

REGULATION OF TAX PRACTICE

LexisNexis GRADUATE TAX SERIES

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REGULATION OF TAX PRACTICE

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PREFACE

The Lexis Graduate Tax Series grew out of the recognition that the goals of a graduate tax program are different than those of J.D. tax courses. J.D. tax courses are introductory in nature. Although many J.D. tax courses provide a good overview of their targeted areas of law, time rarely permits either in-depth analysis of complicated Code or Regulation provisions, or the application of those provisions to real life problems. In essence, J.D. tax courses provide students a foundation in the core statutory and judicial concepts.

LL.M. programs build on, and significantly expand, students' knowledge of the Code, Regulations, and judicial doctrines, and enhance their Code and Regulations reading skills. LL.M. programs require students to concentrate on the primary sources of the law, the Code and Regulations. Students are expected to improve their ability to read, comprehend, and apply the Code and Regulations, and they do so by working on complex fact patterns that raise difficult legal issues.

The different goals of graduate tax programs and J.D. tax courses suggest that the course materials used in those programs should also be different. Students in LL.M. programs need to move away from the standard, J.D., "author tells all," casebooks, which contain extensive quotations from cases and other secondary sources, and toward emphasis on the primary sources of the law. By applying the Code and Regulations to real-life fact patterns, students gain the confidence necessary to rely on the Code and Regulations as their main source of information.

An important, but different, driving force behind the development of specially-designed course materials for LL.M. programs is the dramatic expansion of the quantity and complexity of tax law over the past forty or fifty years. The current commercially available versions of the Code and Regulations are roughly four times as large as their 1970 predecessors. Over that period, class time dedicated to tax has grown very little. Covering much more material in the same period of time has led authors to write longer J.D. textbooks, many of which exceed one thousand pages. Such comprehensive coverage leads to extended textbook assignments. This both forces and permits the students to bypass the assigned Code and Regulations provisions and spend their available time answering problems by reference solely to the author's explanation of the law in the textbook. Tax casebooks written primarily for the larger J.D. market that purport to be suitable for both J.D. and LL.M. tax courses, also lean towards comprehensive explanations of the Code and Regulations, which tend to deflect students away from the primary sources.

Books in the Graduate Tax Series are designed to be read with, and complement, the study of the Code and Regulations. Although some chapters of books in the Series provide detailed explanation of the topic, more frequently the chapters provide a general, normally brief, overview of the topic together with more complete explanations of the applicable portions of the Code and Regulations that are particularly difficult to understand. Also, many of the problems are based on situations encountered in practice or found in decided

cases. Although some of the questions either state or disclose the issues and even the applicable statutes, many of them require analysis of a given set of facts to first determine and then resolve the critical issues.

This book differs from others in the Graduate Tax Series by focusing on primary source materials other than the Code, Regulations and judicial decisions rendered by federal judges. Perusal of the list of Appendices reflects that wide array of sources governing the practice of tax law. State ethics rules and opinions, rules of court, and state judicial opinions are as significant in the regulation of tax practice as provisions of the Code (*e.g.*, return preparer penalties in Section 6694) and Regulations. In addition, ethics rules governing accountants who provide tax services are relevant to those who concurrently maintain professional licenses as lawyers and accountants, and also serve as nonbinding guidance to non-accountant lawyers who practice in the tax area.

Linda Galler would like to express her appreciation for the summer research grants provided by the Hofstra University School of Law that helped to make this book possible. She thanks her husband, Murray E. Singer, for his never-ending assistance and support, and for the example he sets of good moral character and wise judgment.

Michael Lang thanks Chapman University School of Law for providing summer research funding and research assistance to support his work on this book. He also appreciates the efforts of his research assistants, Michael Gates, Robert Thompson, Sharona Keshrim, and Van Ha, all of whom contributed to making the book a better work.

This book is supplemented by a LexisNexis “Web Course” that contains links to the [lexis.com](http://www.lexis.com) version of the Internal Revenue code and the Regulations. To access the Web Course:

1. Go to <http://www.lexisnexis.com/lawschool/webcourses>
2. Enter your LexisNexis Custom ID and Password (please call the LexisNexis Law School Support Line at 800-455-3947 [800-45LEXIS] if you have misplaced your Custom ID or Password)
3. Click the red “Courses” tab
4. Click on “National Web Courses” under the Course Catalog
5. Scroll down the list to find “Graduate Tax Series”
6. Click on “Enroll”

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