



JACK, JOSEPH AND MORTON MANDEL
SCHOOL OF APPLIED SOCIAL SCIENCES

CASE WESTERN RESERVE
UNIVERSITY

SASS 450/LAWS 4402: NONPROFIT LAW

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Fall 2022

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CN 5955
Course Room Number: ROOM 106 MANDEL
COMMUNITY SERVICES CENTER 11402
BELLFLOWER

Mailing Address:
CWRU Mandel School
10900 Euclid Ave., Room 244
Cleveland OH 44106-7164

Course Description

This course provides the student with a basic grounding in the laws and regulations governing nonprofit tax-exempt organizations. Content will include the procedures for incorporating and maintaining tax-exempt status as a nonprofit organization, legal obligations and liabilities of officers and members of the governing body of a nonprofit tax-exempt organization; legal principles applicable to charitable giving; and an overview of the legal, regulatory, and policy issues facing contemporary nonprofit tax-exempt organizations.

Course Objectives

By the conclusion of this course, participants should:

- (1) Understand the legal (state and federal) framework under which charitable and other nonprofit tax-exempt organizations operate.
- (2) Understand how to form a nonprofit corporation under state law and the basic operating requirements.
- (3) Understand the legal rights, obligations and liabilities of voting members, the board of trustees (or board of directors) and officers of nonprofit corporations under state law and how they differ from those of trustees of charitable trusts.
- (4) Understand the basic requirements for obtaining and retaining charitable and other types of tax-exempt status under federal tax law, including recordkeeping, and reporting requirements.

- (5) Understand the differences between the limits on activities of nonprofit corporations imposed by state nonprofit corporation law and by federal tax laws relating to tax exemption.
- (6) Be familiar with selected federal tax law issues relating to advocacy activities, political activities and commercial or other revenue generating activities of tax-exempt nonprofit organizations and planning for such activities.
- (7) Understand what alternative organizational structures are available to nonprofit organizations under state law and federal tax laws, including how to structure legal relationships between nonprofit organizations (e.g., parent/subsidiary relationships; mergers, joint ventures) and how to use such structures in conducting advocacy, political and revenue generating activities.
- (8) Be familiar with oversight activities of the IRS and state agencies which supervise the activities of charitable organizations and the federal penalty taxes which can be imposed on managers of charitable organizations, donors and persons related to them.
- (9) Be familiar with the basic principles of the federal tax law aspects of charitable giving, including deferred giving, and the legal responsibilities under state law of charitable organizations which solicit donations from the public and receive charitable gifts with donor-imposed restrictions.

[Instructor Responsibilities](#)

[Student Responsibilities](#)

Course Requirements and Grading

[Absence/Attendance Policy](#)

[Flexible Attendance](#)

[Netiquette Guide](#)

Conformity to MSASS policies as they pertain to the Professional Code of Conduct, Plagiarism, and Incompletes as stated in the MSASS Student Manual.

- [Professional Code of Conduct](#)
- [Plagiarism](#)
- [Incompletes](#)
- [Statement on Disability](#)
- [Online Course Evaluations](#)
- [Grading Policy](#)

Fairness in Grading: Your work will be carefully graded and reviewed prior to being returned to you. Despite this, errors may sometimes occur. If you believe that any of your work has been inappropriately graded, you should request re-grading of the assignment in writing within one week of receipt. While your request may specify areas of concern, please note that the entire work will be re-graded; as a consequence, your grade may rise, fall, or remain the same.

On-time work: Written assignments are due at the specified time. If not turned in on time, the grade for the assignment may be lowered by up to 10% of the assignment value for each subsequent 24-hour period. For example, if an assignment is 1-24 hours late, a 10% reduction may occur; if 25-48 hours late, a 20% reduction may occur, and so forth.

Text and Additional Materials

NONPROFIT ORGANIZATIONS, Fishman, Schwarz & Mayer – CASES AND MATERIALS (Sixth Edition).

All other materials can be readily accessed online.

