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Graduate Tax Series

The LexisNexis Graduate Tax Series consists of: (i) course materials specifically created for use in graduate tax programs; (ii) teacher's manuals incorporating insights gained by the authors through their experience as practitioners and teachers; and (iii) on-line access to the comprehensive and current Internal Revenue Code and regulations, specifically designed for use in conjunction with Graduate Tax Series course materials.

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The editors of the Series have developed a template for the Series' course materials that emphasizes complex, practice-oriented problems in order to develop the skills of recognizing issues and analyzing provisions of the Internal Revenue Code and regulations. To this end, course materials, including the problems, are designed to encourage students to learn the law by carefully studying the applicable sections of the Code and regulations rather than by reading detailed explanations of the law provided by the authors. Also, excerpts from cases, administrative pronouncements, and secondary sources are limited to those appropriate to learning how to understand and apply the Code, the regulations, and non-statutory doctrines such as business purpose and step transaction. The goal of the Series is to empower the students not only to learn the basic rules, but also to acquire the skills necessary to read and understand the often complicated statutes and administrative pronouncements that they will encounter in practice on a daily basis.

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Development of the Series has been driven by the lack of commercially available materials designed exclusively for use in graduate tax programs, the increasing specialization in graduate tax studies, the inadequacy of traditional J.D. casebooks for graduate study, the need for more sophisticated teacher's manuals, the availability of technology to facilitate graduate tax study, and the lack of an abridged version of the Code and regulations that is adequate for graduate tax courses. These considerations are explored below.

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I. Increasing Specialization in Graduate Tax Programs

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Federal tax laws and regulations have increased in number and complexity over the years. While it may have been possible forty years ago for a student to acquire an in-depth understanding of a large part of the statutory rules and regulations in twenty-four credit hours, that is now an un-realistic goal. Consequently, most LL.M. programs have adopted a more modest goal of providing students both a solid foundation in several fundamental courses

(e.g., taxation of property transfers, corporate and partnership taxation, and tax procedure) as well as an opportunity to specialize by taking a number of courses in one of several areas (e.g., as business planning, estate planning, and international tax planning).

The corollary to increased specialization is reduced coverage. This in turn has made it increasingly important that graduate programs focus on skills in reading the Code and regulations, in learning how the courts and IRS deal with ambiguities, and in anticipating the application of common law doctrines. These skills are imperative if graduates are to be prepared to deal both with areas of tax law that they have not formally studied and new tax laws that are enacted with increasing frequency and that almost always add complexity. In short, the Series will emphasize the development of tax *skills* that the modern tax lawyer needs to thrive in practice.

II. Inadequacy of J.D. Tax Casebooks

Casebooks designed primarily for J.D. courses tend to explain the law, sometimes in great detail, and to illustrate difficult interpretative issues through judicial opinions or administrative pronouncements. Typically, they include a series of problems consisting of increasingly complex fact patterns, each followed by a number of narrow questions. Although this approach may work well for J.D. courses, it is not the best approach for graduate tax study because it does not force students to grapple with complicated statutory and regulatory provisions. We describe below four reasons why existing J.D. tax casebooks are inadequate for graduate tax study.

First, case-based study and extensive explanatory text are less important in graduate tax courses than in J.D. courses because graduate tax students already have had extensive training in reading cases and in basic tax concepts such as the definition of income, deductions, and capital assets. The Series will limit excerpts from opinions or administrative pronouncements to those needed to enhance understanding of the Code and regulations. Explanatory materials will be included in the Series' books only when students cannot reasonably be expected to understand the Code and regulations without them.

As a result, many chapters will eschew extensive excerpts from judicial decisions and administrative pronouncements, as well as extensive textual explanations from the author, and instead will focus on helping students appreciate the background, application, interpretive disagreements, and policy issues surrounding particular statutory and regulatory provisions through the use of sophisticated problems described below. In other situations, however, the subject matter of a chapter will require the inclusion of more excerpts from the courts and the IRS, and more explanatory text from the author.

Second, casebooks designed primarily for J.D. courses often have problems consisting of a fact pattern followed by a series of narrow questions, each of which has to do with a single word or phrase in the Code. Some of the questions may change a single fact, again for the purpose of demonstrating the impact of that change on application of a particular word or phrase in the Code. Such narrow questions tend to signal the issue and therefore indirectly signal its statutory answer.

