Introduction

You should take the time to carefully read this syllabus and the Student Handbook before you begin the Lesson Assignments.

This syllabus contains the assignments and related materials for the above referenced course.

The required text for this course is *Tax Fraud and Evasion (Volume 1)*. This volume covers offenses, trials, and civil penalties. A companion *Volume 2* covering money laundering, asset forfeiture, and sentencing is available from the publisher but is beyond the scope of this course.

Cases have been divided in cases you are to brief, read, or skim. (“Skim” in this context means reading the Lexis® Case Summary and Headnotes.)

In addition to meeting the accreditation standards of the Distance Education and Training Council, this course has been designed to comply with the *Statement on Standards for Continuing Professional Education (CPE) Programs* issued jointly by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy. Consistent with the AICPA *Statement on Standards for Continuing Professional Education Programs*, the University recommends fifteen credits (hours) be awarded for each semester unit completed. CPE credits are earned at the time a course is completed. With respect to continuing education for enrolled agents, courses within the Program also meet the standards of Treasury Department Circular 230. A copy of the final grade report is generally acceptable evidence of completion. If requested by an accountancy board or the Internal Revenue Service, an official transcript will be provided at no cost.

The State Bar of California has approved the University as a provider of continuing legal education under Section 9 of the *Minimum Continuing Legal Education Rules and Regulations*. California attorneys should refer to information available from the State Bar of California for requirements and limitations under the law.

Taxation in general, and corporate tax in particular, can come as a shock to students because the subject matter is more difficult and the coverage more intensive than in many graduate business or law school courses. This is one of the major reasons occupational experience is required for admission to the *LLM Program*.

In order for students to achieve the expected student learning outcomes, they must have a fundamental understanding of balance sheets and income statements.
Expected Student Learning Outcomes

After completion of this course you should be able to explain and/or demonstrate the following:

- The criminal penalty provisions potentially applicable to taxpayers, their representatives, and witnesses.
- When the IRS is likely to assert the applicability of such penalties.
- The proper course of action to recommend to a client who could be subject to such a penalty.
- Relevant IRS procedure, court procedure, grand jury procedure and privileges needed to competently represent a client who may be subject to criminal penalty provisions or to competently represent a witness or other party involved in the criminal penalty process.
- The civil penalty provisions potentially applicable to taxpayers, their representatives, and witnesses; and understand when the IRS is likely to assert the applicability of such penalties.
- The proper course of action to recommend to a client who could be subject to such a penalty.
- Relevant IRS procedure, court procedure and privileges needed to competently represent a client who may be subject to civil penalty provisions or to competently represent a witness or other party involved in the civil penalty process.

Required Materials

*Tax Fraud and Evasion - Volume 1* (Comisky, Feld and Harris)
ISBN 9780791345450

*Volume 2 of this publication is optional reading and is not required to complete the Lesson Assignments.*

Students ordering through the publisher (Warren, Gorham & Lamont) should carefully follow the instructions on the text order form provided by the University. Delivery to the West Coast normally takes approximately three weeks. For an additional shipping charge, students may request the book be shipped United Parcel, Second Day Delivery.

Also required in this and other courses is:
*Legal Research, Writing & Analysis (11th Edition)* by Peter Jan Honigsberg.
(ISBN: 9780314276186)

Students must also have access to the Internal Revenue Code and related Regulations. (The complete Code and Regulations are available through Lexis®. For students preferring a printed copy, Warren, Gorham & Lamont offers a paperback version.)
Academic Engagement

Each academic course at Taft Law School is assigned a semester unit value equivalent to the commonly accepted and traditionally defined units of academic measurement in accredited institutions. Credit bearing courses are measured by the learning outcomes normally achieved through 45 hours of student work for one semester unit. For example, a course with a value of 3 semester units would require a typical student to commit 135 hours of academic engagement and preparation to complete the course requirements.

Lesson Assignments

This course contains a number of lesson assignments. Work through the lessons one at a time. Unless otherwise instructed, you should complete all assignments for a particular lesson in one WORD document.

When you complete all of the assignments in a lesson, submit it to the faculty for grading and feedback. Submit only one lesson at a time, completing them in sequence. Continue on to the next lesson, but be sure to incorporate any feedback received on previous lessons into your subsequent assignments - if necessary. Completed and submitted Lesson Assignments will be graded with feedback within 10 days.

Final examination procedures are set forth in the Student Handbook.

Format

It is important you carefully review what form of writing is required of each writing assignment. Assignments in the Program may include writing a memorandum to the client’s file, a letter to a client, a “brief” of a case or correspondence to the Internal Revenue Service. Your grade will be negatively affected if you don’t follow the specific instructions (i.e., if you are requested to write a letter to a client but you instead write a memo to the file.)