Assignments

See the attached Assignments & Course Objectives. The assignments are subject to change depending on the “pace” of class discussion. **Supplemental Reading Assignments for each class will be posted on Canvas and will list the specific pages to be read in each Text Chapter. I will aim to post these at least one week prior to the class.** Parts of some Chapters will be designated as “Skim Only” or “Review” (meaning be generally familiar with the topics discussed, but detailed reading is not expected) and parts will be omitted or assigned in a different order.

Statutory and regulatory provisions appear at the beginning of Text sections. These provisions can be found online. Unless specifically mentioned in the Supplemental Reading Assignments for a class, they should be briefly reviewed for background only.

Some materials may be distributed at a class. If you miss a class, you are responsible for obtaining from a classmate copies of any materials distributed at that class.

Finally, you are expected to be active participants in the class, and a percentage of your final grade will be based on your participation.

READING ASSIGNMENT FOR THE FIRST CLASS. The assignment for the first class is to review Chapter 1 of the Text so that you are familiar with the terminology and the main topics and read Chapter 2(A). Other parts of Chapter 2 will be assigned for the second class.

BEFORE THE FIRST CLASS, PLEASE COMPLETE AND EMAIL TO THE INSTRUCTOR THE ATTACHED NONPROFIT EXPERIENCE FORM Also, please be prepared to discuss in class what experience you have had with nonprofit organization(s) as a board member, staff member or volunteer and any nonprofit legal or tax issues you have encountered.

Court Opinions

Some of the material in the Text is in the form of court opinions. Do not get bogged down in the details, but do your best to answer the following questions for each case:

- Who are the parties to the dispute?
- What is the dispute about?
- What outcomes are the parties seeking? Why?
- What is the thrust of their legal arguments?
- How does the court decide who wins? What rule or rules are applied?
- What is source of the rules on which the outcome rests?
- What is the outcome? Who wins?
- What impact does the case have on the legal framework applicable to nonprofit tax exempt organizations, i.e., why is the case in the Text?

Written Assignments and Exercises

There will be three short graded written assignments, each of which will be based off of and build upon a set fact pattern. There will also be a midterm examination and a final written examination. There may be other short written exercises (i.e., problems in the text) which I will ask you to be prepared to discuss in class but will not be graded.

The points available to earn on the assignments, the midterm, and the final, and your grade for general participation, will be posted to Canvas.

If personal / work circumstances or deadlines for other classes create a problem with any due date, you should request an extension as soon as possible – **ideally, in advance of the scheduled distribution date.**

Additional Assignments

Canvas Postings. During the semester, please post articles on Canvas relating to nonprofit corporate law, charitable trust law or state or Federal tax laws relating to tax exempt organizations which you think would be of interest. Include with your posting comments on why you think the item is of interest. Also, posting is encouraged of comments on items posted by other students and/or questions or comments on assigned material or class discussions. **Postings and comments will be considered class participation.**

Fund Raising and Planned Giving Materials. During the semester, please collect fund-raising and planned giving materials from tax-exempt charitable organizations with which you have a connection to and send them via email, if feasible, so they can be shared with the class via email or on Canvas. When we discuss charitable giving, it will be helpful to have samples of materials used in fund-raising and planned giving programs.

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ASSIGNMENTS

[Note: Detailed reading assignments will be posted on Canvas before each class]

<u>DATE</u>	<u>TOPIC</u>	<u>READINGS</u>
8/29	Class #1 Introduction to Course; State Law Issues: Organizational Structure; Defining “Nonprofit” and “Charitable”; Choice of Form	Chapter 1(A)-(E); Chapter 2(A)
9/5	Labor Day – No Class	
9/12	Class #2 Statutory Framework for Corporations; Formation and Governing Documents; Charitable Trusts: Cy Pres and Deviation; Distribution of Assets to Public Benefit Corporations	Chapter 2(B)-(D); Chapter 3(A)-(B)
9/19	Class #3 Governance: Responsibilities and Duties of Board Members and Officers; Enforcement of Fiduciary Obligations; Investment Management	Chapter 3(C)-(D)
	<i>ASSIGNMENT #1 DUE.</i>	
9/26	Class #4 Rationale for Charitable Tax Exemption; Requirements for Federal Charitable Tax Exemption; Charity under Federal Tax Law	Chapter 5(A)-(C); Chapter 5(E); IRS Publication 557
	<i>MIDTERM EXAM DISTRIBUTED.</i>	
10/3	Class #5 Charity under Federal Tax Law (cont.)	Chapter 5(F)-(I)
10/10	Class #6 Charity under Federal Tax Law (cont.); Private Inurement, Private Benefit and Intermediate Sanctions	Chapter 6(B)
	<i>MIDTERM DUE.</i>	
10/17	Class #7 Legislative Advocacy; Political Campaign Activities; Social Welfare and Political Organization	Chapter 6(C)

