

# LAW 689 – Tax Law Practicum Fall 2021

## Instructor Information

Instructor: Professor Jeffrey A. Maine  
Email: jeffrey.maine@maine.edu  
Phone: (207) 780-4366 (office)  
Office: Room 215  
Office Hours: After class and by appointment

## Course Information

Meetings: Tuesday, 10:10 a.m. – 12:10 p.m.  
Location: Room 118  
Credit Hours: Two (2)

## Course Materials

As a “practicum,” this course does not adopt a traditional textbook. You will be required to access the reading assignments for each class, which are posted on Brightspace (discussed below). These include citations to the Code, regulations, rulings, forms, and some other materials. I may also add a few items to the reading from time to time, and will announce those as we proceed.

For a widely-used and frequently-updated online version of the Code and regulations, I recommend you check out the following:

- Internal Revenue Code: Cornell Law School Legal Information Institute [LII]: <http://www.law.cornell.edu/uscode/text/26>.
- Treasury Regulations: Cornell Law School Legal Information Institute [LII]: <http://www.law.cornell.edu/cfr/text/26/chapter-I>.

The Internal Revenue Service provides through its website a wealth of tax research materials. Its website is the official government site for downloadable and printable IRS forms and publications. Its website also contains the IRS FOIA Library, which contains links to the Internal Revenue Bulletin (and thus Revenue Rulings), proposed and final regulations, IRS Notices, the Internal Revenue Manual, and many other items. Check out the following:

- Forms, Instructions & Publications: <https://www.irs.gov/forms-instructions>.
- IRS FOIA Library: <https://www.irs.gov/privacy-disclosure/foia-library>.
- IRS Written Determinations: <https://apps.irs.gov/app/picklist/list/writtenDeterminations.html>.

Tax Notes offers through its website many free resources, including the Code, regulations, Circular 230, IRS guidance, court documents, legislative documents, and the Internal Revenue Manual. The website also offers a curated selection of news, analysis, and special reports. Check out the following:

- Tax Notes: <https://www.taxnotes.com/free-resources>.

Some law schools offer through their websites valuable tax research tips, as well as primary and secondary sources, government sources, and other materials. Here are a few sites you might want to check out:

- NYU Law Library: Federal Tax Research: Databases: <http://nyulaw.libguides.com/c.php?g=773839&p=5551791>. (This site is a guide that provides information on federal tax law and identifies pertinent print and online resources available through the NYU Law Library.)
- Georgetown Law Library Research Guides: Federal Tax Research: [http://www.law.georgetown.edu/library/research/guides/federal\\_tax.cfm](http://www.law.georgetown.edu/library/research/guides/federal_tax.cfm). (This site offers a bibliographic approach to federal tax research, and explains how and where to find tax documentation.)
- Harvard Law School Library, Tax Law: <https://guides.library.harvard.edu/tax>. (This site provides a research overview, primary and secondary sources, practice material and study aids, government resources, and other materials.)

## **Course Management System**

We will use Brightspace for the course. I will on Brightspace post this syllabus (including any revisions), other documents, assignments, announcements, audio or video mini-lectures, web links, and other important information. I recommend that you take some time before the semester begins to become familiar with how the platform works generally and how our course site is set up. Please be sure that you check the site frequently and/or set up your notifications to receive alerts about updates to the site and particularly new Announcements.

## **Course Description**

This course is designed for students who intend to practice tax law, whether in tax planning or in tax controversy work. The course will develop the student's proficiency in conducting tax research, and will cover major aspects of federal tax practice and procedure that are of importance to tax counsel (i.e., from properly characterizing a transaction on a tax return to defending the transaction in an IRS audit and court). Topics include: Advising tax return positions and preparing returns; IRS audits; administrative resolution of tax disputes; tax litigation and settlement of tax cases; civil tax penalties and interest on underpayments and overpayments; administrative and judicial collection procedures; and special ethical issues in tax practice. Students will develop important practical lawyering skills by engaging in several research and drafting exercises, such as a tax opinion letter, a private letter ruling request, an IRS administrative appeals protest letter, a Tax Court petition, and an Offer-in-Compromise.

