

TAX-EXEMPT ORGANIZATIONS
Professor Jill Manny
Summer 2019

REQUIRED MATERIALS

Purchase the casebook entitled "Cases and Materials on Nonprofit Organizations, Fifth Edition,"¹ by Fishman, Schwarz, and Mayer, along with the 2015 Edition of the Statutory Supplement. If you prefer to access statutes, regulations, and forms online it is not necessary to purchase the Statutory Supplement. Click on this link to access the Student Update Memo.

ASSIGNMENTS (for the first 7 classes)

Class 1 — Introduction

1. In the Casebook, read:

pp. 3 – 15, 25 – 39, and 271 – 299. Prepare a written outline of your answer to the Introductory Problem on p. 39 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code² § 501(a), (b), (c)(1) – (29). Focus on § 501(c)(3) – (7); Other sections may be skimmed.

§ 170(a), (b), (c)

§ 508(a), (b), (c)

Regs. § 1.501(a)-1

§ 1.501(c)(3)-1

§ 1.508-1(a)(1); -1(a)(2)(i); -1(a)(3)(i)

Form 1023, Application for Exemption Under Section 501(c)(3) of the Internal Revenue Code, p. 1012 (skim to determine what the IRS is interested in discovering). Compare to “streamlined” Form 1023-EZ, p. 1040.

¹ Be sure to purchase this title and **not** “Cases and Materials on Taxation of Nonprofit Organizations, Fourth Edition,” by the same authors.

² “Code” refers to the Internal Revenue Code. “Regulations” refers to the Treasury Regulations. The relevant Code and Regulations provisions generally can be found in the Statutory Supplement. Updates can be found in the Student Update Memo.

3. On the Web, briefly visit the following sites:

www.metmuseum.org

www.komen.org

www.fordfound.org

www.now.org

www.abanet.org

www.pga.org

Note the similarities and differences between the purposes and activities of the different organizations. If you were to group these organizations based on similarities, how might you group them? We will return to these web sites throughout the semester when we focus on (1) organizational purposes; (2) fundraising and corporate sponsorship activities; (3) compensation of officers and directors; (4) commercial activities; (5) lobbying and political activities.

4. Read the three articles posted on NYUClasses:

Robert B. Reich, *Is Harvard a Charity?*, L.A. Times, Oct. 2007, at A 13.

Pierre Omidyar, *How I Did It: EBay's Founder on Innovating the Business Model of Social Change*, HARV. BUS. REV., Sept. 1, 2011, <https://hbr.org/2011/09/ebays-founder-on-innovating-the-business-model-of-social-change>.

Gene Steuerle, *The Zuckerberg Charitable Pledge and Giving from One's Wealth*, THE GOVERNMENT WE DESERVE, Jan. 11, 2016, <http://blog.governmentwedeserve.org/2016/01/11/the-zuckerberg-charitable-pledge-and-giving-from-ones-wealth/>.

Class 2 — Tax-Exempt Status; Charitable Requirement; Disaster Relief

1. In the Casebook, read:

pp. 337 – 342 and 344 – 370. Prepare a written outline of your answers to the problems on p. 342 for your own reference during class discussion.

2. In the Statutory Supplement, review the Code and Regulations sections assigned for last week.
3. On NYUClasses read:

Massimo Calabresi, *IRS to Rubber-Stamp Tax-Exempt Status for Most Charities After Scandal*, available at <http://time.com/2979612/irs-scandal-tax-exempt-tea-party-political-groups-john-koskinen/> (2014).

Class 3 and Class 4 — Private Inurement, Private Benefit, and Excess Benefit Transactions

1. In the Casebook, read:

pp. 416 – 442, 226 – 233 (through Note 1). Prepare a written outline of your answers to Problems 1(a)-(e) and 2 on pp. 443 – 444 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code: §§ 4958, 4960.

Regulations: §§ 1.501(c)(3)-1(c)(2), -(1)(d)(3), -(1)(f); 53.4958-1 – 8.

3. Read the three items posted on NYUClasses:

Cornelia Dean, *Wealthy Stake \$25 Million in a War With the Sea*, N.Y. Times, July 8, 2007.

Pia Catton, *National Arts Club Cleans House*, Wall Street Journal, September 7, 2011.

Peter Olsen-Phillips and Megan O’Neil, *When Salaries are Bigger than Grants*, Chron. Philanthropy, July 24, 2018.

Class 5—Educational Organizations

1. In the Casebook, read:

pp. 371 – 386. Prepare a written outline of your answers to the Problems on pp. 386 – 387 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Regulations: §§ 1.501(c)(3)-1(d)(3).

3. On NYUClasses read:

David J. Herzig and Samuel D. Brunson, *Opinion: White Supremacist Groups Don’t Deserve Tax Exemptions*, N.Y. Times, August 29, 2017.

Class 6— Religious Organizations and Health Care Organizations

1. In the Casebook, read:

pp. 387 – 402; 296 – 319. Prepare a written outline of your answers to Problems (a) and (c) on p. 403 and to Problems (a) – (c) and (e) on pp. 319 – 320 for your own reference during class discussion.
2. On NYUClasses read:

Priv. Ltr. Rul. 2012-32-034 (May 16, 2012).

