

**Charleston School of Law  
Introduction to State and Local Taxation  
Fall 2021**

**Saturday September 11<sup>th</sup> {10:30am – 12pm, 1:30pm – 3pm}  
Sunday September 12<sup>th</sup> {10:15am – 1:15pm}  
Saturday September 18<sup>th</sup> {10:30am – 12pm, 1:30pm – 3pm}  
Sunday September 19<sup>th</sup> {10:15am – 1:15pm}**

**Professor Allison Mims**

**GENERAL COURSE INFORMATION**

**Faculty Contact Information**

Professor Mims is available via email [amims@charlestonlaw.edu](mailto:amims@charlestonlaw.edu) and by cell at 803.447.8693

You can schedule a meeting by contacting the professor directly.

**Course Description**

This course discusses the basic principles of state and local taxation, focusing primarily on select industries operating in a multijurisdictional environment. The emphasis of the course is on major principles, as opposed to exceptions to the general rules. Included among the areas that are reviewed in this course, on a comparative law basis are: state unemployment taxes, sales and use tax, income and franchise tax. Unlike federal taxes, where one law applies to all taxpayers, state tax laws vary. Therefore, rather than focusing on a single body of law, we will examine general rules that apply in many states and discuss some common differences.

Further, application of a particular principle may produce favorable results to one taxpayer but unfavorable results to another taxpayer. For instance, this situation may arise when one taxpayer is a domestic corporation (incorporated in that state) and the other taxpayer is incorporated out-of-state. Therefore, the course will encourage the student to approach an issue with an open mind, disregarding the traditional federal tax notions of “taxpayer position” and “government position.”

**Course Goals/Student Learning Outcomes**

At the conclusion of this course (i.e., for the final exam – hint! hint!), the student should be able to apply basic principles of state and local taxation to identify issues.

**Laptop Policy**

Use of laptops in class is permitted.

**Attendance**

Students are required to attend at least 85 percent of the scheduled classes for each course. Therefore, no student may miss more than 15 percent (round to the nearest whole number) of the

scheduled class meetings in any course or seminar. “Scheduled class meetings” is defined as the total number of classes that are established for that particular course during that particular semester or session schedule, as established by the published schedule, with such number remaining the same in spite of modifications that might arise during the semester (speakers, inclement weather, professor cancellation, etc.) *No absences from class are “excusable” for purposes of determining whether a student has violated the Attendance Requirement.* <https://charlestonlaw.edu/academics/academic-policies/attendance-policy/>.

### **Assessment Plan/Grading Rubric**

Students will be expected to participate in class discussion regarding cases and statutes. Students are encouraged to raise questions about course material during class. *The Professor will take class participation into account in determining final grades.* A portion of your grade (up to 10%) will be based on class participation. To receive credit, you should come to class prepared by reading the assignments.

For this course students may not miss any class meetings.

**Tardiness or Leaving Class Early:** A student who is tardy or who exits class early may, at the discretion of the professor, be marked as absent. Tardy is arriving more than five minutes after the scheduled class time, leaving early is exiting the class when there is more than fifteen minutes remaining.

### **Work Per Credit Hour**

Under Charleston School of Law policy, the amount of work for each credit hour of a course must be: At least 750 minutes of in-class time (12 ½ hours), which may include 50 minutes of final examination time; and, at least 1800 minutes (30 hours) of out-of-class student work.

This is a one credit hour course, which means that in addition to attending classes, students should plan to spend at least 4 hours preparing for class.

### **Final Exam**

There will be one final exam worth 100% of your grade. It will be a take-home, open book exam timed for 2 hours. It will consist 4 essays, each weighed equally. There will be a 500-word limit per answer with a minimum 12-point font.

### **Textbooks and Other Course Materials**

Reading material for this year’s course will come from selected cases and other applicable material. Students are responsible for all assigned reading. (Including any reading/material that we do not go over in class) Additional reading maybe assigned at any time.

### **ADA Notice**

Students with disabilities should contact the Associate Dean for Academic Affairs as soon as possible to request reasonable accommodations should those accommodations be desired.

