

TAX-EXEMPT ORGANIZATIONS
Professor Jill Manny
Spring 2022

MATERIALS

Purchase the casebook entitled "Cases and Materials on Nonprofit Organizations, Sixth Edition," by Fishman, Schwarz, and Mayer, along with the 2021 Edition of the Statutes, Regulations, and Forms, at the N.Y.U. Bookstore. **If you prefer to access statutes, regulations, and forms online it is not necessary to purchase the Statutes, Regulations, and Forms volume.**

ASSIGNMENTS (for the first month of the semester)

January 19 — Introduction

1. In the Casebook, read:

pp. 3 – 14, 17 – 19, 30 – 44, 287 – 295. Prepare a written outline of your answer to the Introductory Problem on p. 44 for your own reference during class discussion.

2. In the Statutory Supplement (or online), read:

Code¹ § 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)

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. 1040.²

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

www.metmuseum.org

www.komen.org

www.fordfound.org

www.nra.org

¹“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 or online. Updates to the Statutory Supplement generally can be found in the Student Update Memo.

² Page references are to the Statutory Supplement, but these items can be accessed online or will be posted on the NYU LMS Brightspace (“NYU Brightspace”). It is not necessary to purchase the Statutory Supplement.

www.aclu.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 may 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 NYU Brightspace:

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/>.

January 26 — Tax-Exempt Status; Charitable Requirement; Disaster Relief

1. In the Casebook, read:

pp. 359 – 364; 367 – 395. Prepare a written outline of your answers to Problems (a) and (b) on pp. 364 – 365 for your own reference during class discussion.

2. In the Statutory Supplement (or online), read:

Code: § 501(c)(3) [again].

Regulations: §§ 1.501(c)(3)-1(a), (b), (c); 1.501(c)(3)-1(d)(1), (2).

3. On NYU Brightspace 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).

February 2 and 9 — Private Inurement, Private Benefit, and Excess Benefit Transactions

1. In the Casebook, read:

pp. 449 – 480, 246 – 251 (through Note 1). Prepare a written outline of your answers to problems 1(a) – (e) and 2 on pp. 480 – 482 for your own reference during class discussion.

2. In the Statutory Supplement (or online), 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 NYU Brightspace:

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.

Robin Pogrebin, *A Bonus From BAM Now Looks Less Wise*, N.Y. Times, Mar. 5, 2021, at C.1.

February 23*—

Educational Organizations

1. In the Casebook, read:

pp. 396 – 414. Prepare a written outline of your answers to the Problems on p. 415 for your own reference during class discussion.
2. In the Statutory Supplement (or online), read:

Code: § 4968.
Regulations: §§ 1.501(c)(3)-1(d)(3).
3. On NYU Brightspace 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

1. In the Casebook, read:

pp. 415 – 432. Prepare a written outline of your answers to Problems (a) and (c) on pp. 432 – 433

Health Care Organizations

1. In the Casebook, read:

pp. 317 – 339. Prepare a written outline of your answers to and to Problems (a) – (c) and (e) on pp. 339 – 340 for your own reference during class discussion.

* We will start this discussion towards the end of class on February 16.

March 2

Miscellaneous Organizations

1. In the Casebook, read:

pp. 347 – 353 and 433 - 440. Prepare a written outline of your answers to the Problems on pp. 354 and Problems (a) and (c) on pp. 440 – 441 for your own reference during class discussion.
2. In the Statutory Supplement (or online), read:

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

Commercial Activities

1. In the Casebook, read:

pp. 575 – 597. Prepare a written outline of your answers to Problems (a), (b), and (f) – (i) on pp. 597 – 598 your own reference during class discussion.
2. In the Statutory Supplement (or online), read:

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

March 9— Limitations on Lobbying

1. In the Casebook, read:

pp. 482 – 500. Prepare a written outline of your answers to all portions of the Problem on pp. 500 – 502 for your own reference during class discussion.
2. In the Statutory Supplement (or online), read:

Code: §§ 501(c)(3), (4); 501(h); 504; 4911; 4912; 4955; 6033(b)(8).
3. On NYU Brightspace, read:

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

March 23 – Limitations on Political Campaign Activities

1. In the Casebook, read:

pp. 502 – 542, 543 – 546. Prepare a written outline of your answers to all portions of the Problem on pp. 542 – 543 for your own reference during class discussion.

2. In the Statutory Supplement (or online), read:

Code: §§ 501(c)(3), (4); 527; 4955.

April 6—Introduction to Private Foundations and their Alternatives

1. In the Casebook, read:

pp. 707 – 708, 711 (Foundations in Society) – 736 (through middle of the page), 742 – 745, 760 – 766. Prepare a written outline of your answers to problems 1(a), (b), and (f) on pp. 745 – 746.

2. In the Statutory Supplement (or online), read:

Code: §§ 507(d)(2); 509(a) – (e); 170(b)(1)(A)(i) - (vi); 4942(j).

April 13

Avoiding Private Foundation Status

1. In the Casebook, read:

pp. 747 – 758. Prepare a written outline of your answers to the Problem on pp. 758 – 759 **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 (or online), read or re-read:

Code: §§ 509(a) – (e); 170(b)(1)(A)(i) - (vi); 4946.

Unrelated Business Income Tax

1. In the Casebook, read:

pp. 598 – 635. Prepare a written outline of your answers to the problems on pp. 635 – 637 (excluding problems 1(a) and (d)).

2. In the Statutory Supplement, read:

Code: §§ 511(a), (b); 513(a), (c), (f), (h), (i).
Regulations: § 1.513-4.

3. On Brightspace 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.

April 20—Exclusions from UBTI

1. In the Casebook, read:

pp. 637 – 643; pp. 652 – 658. Prepare a written outline of your answers to problems 1(a), (b), and (c) on p. 643 – 644 for your own reference during class discussion.
2. In the Statutory Supplement (or online), read:

Code: § 512(a), (b)(1)-(5), (7) - (9), (13), (15).

Optional Viewing

Private Foundations General Counsel Panel: Tape will be posted to Brightspace on April 7 along with bios of the participants.