Memorandums to the file should follow the format used in the Tax Research Techniques course and include appropriate citations. Client letters should be formatted consistent with normal business communications. Letters should be written in such a manner a reasonable business person (i.e., a non-accountant or non-attorney) could understand the communication.

Case briefs should be in a style similar to the technique set forth in the text Legal Research, Writing & Analysis.

Memorandums to the file and communications with the Internal Revenue Service should generally contain a greater number and more specific citations than letters to clients.

You must cite your references so that readers can verify your conclusions, and easily determine what is your work, and what is paraphrased or taken directly from other sources. Failure to give credit for the work of others in your assignments and writing projects constitutes plagiarism.

Citation Machine: http://citationmachine.net/index2.php?start=&reqstyleid=2&newstyle=2&stylebox=2

Citation Machine is an online tool to assist in proper citation of researched information.
Taft Law School
Tax Fraud and Evasion
(TAX 711)

**Academic Integrity**
It is the policy of the University that any student found guilty of cheating and/or plagiarism will be subject to immediate dismissal from the University. All students are required to sign a Coursework Certification Form for each course. This form is provided as a link in the last lesson of each course.

**Evaluation**
Faculty Advisors will refer to the following grading rubric when evaluating your assignments:

<table>
<thead>
<tr>
<th>Understanding of Material and Lesson Objectives</th>
<th>Excellent</th>
<th>Above Average</th>
<th>Satisfactory</th>
<th>Needs Improvement</th>
<th>Unsatisfactory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demonstrates a thorough understanding of the material.</td>
<td>Demonstrates an adequate understanding of material</td>
<td>Responses are generally accurate, but at times lacking coherence.</td>
<td>Demonstrates a marginal understanding of the material and lesson objectives.</td>
<td>Provides marginally complete and/or inaccurate responses showing little understanding of the material</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Articulation, Synthesis and Analysis of Concepts</th>
<th>Excellent</th>
<th>Above Average</th>
<th>Satisfactory</th>
<th>Needs Improvement</th>
<th>Unsatisfactory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Work is articulated consistent with the degree level integrating or synthesizing concepts in an original and innovative way.</td>
<td>Work demonstrates a solid knowledge of concepts and theories with some individual analysis of issues.</td>
<td>Work demonstrates an elementary knowledge of concepts but lacks original thought and analysis.</td>
<td>Work is primarily paraphrased or quoted directly from the text or other sources. Responses demonstrate little or no individual analysis.</td>
<td>No individual analysis of concepts. Work is poorly articulated and/or derived entirely from the textbook.</td>
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</table>

<table>
<thead>
<tr>
<th>Composition, Presentation, and References</th>
<th>Excellent</th>
<th>Above Average</th>
<th>Satisfactory</th>
<th>Needs Improvement</th>
<th>Unsatisfactory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Work presented in a logical and coherent way supported by sound resources. Citations are composed in proper format with few or no errors.</td>
<td>Work presented is grammatically sound. Resources are appropriate and cited in proper format with few errors.</td>
<td>Work is grammatically sound with a few minor errors. Resources may be of questionable authority, but are cited in proper format with few errors.</td>
<td>Work contains frequent grammatical errors. Resources are few, non-existent, or may be of questionable authority.</td>
<td>Frequent errors in composition, grammar and presentation. Quoted material is incorporated without the use of quotation marks or citation (plagiarism).</td>
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</tr>
</tbody>
</table>

If at any time you desire additional feedback, you should contact your faculty advisor directly via email. Feel free to ask questions about course progress, grades, etc., at any time, and remember that the faculty and administration are interested in helping you learn and succeed.

Your grade will be influenced by the accuracy of your research and the quality of your writing. The extent of research necessary will vary from assignment to assignment. In most cases, your work product should not simply consist of quoting from the assigned text.

In addition to the rubric above, when grading your assignments the faculty will consider three general components:

1. A demonstrated understanding of the material and the learning objectives.
2. Your ability to articulate, synthesize and analyze the concepts and issues presented in the material.
3. Clear and logical composition supported by examples and appropriate references.