## Class Schedule

<b>Topic</b>	<b>Objectives</b>	<b>Assigned Reading</b>
Class 1: Welcome, Course Syllabus, administrative matters.	<ul style="list-style-type: none"> <li>• Tax Law</li> <li>• Overview of State and Local Tax</li> <li>• Careers in Salt</li> <li>• Tax LL.M</li> <li>• VITA</li> </ul>	Class 2 & 3 assigned reading.
<b>Topic</b>	<b>Objectives</b>	<b>Assigned Reading</b>
Class 2: Constitutional Limitations on States' Authority to Tax – Overview of the federal Commerce Clause and Due Process Clause constitutional limitations on states; taxing powers.	<ul style="list-style-type: none"> <li>• Explain the primary U.S. constitutional limitations on states' authority to tax.</li> </ul>	<ul style="list-style-type: none"> <li>• Dormant Commerce Clause</li> <li>• Due Process Clause (14<sup>th</sup>)</li> <li>• 10<sup>th</sup> Amendment</li> <li>• National Bellas Hess v. Department of Revenue of Illinois, 386 U.S. 753 (1967)</li> <li>• <i>Quill Corp. v. North Dakota</i>, 504 U.S. 298 (1992)</li> <li>• <i>Complete Auto Transit, Inc. v. Brady</i>, 430 U.S. 274 (1977)</li> <li>• <i>Tyler Pipe Industries, Inc. v. Washington State Department of Revenue</i>, 483 U.S. 232 (1987)</li> <li>• <i>South Dakota v. Wayfair Inc.</i>, 138 S. Ct. 2080 (2018)</li> </ul>
<b>Topic</b>	<b>Objectives</b>	<b>Assigned Reading</b>
Class 3: Nexus Specific to Income/Franchise Taxes – Review and expansion on the issues relating to the constitutional limitations on the states' authority to impose net income and franchise taxes, including P.L. 86-272's limitations on states' power to tax the income of out-of-state sellers.	<ul style="list-style-type: none"> <li>• Explain the interaction of state "Doing Business" statutes and the constitutional limitations on states' authority to impose income/franchise taxes.</li> <li>• Explain the application and issues relating to economic nexus theories.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Geoffrey, Inc. v. South Carolina Tax Commission</i>, 437 S.E.2d 13 (S.C. 1993)</li> <li>• <i>Griffith v. ConAgra Brands, Inc.</i>, 728 S.E.2d 74 (W.Va. 2012)</li> </ul> <p>Read Class 4, 5, &amp; 6.</p>
<b>Topic</b>	<b>Objectives</b>	<b>Assigned Reading</b>
Class 4: Mixed Sales – Tangible vs Intangible Property or Services; Bundled Transactions; Substance over form.	Mixed Sales (Part 1)	<ul style="list-style-type: none"> <li>• <i>2A Leakas Furriers v. Bowers</i>, 98 Ohio App 337 (1954)</li> <li>• <i>Dine Out Tonight v. CT</i>, 210 Conn. 567 (1989)</li> <li>• <i>Southern Bell Tel v. FL</i>, 366 So. 2d 30 (1978)</li> <li>• <i>Bartlett Grain, slip. op.</i> (MO 2016)</li> <li>• <i>Lucent v. BOE</i>, 241 Cal. App. 4th 19 (2015)</li> <li>• <i>Sullivan Bros v. Wisconsin, WTAC</i> (2012)</li> <li>• <i>Ohio Valley Aluminum (KY Ct. App 2014)</i></li> </ul>

Topic	Objectives	Assigned Reading
<p>Class 5: Mixed Sales – True Object Test; Tangible vs Real Property; Warranties and Maintenance; Wrapping Supplies.</p> <p>Post <i>Wayfair</i> world; “marketplaces.”</p>	<p>Mixed Sales (Part 2)</p>	<ul style="list-style-type: none"> <li>• <i>Dell, Inc. v. San Francisco</i>, 159 Cal. App 4th 911 (2008)</li> <li>• <i>Proctor &amp; Gamble v. PA.</i>, 29 A.3d 1221 (2011)</li> <li>• <i>Frisch, et al v. Wisc.</i>, 133 Wis. 2d 444 (1986)</li> <li>• NY TSB-A-99(47)S</li> </ul> <p>Louisiana (Walmart) Case</p>
Topic	Objectives	Assigned Reading
<p>Class 6: Unemployment Taxes</p>	<p>Definition &amp; History of Unemployment Tax</p> <p>Managing State Unemployment Tax Costs</p> <p>South Carolina Unemployment Insurance Tax</p> <p>FUTA (Federal Unemployment Tax Act)</p> <p>Final Exam Review</p>	<ul style="list-style-type: none"> <li>• <i>Unemployment Insurance Taxes: Options for Program Design and Insolvent Trust Funds</i>, Tax Foundation Background Paper, No. 61 (Oct. 2011)</li> <li>• <i>Elavsky v. Adm'r, Bureau of Unemp't Comp.</i>, 1978 WL 216005 (Ohio App. 1978).</li> <li>• <i>Moore v. Unemp't Ins. Appeals Bd.</i>, 215 Cal. Rptr. 316 (Cal. Ct. App. 1985).</li> <li>• <i>Carson Pirie Scott &amp; Co. v. State of Illinois Dep't of Emp't Sec.</i>, 544 N.E.2d 772 (Ill. 1989).</li> </ul>