## **Course Objectives and Learning Goals**

This course will develop the student's proficiency in the use of various resources available for tax-related research. This course will cover major aspects of tax practice and procedure and include an in-depth analysis of the tax litigation process (e.g., examination of returns; deficiency and jeopardy assessments; waivers; refund claims; statutes of limitations; pretrial, trial, and appellate processes; tax collection; civil penalties; ethics of tax practice and the rights and privileges of the taxpayer). As a "practicum," this course will involve the supervised practical application of concepts learned in Taxation I. Students will develop necessary practical lawyering skills by engaging in original research and drafting several written products routinely

produced by tax lawyers. After completion of this course, students should be much better able to:

1. Identify and explain the sources and location of tax law and supporting interpretative authority, and conduct efficient tax research utilizing both paper and electronic sources;
2. Know the legal and ethical duties and responsibilities of tax professionals and the scheme of regulation of tax practitioners;
3. Identify the procedures, options, and responsibilities for advising clients in tax matters (from taking a tax return position to defending that position in court);
4. Identify and analyze the procedural issues involved in a tax controversy in order to represent a client in a civil federal tax dispute from its inception through the administrative process culminating in tax litigation (e.g., how to handle practical issues involving IRS examination of your clients' tax returns; how to represent taxpayers during the administrative appeals process within the IRS; how to utilize to the benefit of taxpayers the statutory limitations on the period within which the IRS may make deficiency assessments of tax; and how to deal with practical issues involving the IRS's attempts to collect assessed taxes);
5. Draft various written products routinely produced by tax lawyers;
6. Prepare and present persuasive, focused and compelling oral and written communication of your issues and tax research results, regardless of whether your audience is the government or a taxpayer; and
7. Practice the six fundamental lawyering skills tested on the Bar Exam by the MPT and Essay sections, including: Problem Solving, Legal Analysis and Reasoning, Factual Analysis, Communication, Organization and Management of Legal Risk, and Recognizing and Resolving Ethical Dilemmas.

## **Grading/Evaluation**

Your grade will be based on the following research and drafting projects:

Tax Research Assignment	5%
Legal Opinion Letter	20%
Private Letter Ruling Request	20%
Appeals Protest Letter	20%
Tax Court Petition	15%
Offer in Compromise	20%

You must turn in your work product on or before the “due dates” noted below. As a professional, neither your clients nor the government will accept late submissions. If you have an unforeseen emergency involving a serious illness, an accident, or some other comparable event, please contact me as soon as possible. In my sole discretion, I may extend your due date to provide you with enough time to address the emergency. Unexcused late submissions will be penalized.

Unless otherwise instructed, all submissions of required work must be done through the Brightspace course site. As noted above, you need to be familiar with the Brightspace platform. It is fairly easy to navigate. If you encounter any difficulties with the site during the semester,

contact Kerry Wyler at [kerry.wyler@maine.edu](mailto:kerry.wyler@maine.edu). If you need to converse with me on a personal matter, you may contact me at my Maine Law email address ([jeffrey.maine@maine.edu](mailto:jeffrey.maine@maine.edu)). Please use your Maine Law email account when emailing.

You are expected to carefully proofread your submissions before sending them to me; multiple typographic errors are not acceptable to clients, the government, or decision makers, and you will be penalized by them—and in the course. So, please take pride and care in the quality of your work product.

Note that the substantive tax law on which the drafting assignments are based will be varied, but will generally relate to individual income tax.

## **Communications**

One of the highest priorities for me is to be available to students, so do not hesitate to contact me for additional help. I will do my best to be available to meet with students right after each class. In addition, I usually have availability each week to meet with students individually or with a study group. We can conduct these meetings live or via Zoom at your preference. You are also encouraged to make use of email for questions. I find the email method very effective at weeding out questions that you can solve yourself with some thought. By forcing yourself to write out your questions, you also develop an ability to articulate technical tax issues.

## **COURSE POLICIES**

### **Academic Integrity Policy**

Each student should know the standards of conduct and expectations of academic integrity. Violations of academic integrity include any actions that attempt to promote or enhance the academic standing of any student by dishonest means. Cheating on an examination, plagiarism, making statements known to be false or misleading, falsifying the results of one's research, improperly using library materials or computer files, or altering or forging academic records are examples of violations of this policy. Acts that violate academic integrity disrupt the educational process and are not acceptable.

Evidence of a violation of the academic integrity policy will normally result in disciplinary action, including referral to the UMS Student Conduct Code process. A copy of the complete Academic Integrity Policy is available on the University of Maine System website or the MyLaw Portal.

### **Class Attendance**

The ABA Rules for accrediting law schools requires that the Law School take steps to ensure that students attend classes regularly if they are to receive credit for a course. In my practicum course, I require that students miss no more than 2 weeks of a 13-week semester. Thus, for this class, students may miss no more than 2 classes without consequence. I consider “attendance” to encompass “adequate preparation” as well as physical presence. Thus, a failure to prepare adequately can constitute an absence.