Although this approach may be desirable in J.D. courses, problems in the Series will generally be more sophisticated, less likely to signal the answers, and more like the problems one may encounter in practice. Students using books in the Series will be able to prepare for class only

by carefully studying the assigned sections of the Code and regulations and by identifying the issues and applying the law to the given facts. Thus, the problems' fact patterns generally will be designed to raise more than one issue and more than one Code section. Other problems will be designed to explore uncertainties and ambiguities in the law, in order to prepare students to do the hard work necessary to advise clients when the issues are not solvable by the application of the basic rules.

Third, casebooks designed primarily for J.D. courses are often over 1000 pages. This is a consequence of broad coverage, as well as extensive use of explanations and large-scale judicial and administrative pronouncements. Assignments generally involve 15 to 25 pages of text, a number of Code sections and related regulations, and several multiple-part problems. Such lengthy assignments put a premium on careful reading of the text of the book in order to answer the problems, thereby limiting the time available for careful reading of assigned sections of the Code and regulations.

It is anticipated that books in the Series will be in the range of 350 to 450 pages and will result in text assignments of perhaps 8 to 12 pages (not including the Code and the regulations) for each hour of class. Limiting case and administrative materials to those needed to focus on the more complex issues raised by the statutory material and by applying non-statutory doctrines will both facilitate and encourage careful reading of the assigned Code and regulations sections.

Finally, the use of casebooks designed for J.D. courses in graduate tax programs creates the opportunity for students who have used a book at the J.D. level to prepare for class without doing much work and the opportunity for those who have not used the book to prepare for class by using one of the readily available commercial outlines. Graduate tax students who are forced to use J.D. tax casebooks thus often are not given the opportunity for advanced study that should be the cornerstone of an LL.M. program

By focusing on the skills needed to read the Code and the regulations, while at the same time alerting students to the uncertainties and ambiguities inherent in them, books in the Series will provide greater, longer-term benefits to students. The aim is for students to understand both the basic rules and when the basic rules will not supply the answer. This will energize the graduate tax classroom and better equip students for the sophisticated tax practice that awaits them upon graduation.

III. Teacher's Manuals

Neither course materials nor teacher's manuals are available for many courses taught in graduate tax programs. Teachers thus often lack access to sets of proven problems, syllabi that provide realistic allocations of material among the available class hours, and helpful information derived by the authors from practicing and teaching in their respective areas of specialization. The lack of commercially available course materials and teacher's manuals is in part attributable to the relatively small number of students taking graduate tax courses in a given year. LexisNexis is delighted to serve this need in graduate tax education through the Series.

The Series may be of particular interest to adjunct professors who teach in graduate tax programs and to the directors of the programs in which they teach. Adjunct professors often do not have the time to develop and refine course materials or to gather the type of information that can be

included in a carefully prepared teacher's manual. The Series thus will be particularly attractive to this group of professors. In addition, the adoption by an adjunct professor of a book in the Series will assure the tax program's director that the scope of coverage and level of sophistication of the course will be appropriate for graduate tax study.

IV. Code and Regulations

The final factor driving the development of the Series is the absence of a set of Code and regulation sections suitable for graduate study. The available comprehensive CCH set of two Code volumes and six regulations volumes is unwieldy, expensive, and over-inclusive (covering scores of Code and regulations sections never studied in graduate tax courses). In contrast, the various one volume treatments of selective Code and regulations excerpts available from CCH and other publishers are woefully under-inclusive (omitting scores of Code and regulations sections that are studied in graduate tax courses). The Series provides on-line access to the comprehensive and current Code and regulations, specifically designed for use in conjunction with our course materials.

V. Books

A. Available Books

- *Civil Tax Procedure* (2d ed. 2007), by David Richardson, Jerome Borison & Steve Johnson
- *Employee Benefits Law: Qualification Rules and ERISA Requirements* (2006), by Kathryn Kennedy & Paul Shultz
- *Federal Tax Accounting* (2006), by Michael Lang, Elliott Manning & Steven Willis
- *Partnership Taxation* (2d ed. 2008), by Richard Lipton, Paul Carman, Charles Fassler & Walter Schwidetzky
- *U.S. International Taxation* (2008), by Allison Christians, Samuel Donaldson & Philip Postlewaite

B. Forthcoming Books

- *Bankruptcy Taxation*, by Frances Hill & William Lyons
- *Federal Corporate Income Taxation*, by Charlotte Crane & Linda Beale
- *Federal Taxation of Property Transactions*, by Elliott Manning & David Cameron
- *Tax Crimes and Tax Fraud*, by Steve Johnson, Scott Schumacher, Larry Campagna & John Townsend
- *Tax Practice Ethics*, by Linda Galler & Michael Lang