10/24	Law School Fall Break – No Class	
10/31	Class #8 Commercial Activities and Unrelated Business Income	Chapter 7(A)-(G); IRS Form 598
	<i>ASSIGNMENT #2 DUE.</i>	
11/7	Class #9 Public Charities, Donor Advised Funds, and Private Foundations; Other Exempt Organizations	Chapter 8(A)-(D); Chapter 10
11/14	Class #10 Revisiting Choice of Corporate Form; Social Enterprise; State and Local Tax Exemptions; State Regulation of Charitable Giving	Chapter 4(A)-(G); Chapter 5(J); Chapter 7(H)-(I)
11/21	Class #11 Federal Tax Aspects of Charitable Giving; Planned Giving	Chapter 9(A)-(D); IRS Publication 526; IRS Publication 1771
	<i>ASSIGNMENT #3 DUE.</i>	
	<i>FINAL EXAM DISTRIBUTED.</i>	
11/28	Class #12 Federal Tax Exemption Application Process	Chapter 5(D); IRS Forms 1023, 1023- EZ, 1024, and 1024-A
11/30	Class #13 Federal Annual Returns for Tax Exempt Organizations; Audits; Internal Financial Controls	IRS Forms 990, 990-EZ, and 990- PF
12/5	Class #14 Hot Topics in Exempt Organizations Law; Discussion: How to Identify and Manage Legal, Tax, and Compliance Issues	N/A

FINAL EXAM DUE.

NOTE: attendance at the final class is optional for law students.

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IRS PUBLICATIONS ON IRS WEBSITE

Please *bookmark* the items listed below from the IRS website so you can access and review them. (No need to download them unless you prefer reading in hard copy format. There will be no assigned readings in these items; they are for background and reference):

Go to the IRS website at www.irs.gov, click on “*Charities and Nonprofits*” at the top “, then click on “Educational Resources & Guidance”, then find the items listed below. If you see any other Forms, Publications or items of interest, you may want to bookmark them.

The listed Forms and Publications will be a good mini-reference library for you.

- IRS Publication 557 -
Tax-Exempt Status for Your Organization
- Federal Form Package 1023 -
Application for Recognition of Exemption Under IRC Section 501(c)(3) (including Form 1023 and Instructions)
- Federal Form Package 1024 -
Application for Recognition of Exemption Under IRC Section 501(a) (including Form 1024 and Instructions)
- IRS Publication 526 -
Charitable Contributions
- IRS Publication 598 -
Tax on Unrelated Business Income of Exempt Organizations
- Federal Form Package Form 990 -
Return of Organization Exempt from Income Tax and Instructions
- Federal Form Package Form 990-PF -
Return of Private Foundations and Instructions
- Form 990-T -
Exempt Organization Unrelated Business Income Tax Return and Instructions

STUDENT NONPROFIT EXPERIENCE SURVEY

NAME: _____ **PREFERRED EMAIL ADDRESS:** _____
(IF OTHER THAN CASE.EDU EMAIL)

NONPROFIT ORGANIZATION EXPERIENCE:

Name of Organization(s):

Position (e.g., board member, staff member (title) or volunteer)

Brief description of activities of organization (s) and your encounters with any nonprofit legal or tax issues:

MNO/LAW courses taken (list course **names**, not just numbers) and/or accounting/financial reporting courses taken elsewhere:

Please e-mail this information to acc208@case.edu at least one day before the first class.