The Assignments are weighted as follows:

| Lesson Assignment # 1 | (History, Offenses under the IRC) | 6% |
| Lesson Assignment # 2 | (Related Title 18 Offenses) | 4% |
| Lesson Assignment # 3 | (Crim. Inves. & Case Processing) | 4% |
| Lesson Assignment # 4 | (Federal Grand Jury) | 4% |
| Lesson Assignment # 5 | (Pretrial Proceedings - Criminal) | 4% |
| Lesson Assignment # 6 | (Trial Problems) | 4% |
| Lesson Assignment # 7 | (Civil Fraud Penalties) | 6% |
| Lesson Assignment # 8 | (Litigating Civil Fraud Cases) | 6% |
| Lesson Assignment # 9 | (Basic Defense Strategies) | 2% |

| Writing Assignment # 1 | (Criminal Penalties) | 20% |
| Writing Assignment # 2 | (Civil Penalties) | 20% |
| Writing Assignment # 3 | (Charley Hustle Letter) | 20% |

<table>
<thead>
<tr>
<th>Letter</th>
<th>Grade GPA</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>A</td>
<td>4.00</td>
<td>90-100 (Outstanding)</td>
</tr>
<tr>
<td>A-</td>
<td>3.67</td>
<td>88-89</td>
</tr>
<tr>
<td>B+</td>
<td>3.33</td>
<td>84-87</td>
</tr>
<tr>
<td>B</td>
<td>3.00</td>
<td>80-83 (Satisfactory)</td>
</tr>
<tr>
<td>B-</td>
<td>2.67</td>
<td>78-79</td>
</tr>
<tr>
<td>C+</td>
<td>2.33</td>
<td>74-77</td>
</tr>
<tr>
<td>C</td>
<td>2.00</td>
<td>70-73 (Passing but below the standard accepted in graduate study)</td>
</tr>
<tr>
<td>C-</td>
<td>1.67</td>
<td>68-69</td>
</tr>
<tr>
<td>D+</td>
<td>1.33</td>
<td>64-67</td>
</tr>
<tr>
<td>D</td>
<td>1.00</td>
<td>60-63 (Does not meet standard for graduate study, coursework must be repeated for credit)</td>
</tr>
<tr>
<td>D-</td>
<td>0.67</td>
<td>59</td>
</tr>
<tr>
<td>F</td>
<td>&lt;0.67</td>
<td>58 or below (Failure)</td>
</tr>
</tbody>
</table>
Lesson Assignment # 1 History, Offenses Under the Internal Revenue Code

Text: Study Chapters 1 and 2 of the text.


Cases: Skim the following cases (“Skim” in this context means reading the Lexis® Case Summary and Headnotes):

- US v. Dyer, 922 F.2d 105 (2nd Cir. 1990)
- US v. Meek, 998 F.2d 776 (10th Cir. 1993)
- US v. Mapelli, 971 F.2d 284 (9th Cir. 1992)
- US v. Harris, 942 F.2d 1125 (7th Cir. 1991)
- US v. Dahstrom, 713 F.2d 1423 (9th Cir. 1985)
- US v. Jewell, 532 F.2d 697 (9th Cir. 1976)
- US v. Schulman, 817 F.2d 1355 (9th Cir. 1987)

Assignment

Following a style similar to the technique set forth in the text Legal Research, Writing & Analysis, prepare a brief of the following cases:

- Spies v. US, 317 US 492 (1943)
- US v. Helmsley, 941 F.2d 71 (2nd Cir. 1991)

(Note that all cases cited in the Program can be found in printed form in law and accounting libraries as well as electronically on Lexis®.)
Lesson Assignment # 2 Related Title 18 Offenses

**Text:** Study Chapter 3 of the text.

**Statutes:** Read the following code sections: *United States Code* 18 USC §§ 1001.

**Cases:** Skim the following cases ("Skim" in this context means reading the Lexis® Case Summary and Headnotes):

- Pinkerton v. US, 328 US 640 (1946)
- US v. Morris, 741 F.2d 188 (8th Cir. 1984)
- US v. Steele, 933 F.2d 1313 (6th Cir. 1991)
- US v. Schmoker, 564 F.2d 289 (9th Cir. 1977)
- US v. Gafyczk, 847 F.2d 685 (11th Cir. 1988)
- US v. Best, 219 F.3d 192 (2nd Cir. 2000)
- US v. Daughtry, 48 F.3d 829 (4th Cir. 1995)

**Assignment**

Following a style similar to the technique set forth in the text *Legal Research, Writing & Analysis*, prepare a brief of the following cases:


**Writing Assignment # 1 Criminal Penalties**

**Comprehensive Written Assignment**

In not less than 600 nor more than 2,000 words, explain the various criminal penalties available to the Internal Revenue Service. Your paper should indicate under what circumstances the IRS believes the penalties should be applied and give examples of how the courts have interpreted the penalties.
Lesson Assignment # 3 Criminal Investigations and Case Processing

Text: Study Chapter 4 of the text.


