBER 26 SANDERS

TOPIC: Private Foundations. Distribution requirements; “operating foundation” status; restrictions on business holdings and jeopardy investments; program related investments and the newly proposed regulations; tax on investment income. Foundation operating issues and for-profit subsidiaries.

ASSIGNMENT: (1) IRC: §§ 4940(a)-(c) [skim (d)-(e)], 4942(a)-(e), (g), 4943(a)-(d), 4944, 4946.

(2) Treas. Regs.: §§ 53.4940-1 et seq., 53.4942(a)-1 et seq., 53.4942(b)-1 et seq., 53.4943-1 et seq., 53.4944-1 et seq. [skim].

**CLASS X: NOVEMBER 2 SANDERS/OWENS/S. THOMAS/MITCHELL**

**TOPIC:** Lobbying and Political Activities. Restrictions on legislative and political activities of charitable organizations; impact of *Citizens United v. Federal Elections Commission*; enhanced role of (c)(4)’s in election activities.

**ASSIGNMENT:**

1. IRC: §§ 501(h), 4911, 501(c)(3), 162(e), 527(f).


10. Proposed candidate related Political Activities (“CRPA”) Regulations

**CLASS XI: NOVEMBER 9 SANDERS/F. THOMAS/VIEUX**

**TOPIC:** Private Foundations (cont’d.). Program restrictions; individual and organizational grant procedures; guidelines for operation; problems of foreign equivalency; company foundation scholarship programs; and restrictions on self-dealing.
ASSIGNMENT: (1) IRC: §§ 4941, 4945.

(2) Treas. Regs. §§ 53.4941(b)-1 et seq., 53.4941(d)-3, 53.4945-1 et seq. [skim].

(3) Optional: Sanders, Chapter Ten.

CLASS XII: NOVEMBER 16 SANDERS/HATCH/PATTERA

TOPIC: Abuse, Sanctions, and Oversight Mechanisms. Excess compensation; intermediate sanctions; congressional overview of exempt organizations; legislative prospects; hospitals, colleges and universities; accommodation parties; tax shelters; board governance; credit counseling and down-payment assistance organizations.

ASSIGNMENT: (1) IRC §§ 4958, 4961, 4965, 6033(g), 6011(g), 6652(c)(3).

(2) Treas. Reg.: Regulations thereunder.

(3) “Governance Checksheet” to be used by IRS agents conducting audits of §501(c)(3) public charities.

(4) Intermediate Sanctions IRC 4958 (David L. Fish) [skim].

(5) Reading Supplement, Implications of Sarbannes-Oxley on the Non-Profit Sector [skim].

(6) Reading Supplement Compendium VI: Senate Finance Committee Investigation of American University [skim].

CLASS XIII: NOVEMBER 30 (LAST CLASS) SANDERS

TOPIC: Non-Charitable Exempt Organizations (cont’d) and Review for Exam. Social clubs; business leagues and professional organizations; condominium homeowners’ associations; voluntary employees’ beneficiary associations; and grass roots lobbying. Course review and recapitulation.

ASSIGNMENT: (1) IRC: §§ 501(c)(6)-(20), 162(e).

(2) Treas. Regs.: Regulations thereunder [skim].


(4) MIB, Inc. v. Commissioner, 734 F.2d 71 (1st Cir. 1984).

(5) Optional: Sanders, Chapter Fifteen.