Absence (or its equivalent—a failure to prepare) for more than 2 weeks of classes may result in a lower final grade (including the grade of “F” in egregious instances) or administrative

withdrawal from the course in my sole discretion, depending on my evaluation of the equities of the situation that caused the excessive absences or lack of preparation.

## **Class Preparation**

Class preparation is extremely important. The American Bar Association standards require that students spend a very significant amount of time in out-of-class academic activities, per credit that is awarded. Maine Law has adopted a policy, consistent with the ABA's policy, that students are required to complete approximately 30 hours 20 minutes of out-of-class work per credit per semester. Therefore you should spend approximately 2 hours 20 minutes on academic work out of class per credit per week. For this 2-credit class in which some of the instruction will be provided in modes other than a live class, this means that you spend about at least 5 hours per week outside of our full-class sessions completing reading and drafting assignments and other activities related to the course.

## **Classroom Etiquette**

I encourage you to ask questions during class. Your questions are helpful to the learning process for all. However, I may defer answers to questions until after class or to the next class in the interests of time or for other reasons. Learning is a collaborative process. To increase the prospect that all of you will learn in a comfortable environment, I expect you to be in class on time, treat each other with respect, and avoid distractions from the subject matter at hand.

## **Laptop/Technology Policy**

To minimize distractions from the subject matters at hand in class (a) all cell phones and similar electronic devices must be turned off, and (b) minimize your use of a laptop during class. Laptops interfere with face-to-face connectivity, and a growing number of studies demonstrate that taking handwritten notes increases how much your brain processes information and thus increases how much you are likely to remember later. So bring those legal pads (they are called that for a reason). When using a laptop in class, you may not use it for email, chatting, internet searching or any non-class discussion uses; it is not only disrespectful and unprofessional, but also is distracting to your fellow classmates. Anyone found doing so will be penalized.

## **Zoom Etiquette (for classes, if any, held online)**

If any classes will be taught online, I will strive to use the Zoom platform to create a constructive learning environment and collaborative classroom culture. I know that a 2-hour Zoom class is demanding. Therefore, we will have a short break each class at about the hour mark.

- Please log into Zoom prior to the scheduled class meeting time, and make sure your headsets, camera, and microphones are working properly.
- Make sure your background is appropriate for sharing video, along with how your image is displayed to the rest of the class.
- To maximize human connectedness and the learning experience for both you and your classmates, please use and keep on your video during class, not just a blank square (if you have connectivity issues or other concerns, notify me before class). This will better replicate a live residential classroom experience.
- To minimize distractions, a) please do not use your cell phone or similar electronic device unless you need it to call into a Zoom session due to Wi-Fi connectivity problems, AND b) please do not use your laptop during class for applications other than our class discussions and work (for example, no checking email or news in another window).

- Please feel free to ask questions during class, which can be helpful to the learning process for all.
- Please avoid text chats or “side conversations” that will distract students from the ongoing conversation.

### **Inclement Weather Policy**

For information on campus closings, please call the storm line at 207-780-4800 or sign up for USM text alerts. If the University of Southern Maine closes the campus or cancels classes, this always applies to the Law School. In rare circumstances, the Law School closes before USM. In this situation, an email about closings will be sent to students through the email listserv.

If the Law Building is (1) closed for the day, (2) open late and our class is scheduled to start before the law school opening, or (3) closed early and our class is scheduled to end after the building closes, then classes may be held remotely. If this is the case, students will be notified and sent a ZOOM link. If you are unable to attend class due to the inclement weather, you should notify me.

If class is canceled, I will let you know about scheduling a make-up.

### **Class Recording Policy**

As a general rule, the recording of all classes is prohibited without permission. If a student will be absent from class and wishes to record a missed class session, the student must first contact the course professor for permission. If permission is granted, the student must arrange for a classmate to facilitate the recording. All class recordings are for personal use only and may not be uploaded to the internet or otherwise shared, transmitted, or published without the prior consent of the professor. If a professor denies a request to record a class, then a student must find an alternative method for making up the missed material.

Students should note that the Law School does not provide recording services for occasional absences. Suggested mobile apps and a listing of devices available to students for self-directed audio recording can be found in the MyLaw Portal. Recording classes without permission will be viewed as a violation of the Student Conduct Code.

Students who are requesting the recording of classes pursuant to the Americans with Disabilities Act or in the case of exceptional circumstances, such as hospitalization, must contact the Associate Dean for Student Services.