Regulations: Read the following regulation sections: Treasury Regulations for Internal Revenue Code §7601 through §7610, §7612, and §7613

Cases: Skim the following cases (“Skim” in this context means reading the Lexis® Case Summary and Headnotes):

US v. Powell, 379 US 48 (1964)
US v. Vetco, 644 F.2d 1324 (9th Cir. 1981)
US v. Asay, 614 F.2d 655 (9th Cir. 1980)
US v. Bell, 448 F.2d 40 (9th Cir. 1971)
US v. Kao, 1994-2 USTC ¶ 50,298
US v. Abrahams, 905 F.2d 1276 (9th Cir. 1990)
Gandy v. US, 234 F.3d 281 (5th Cir. 2001)
Dover Corp. v. Comm, 148 F.3d 70 (2nd Cir. 1998)

Assignment:
Following a style similar to the technique set forth in the text Legal Research, Writing & Analysis, prepare a brief of the following cases:

Lesson Assignment # 4 The Federal Grand Jury

Text: Study Chapter 5 of the text.


Cases: Skim the following cases (“Skim” in this context means reading the Lexis® Case Summary and Headnotes):

US v. Frederick, 182 F.3d 496 (7th Cir. 1999)
US v. Montoya, 45 F.3d 1286 (9th Cir. 1995)
US v. Blanche, 149 F.3d 763 (8th Cir. 1998)
Church of Scientology v. US, 506 US 9 (1992)
In re Grand Jury Proceedings, 142 F.3d 1416 (11th Cir. 1998)
US v. Steele, 241 F.3d 302 (3rd Cir. 2001)
US v. Davis, 183 F.3d 231 (3rd Cir. 1999)
US v. Hooper, 177 F.3d 824 (9th Cir. 1999)
US v. Willard, 230 F.3d 1093 (9th Cir. 2000)
US v. Williams, 809 F.2d 1072 (5th Cir. 1987)
In re Grand Jury Subpoena, 831 F.2d 225 (11th Cir. 1987)

Assignment:
Following a style similar to the technique set forth in the text Legal Research, Writing & Analysis, prepare a brief of the following cases:

US v. Dynavac, Inc., 6 F.3d 1407 (9th Cir. 1993)
Lesson Assignment # 5 Pretrial Proceedings in Criminal Cases

Text: Study Chapter 6 of the text.

Statutes: Read the following code sections: Internal Revenue Code § 6531. Scan the Federal Rules of Criminal Procedure.

Cases: Skim the following cases (“Skim” in this context means reading the Lexis® Case Summary and Headnotes):

- US v. Stoner, 98 F.3d 527 (10th Cir. 1996)
- US v. Lutz, 154 F.3d 581 (6th Cir. 1998)
- US v. Catino, 735 F.2d 718 (2nd Cir. 1984)
- US v. Zvi, 168 F.3d 49 (2nd Cir. 1999), aff’d after remand, 242 F.3d 89 (2nd Cir. 2001)
- US v. Podde, 105 F.3d 813 (2nd Cir. 1997)
- US v. Thompson, 23 F.3d (7th Cir. 1994)

Assignment:

Following a style similar to the technique set forth in the text Legal Research, Writing & Analysis, prepare a brief of the following cases:

- US v. Carlson, 235 F.3d 466 (9th Cir. 2000)
- US v. Bencs, 28 F.3d 555 (6th Cir. 1994)

Lesson # 6 Trial Problems

Text: Study Chapter 7 of the text

Cases: Skim the following cases (“Skim” in this context means reading the Lexis® Case Summary and Headnotes):

- US v. Conaway, 11 F.3d 40 (5th Cir. 1993)
- US v. Eaken, 17 F.3d 203 (7th Cir. 1994)
- US v. Kallin, 50 F.3d 689 (9th Cir. 1995)

Assignment:

Following a style similar to the technique set forth in the text Legal Research, Writing & Analysis, prepare a brief of the following cases:

- US v. Benson, 67 F.3d 641 (7th Cir. 1995)
- Manko v. US, 87 F.3d 50 (2nd Cir. 1996)
Lesson # 7 Civil Fraud Penalties

Text: Study Chapter 8 of the text

Statutes: Read the following code sections: *Internal Revenue Code* § 6663.

Regulations: Read the following regulation sections: Treasury Regulations for *Internal Revenue Code* § 6663.