Class 7— Miscellaneous Organizations

1. In the Casebook, read:

pp. 326 – 332 and 403 - 410. Prepare a written outline of your answers to the Problems on pp. 332 – 333 and Problems (a) and (c) on pp. 410 – 411 for your own reference during class discussion.
2. In the Statutory Supplement, read:

Code: § 501(j).
Regulations: §§ 1.501(c)(3)-1(d)(1), (2).

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Class 8— Commercial Activities

1. In the Casebook, read:
pp. 527 – 547. Prepare a written outline of your answers to Problems (a), (b), and (f) – (i) on pp. 547 – 549 your own reference during class discussion.
2. In the Statutory Supplement, read:

Code: § 502.
Regulations: §§ 1.501(c)(3) - 1(c)(1) and -1(e).

Class 9 and Class 10 — Limitations on Lobbying

1. In the Casebook, read:

pp. 445 – 461. Prepare a written outline of your answers to all portions of the Problem on pp. 461 – 462 for your own reference during class discussion.
2. In the Statutory Supplement, read:

Code: §§ 501(c)(3), (4); 501(h); 504; 527; 4911; 4912; 6033(b)(8).
Regulations: §§ 1.501(c)(3)-1(c)(1) and (3); 1.501(h)-1, -2, -3; 56.4911-1, -2, -3, -4, -5, -6, -7(a) and (b).
3. Optional Reading, posted on NYUClasses:

Jill S. Manny, *Nonprofit Legislative Speech: Aligning Policy, Law, and Reality*, 62 Case W. Res. L. Rev. 757 (2012).

Class 11 – Limitations on Political Campaign Activities

1. In the Casebook, read:

pp. 463 – 505. Prepare a written outline of your answers to all portions of the Problem on pp. 499 – 500 for your own reference during class discussion.
2. In the Statutory Supplement, read:

Code: §§ 501(c)(3), (4); 527; 4955.
Regulations: §§ 1.501(c)(3)-1(c)(1); 53.4955-1.

Class 11 and Class 12 — Private Foundations and Alternativesⁱ

1. In the Casebook, read:

pp. 649 – 650, 656 (bottom) – 676, 679 (bottom) – 697, 702 – 704.
Prepare a written outline of your answers to problems 1(a), (b), and (f) on pp. 678 – 679, and the Problem on p. 690 using all relevant tests (§§ 170(b)(1)(A)(vi) and 509(a)(2)) for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code: §§ 170(b)(1)(A), (f)(18); 507(d)(2); 509; 4942(j)(3);
4943(e)(1)-(3); 4946; 4958(c), (f); 4966; 4967.
Regulations: §§ 53.4946-1(a); 1.507-6(b)(1); 1.170A-9(a) – (f); 1.509(a)-
3(a) – (e), - (4).

Class 12 and Class 13 — Private Foundation Excise Taxes

1. In the Casebook, read:

pp. 704 (bottom) – 707, 708 – 718, 720 – 725, 727 – 730, 731 – 741
ignoring all problem sets that are not specifically assigned. Prepare a written outline of your answers to the problems 1(a)-(g) and 2 on pp. 718 – 719, and problems (a) – (e), (g), and (i) on pp. 741 – 743 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code: §§ 4940 – 4946; 6033(c); 6104(d); 507.
Regulations: §§ 53.4941(a)-1(a), (b), (c); 53.4941(d)-1(a), (b)(1), (2), (4)-
(8); 53.4941(d)-2(a), (b)(1), (b)(2), (c), (d), (e), (f), (g);
53.4941(d)-3; 53.4945-1(a), (d), -3, -4, -5, -6.

ⁱ For Class 11 we will spend the first hour on Lobbying and Political Campaign Activities and then begin our discussion on Private Foundations. Please do the assigned reading through page 676 for Class 11 and the remainder (including the assigned problems) for Class 12. We will begin the second set of assignments, for Class 12 and 13, during the second hour on Class 12.

Class 14 – Unrelated Business Income Tax

1. In the Casebook, read:

pp. 549 – 586; 588-592. Prepare a written outline of your answers to the problems on pp. 586 – 587 (excluding problem 1(d)) and pp. 593 – 594.

2. In the Statutory Supplement, read:

Code: §§ 511(a), (b); 512 (a)(1), (b)(1)-(5), (7)-(9), (13), (15); 513(a), (c), (f), (h), (i).

Regulations: § §§ 1.512(a)-1(a), -1(b), -1(c), -1(d), -1(e), -1(f)(1); 1.512(b)-1(a)(1), -1(b), -1(c)(2) - (5), -1(d)(1), -1(l); 1.513-1, -4, -7; 1.514(b) – (1)(a), (b), (d).

3. On NYUClasses read:

Ruth La Ferla, *The Artist's Fall Collection*, N.Y. TIMES, Nov. 8, 2007.

4. On the Web, visit www.metmuseum.org/store (or go to a Metropolitan Museum of Art shop or the shop of another cultural institution). Think about sales of which items might generate unrelated business income.