## **MAINE LAW POLICIES AND RESOURCES**

### **Disability Accommodations**

The Law School is committed to providing students with disabilities equal access to all programs and services. If you think you have a disability and would like to request accommodations, please contact the Disability Services Center (DSC). Timely notification is essential. The Disability Services Center can be reached by calling 207-780-4706 or by email [dsc-usm@maine.edu](mailto:dsc-usm@maine.edu). If you have already received an accommodation letter from the Disability Services Center and would like to discuss your accommodations for this course, please contact

Associate Dean Sherry Abbott Niang who serves as the liaison to the DSC. If you would like to discuss your accommodations with me, you can email me directly.

### **Wellness Resources for Maine Law Students**

Maintaining your physical and mental health is essential to learning the law and succeeding in law school. Law school is a setting where mental health or substance use struggles can be exacerbated. If you ever find yourself struggling, do not hesitate to ask for help. Maine Law is committed to promoting wellness for all students. I encourage all of you to review the Health & Wellness Resources listed on the MyLaw Portal. The resources include confidential counseling through USM Counseling Services (207-780-4050) and the Maine Assistance Program for Lawyers and Law Students (207-266-5951). You can also contact the Maine Law Office of Student Affairs. Please let me know if you have any questions.

If you are facing illness, injury, the birth of a child, death in the family, or other extraordinary circumstances that may impact your participation in this course, you should contact me in advance of missing classes or any assignment deadlines. Stressful situations like these may lead to diminished academic performance or may reduce your ability to participate in daily classroom activities. Law School services are available to assist students with handling these stressful events. In an emergency situation and in cases of unforeseen circumstances, you should contact the Associate Dean **for Student Affairs** as soon as possible. *For examination conflicts or emergency situations during the examination period, please see the Registrar.*

### **Statement on Religious Observance for Maine Law Students**

Maine Law respects the religious beliefs of all members of the community, affirms their rights to observe significant religious holy days, and will make reasonable accommodations, upon request, for such observances. If your religious observance is in conflict with the academic experience, you should inform me of the class or other functions that will be affected. It is your responsibility to make the necessary arrangements and follow our agreed upon accommodation.

### **Title IX Statement**

The University of Maine School of Law is committed to making our campuses safer places for students. Because of this commitment, and our federal obligations, faculty and other employees are considered mandated reporters when it comes to experiences of interpersonal violence (sexual assault, sexual harassment, dating or domestic violence, and stalking). Disclosures of interpersonal violence must be passed along to members of the University of Maine System's Title IX team who can help provide support and academic remedies for students who have been impacted. More information can be found online at <https://mainelaw.maine.edu/student-life/title-ix/>. You may contact USM's Deputy Title IX Coordinator, Sarah E. Holmes at [usm.TitleIX@maine.edu](mailto:usm.TitleIX@maine.edu) or 207-780-5767 or the UMS Title IX Coordinator, Liz Lavoie at [titleix@maine.edu](mailto:titleix@maine.edu) or 207-581-5866. You can also reach out to Maine Law's Office of Student Affairs for support and referrals.

If students want to speak with someone confidentially, the following resources are available on and off campus: University Counseling Services (207-780-4050); 24 Hour Sexual Assault Hotline (1-800-871-7741); 24 Hour Domestic Violence Hotline (1-866-834-4357).

## COURSE SCHEDULE

The reading assignments and class discussion questions for each week will be posted on Brightspace.

1. Aug. 31                    Topic 1: Sources of Tax Law
2. Sept. 7                    Topic 2: Tax Research  
**Due: Tax Research Assignment**
3. Sept. 14                    Topic 3: Tax Practice and Regulation; Written Advice and Due Diligence Standards
4. Sept. 21                    Topic 4: Ethical Professional Identity in Tax  
**Due: Legal Opinion Letter**
5. Sept. 28                    Topic 5: Private Letter Ruling Requests
6. Oct. 5                      Topic 6: Tax Returns and the Examination Process  
**Due: Private Letter Ruling Request**
7. Oct. 12                    Topic 7: Settlement of Tax Disputes
8. Oct. 19                    Topic 8: Restrictions on Assessment of Tax  
**Due: Appeals Protest Letter**
9. Oct. 26                    Topic 9: Overview of Tax Litigation
10. Nov. 2                    Topic 10: IRS Collection Procedures  
**Due: Tax Court Petition and Designation of Place of Trial**
11. Nov. 9                    Topic 11: Offers in Compromise
12. Nov. 16                    Topic 12: Civil Tax Penalties [May be conducted asynchronously]
13. Nov. 23                    Topic 13: Interest on Deficiencies and Overpayments [May be conducted asynchronously]  
**Due: Offer-in-Compromise/Internal Office Memorandum**