Cases: Skim the following cases ("Skim" in this context means reading the Lexis® Case Summary and Headnotes):

- Taylor v. Comm, TC Memo 1997-513
- Wynn v. Comm, TC Memo 1995-609
- Spencer v. Comm, TC Memo 1994-531
- Tabbi v. Comm, TC Memo 1995-463
- Orchinikov v. Comm, TC Memo 1994-3338
- Pennybaker v. Comm, TC Memo 1994-303
- Roth v. Comm, TC Memo 1998-28
- Justi v. Comm, TC Memo 1997-459
- Watts v. Comm, TC Memo 1995-196
- King v. Comm, TC Memo 2000-124
- Drummond v. Comm, TC Memo 1999-70
- Gleave v. Comm, TC Memo 1997-276
- Rao v. Comm, TC Memo 1996-500
- Estate of Feinsmith v. Comm, TC Memo 2001-194
- Delvecchio v. Comm, TC Memo 2001-130
- Wynn v. Comm, TC Memo 1996-415
- Daniel v. Comm, TC Memo 1997-328
- Wright v. Comm, TC Memo 2000-336

Assignment:

Following a style similar to the technique set forth in the text *Legal Research, Writing & Analysis*, prepare a brief of the following cases:

- Ishijima v. Comm, TC Memo 1994-353
- Alexander Shokai, Inc. v. Comm, 34 F.3d 1480 (9th Cir. 1994)
- Association Cable TV, Inc. v. Comm, TC Memo 1995-596
Writing Assignment # 2 Civil Penalties

In not less than 600 nor more than 2,000 words, explain the various civil penalties available to the Internal Revenue Service. You paper should indicate under what circumstances the IRS believes the penalties should be applied and give examples of how the courts have interpreted the penalties.

Lesson # 8 Litigating the Taxpayer Civil Fraud Cases

Text: Study Chapter 9 of the text

Statutes: Read the following code sections: Internal Revenue Code § 6213(b)(3), §6513(b)(4), §7453. United States Code 28 USC §§ 1346, §§ 1402(a)(1) and (2).

Rules: Read the following rules: United States Tax Court Rules of Procedure; Federal Rules of Evidence

Cases: Skim the following cases (“Skim” in this context means reading the Lexis® Case Summary and Headnotes):

- Klein v. Comm, 45 TC 308 (1965)
- Estate of Quick v. Comm, 60 TC 520 (1973)
- Pallante v. Comm, TC Memo 1989-334
- Dvorak v. Comm, 64 TC 846 (1975)
- Industrial Elec. Sales & Serv., Inc. v. Comm, 65 TC 844 (1976)
- Foster v. Comm, 80 TC 34 (1983), aff’d 756 F.2d 1430 (9th Cir. 1985)
- Anastasato v. Comm, 794 F.2d 884 (3rd Cir. 1986)
- Davenport v. Comm, 48 TC 921 (1967)
- Cruz v. Comm, TC Memo 1990-594
- Kastigar v. US, 406 US 441 (1972)
- Petzoldt v. Comm, 92 TC 661 (1989)
- Arcia v Comm, 1998-178
- Ryan v. Comm, TC Memo 1998-62
- Sherrer v. Comm, TC memo 1999-122
- Yoon v. Comm, 135 F.3d 1007 (5th Cir. 1998)
- Edelson v. Comm, 829 F.2d 831 (9th Cir. 1987)
- Madigan v. Comm, TC Memo 1997-383

Assignment:

Following a style similar to the technique set forth in Legal Research, Writing & Analysis, prepare a brief of the following cases:

- Wichita Terminal Elevator Co. v. Comm, 6 TC 1158 (1946), aff’d 162 F.2d 513 (10th Cir. 1947)
Lesson # 9 Basic Defense Strategies and Techniques

Text: Study Chapter 10 of the text

Assignment:

Explain in a few sentences whether it is usually advisable to allow a client potentially subject to a fraud charge to voluntarily submit to an IRS interview.

Writing Assignment # 3 Charley Hustle Letter

Your client, Charley Hustle, a well known former professional athlete, seeks your advice on his current tax situation.

For the past four years, Charley has earned an average of $75,000 per year from signing autographs at card shows. He always requested payments be made in cash and has not reported any of this income on his tax returns. His gross income reported on his tax returns for each of the four years averaged $800,000.

He recently read in newspapers the IRS has begun an investigation of "under the table" payments at card shows. However, he has not been notified by the Internal Revenue Service his returns are being audited.

Charley is fearful he may be discovered and sent to prison. He has heard that if he voluntarily amends his returns to reflect the unreported income he can avoid a fraud prosecution.

In a confidential letter to Charley's attorney, Roy Cohen, explain how the IRS and Justice Department would likely regard voluntary disclosure in Charley's situation and make recommendations on how he should proceed. You are to submit the letter to Mr. Cohen along with your work papers supporting your conclusions.