

**THE LAW OF
NONPROFIT ORGANIZATIONS**
Stanford Law School
Robert A. Wexler
Winter Quarter 2012 - 2013
Tuesdays 4:15 - 7:15

INTRODUCTION

This course provides an overview of the rules governing the formation and operation of nonprofit organizations. The law in this area has two primary sources: state law on charitable trusts and nonprofit corporations; and federal tax law. These bodies of law, however, are sufficiently distinct from the rest of the tax code and from for-profit corporate law that there is no need to have taken either Income Tax or Corporations prior to taking this class.

Students with documented disabilities: Students who may need an academic accommodation based on the impact of a disability must initiate the request with the Student Disability Resource Center (SDRC) located within the Office of Accessible Education (OAE). SDRC staff will evaluate the request with required documentation, recommend reasonable accommodations, and prepare an *Accommodation Letter* for faculty dated in the current quarter in which the request is being made. Students should contact the SDRC as soon as possible since timely notice is needed to coordinate accommodations. The OAE is located at 563 Salvatierra Walk (phone: 723-1066, 723-1067 TTY).

HOW DOES THE COURSE WORK

Course Materials: All assigned materials will be posted on *coursework*. There is no textbook. In addition the materials posted, I will ask you in certain to weeks to take a look at various websites of organizations that we may use as examples.

Grades: Grades will be based on an open-book final exam (80%), and class participation (including attendance) (20%).

During Class: Before each class, do the reading and work through the problems. The problems form the basis for discussion during class.

Scope: During the nine weeks of the course, we are going to develop a solid understanding of the corporate and tax rules that govern nonprofit, tax-exempt organizations. The nine weeks are divided as follows:

1. Setting up a nonprofit corporation -- making choices and documenting them properly.
2. Operating a nonprofit corporation -- how do directors and officers do their jobs properly?
3. Tax exemption under 501(c) of the Internal Revenue Code -- what qualifies and how does an organization become tax-exempt?
4. Insider transactions -- private benefit, private inurement and self-dealing.
5. Lobbying and political activity -- what is allowed and what is prohibited?
6. Private foundations and public charities -- what is the difference and why do we care?
7. Charitable contributions and fundraising -- tax deductions for donors and fundraising rules.
8. Unrelated Business Income -- when (and why) are tax-exempt entities taxed on business income?
9. Social Enterprise -- the new breed of nonprofits (and publicly minded for-profits).

SYLLABUS

CLASS I. INTRODUCTION & FORMATION OF A NONPROFIT CORPORATION

Reading:

- Week 1 Case Study & Problems
- Forming a New Public Charity
- Articles of Incorporation
- Bylaws

CLASS II. BOARD OF DIRECTORS RIGHTS, DUTIES AND RESPONSIBILITIES

Reading:

- Week 2 Case Study & Problems
- What Every Nonprofit Director Needs to Know (Pages 1 - 17)
- Week 2 -- Selected Sections -- California Corporations Code

Class III TAX-EXEMPTION

Reading:

- Week 3 Case Study and Problems
- Week 3 IRC Sections and Regulations
- What Every Nonprofit Director Needs to Know (Pages 30 - 32)
- Planning for, Obtaining, and Maintaining Tax Exempt Status (Sections 3.1, 3.2, 3.3, & 3.5 -- 3.14)
- *Bob Jones University*

CLASS IV. INSIDERS TRANSACTIONS – PRIVATE BENEFIT, INUREMENT, AND INTERMEDIATE SANCTIONS

Reading:

- Week 4 Case Study & Problems
- Planning for, Obtaining, and Maintaining Tax Exempt Status (Sections 3.15 - 3.27)
- *American Campaign Academy*

CLASS V. LOBBYING & POLITICAL ACTIVITY

Reading:

- Week 5 Case Study & Problems
- Planning for, Obtaining, and Maintaining Tax Exempt Status (Sections 3.29, 3.30)
- 501(h) Lobbying Overview
- Lobbying Flowchart
- 501(h) Election Allows Charities to Become Aggressive Lobbyists
- Lobbying exceptions chart
- Election Year Issues

CLASS VI. PRIVATE FOUNDATIONS AND PUBLIC CHARITIES

Reading:

- Week 6 Case Study & Problems
- Dryburgh on Private foundations
- Wexler on Private Foundations
- Planning for, Obtaining, and Maintaining Tax Exempt Status (Sections 3.31 - 3.46)
- *Madden case*
- Week 6 -- Internal Revenue Code -- selected Sections

CLASS VII. CHARITABLE CONTRIBUTIONS AND FUNDRAISING

Reading:

- Week 7 Case Study & Problems
- Planning for, Obtaining, and Maintaining Tax Exempt Status (Sections 3.52, 3.55)
- IRS Publication 1771
- Dryburgh and Wexler on Fundraising (pages 3 -21)

CLASS VIII. UNRELATED BUSINESS INCOME

Reading:

- Week 8 Case Study & Problems
- Wexler on UBIT
- *Sierra Club Case*
- *NCAA Case*
- Week 8 -- Internal Revenue Code -- selected sections

CLASS IX. SOCIAL ENTERPRISE

Reading:

- Week 9 Case Study & Problems
- Wexler / Levitt Article 2012
- Wexler 2009 Article 2009