

TAX-EXEMPT ORGANIZATIONS  
Professor Jill Manny  
Summer 2021

**REQUIRED MATERIALS**

Purchase the casebook entitled "Cases and Materials on Nonprofit Organizations, Fifth Edition,"<sup>1</sup> by Fishman, Schwarz, and Mayer. I would not recommend purchasing the 2015 Edition of the Statutory Supplement because it is out of date. Click on this [link](#) to access the Student Update Memo.

**ASSIGNMENTS** (for the first month of the semester)

Class 1 — Introduction

1. In the Casebook<sup>2</sup>, 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. Review:

Code<sup>3</sup> § 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)

3. At [www.irs.gov](http://www.irs.gov), read:

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). <https://www.irs.gov/pub/irs-pdf/f1023.pdf>. Compare to “streamlined” Form 1023-EZ, <https://www.irs.gov/pub/irs-pdf/f1023ez.pdf>.

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

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

<sup>2</sup> Read all pages in the Student Update Memo that correspond to pages assigned in the Casebook for all assignments.

<sup>3</sup> “Code” refers to the Internal Revenue Code. “Regulations” refers to the Treasury Regulations.

[www.metmuseum.org](http://www.metmuseum.org)  
[www.komen.org](http://www.komen.org)  
[www.fordfound.org](http://www.fordfound.org)  
[www.nra.org](http://www.nra.org)  
[www.abanet.org](http://www.abanet.org)  
[www.pga.org](http://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.

5. 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 Problems (a) and (b) on p. 342 for your own reference during class discussion.

2. 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. Review:

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:

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.

*The People of the State of New York v. The National Rifle Association of America, Inc., et.al.* Complaint. Much of this can be skimmed, depending on your interest, but you should read the Preliminary Statement, Part Three II and IV, and Part Five I and III.

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Class 5 and Class 6—Operational Test

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. Review:  
  
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.

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).

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. Review:

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

### 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. Review:

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

### Class 7 and Class 8 — 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. Review:

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 9 – 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. Review:

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

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Class 10 and Class 11 — Private Foundations and Alternatives

1. In the Casebook, read:

pp. 649 – 650, 656 (bottom) – 676, 679 (bottom) – 697, 702 – 704. Also skim pp. 708 – 712, 720 – 723, 727 – 729, and 731 – 738 to understand what types of activities are prohibited and penalized. 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).

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Class 12— Unrelated Business Income Tax

1. In the Casebook, read:  
  
pp. 549 – 586 and 588 – 592. Prepare a written outline of your answers to the problems on pp. 586 – 587 (excluding problems 1(a) and (d)) and problem 1(a) – (d) on pp. 593 – 594.
2. Review:  
  
Code: §§ 511(a), (b); 512(a), (b)(1)-(5), (7) - (9), (13), (15); 513(a), (c), (f), (h), (i).  
Regulations: § 1.513-4.
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](http://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.