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EDUCATIONAL BACKGROUND

Cornell Law School, Ithaca, NY 14853
1976-79:
J.D., magna cum laude, May 1979
Order of the Coif
Editor, Cornell Law Review

University of Chicago, Chicago, IL 60637
1967-68; 1971-74:
M.A., Political Science, September 1972
M.A. paper, "The Formulation of Non-Fiscal Tax Policy"
Admission to Ph.D. candidacy, May 1973
Fellow, National Institute of Mental Health Public Policy
Analysis Program

Massachusetts Institute of Technology, Cambridge, MA 02139
1963-67:
S.B., Political Science, June 1967

EMPLOYMENT RECORD

School of Law, Case Western Reserve University,
Cleveland, OH 44106
2016-present: Coleman P. Burke Professor Emeritus of Law and
Adjunct Professor of Law
2014-16: Coleman P. Burke Professor of Law
2012-14: Schott-van den Eynden Professor of Law
1998-2012: David L. Brennan Professor of Law
1989-98: Professor of Law
1986-89: Associate Professor of Law
1983-86: Assistant Professor of Law

Cornell Law School, Ithaca, NY 14853
1999: Visiting Professor of Law (fall)

Sullivan & Cromwell, 125 Broad Street, New York, NY 10004
1980-83: Associate, Tax Group: Engaged in a general federal
and state corporate and partnership tax practice,
including equipment financing, mergers,

acquisitions, and preparation of memoranda for clients on changes in tax laws

1978: Summer Associate, Tax, Litigation, and General Practice (Corporate) Groups

The Honorable Monroe G. McKay, United States Court of Appeals,
6012 Federal Building, Salt Lake City, UT 84138
1979-80: Law Clerk

Professor Robert S. Summers, Cornell Law School,
Ithaca, NY 14853
1978-79: Research Assistant: Worked on several manuscripts on American legal theory

Farage and Shrager, 1160 Suburban Station Building,
Philadelphia, PA 19103
1977: Summer Law Clerk: Researched issues relating to personal injury litigation

University of Chicago Hospitals, Chicago IL 60637
1975-76: Coordinator, OB/GYN Clinic
1973-75: Part-time Information Desk Clerk

United States Army
1969-70: 556th Military Police Co. (Siegelbach, Germany),
APO 09176: Motor Pool Clerk
1968-69: Basic training (Fort Ord, California); MP School
(Fort Gordon, Georgia)

PUBLICATIONS

Books, Book Supplements, and Book Chapters:

1983, 1984, 1985, 1986 & 1987 Supplements to Alexander J. Bruen & Willard B. Taylor, Federal Income Taxation of Oil and Gas Investments (Warren, Gorham & Lamont 1983) (with Taylor)

Federal Income Taxation of Oil and Gas Investments, 2d Edition (revision of Bruen & Taylor) (Warren, Gorham & Lamont 1989) (with Alexander J. Bruen & Willard B. Taylor)

1989, 1990, 1991, 1992, 1994, 1995 & 1996 Supplements to Bruen, Taylor & Jensen, Federal Income Taxation of Oil and Gas Investments, 2d Edition (Warren, Gorham & Lamont 1989)

The Taxing Power: A Reference Guide to the United States

Constitution (Praeger Publishers 2005)

"The Taxing Power," in The Powers of the U.S. Congress: Where Constitutional Authority Begins and Ends, ch. 1, at 1 (Brien Hallett ed., ABC-CLIO) (2016)

Articles, Commentaries, Narratives, and Notes:

Taxation:

"The Uneasy Justification for Special Treatment of Like-Kind Exchanges," 4 American Journal of Tax Policy 193 (1985)

"The Deduction of Future Liabilities by Accrual-Basis Taxpayers: Premature Accruals, the All Events Test, and Economic Performance," 37 University of Florida Law Review 433 (1985)

"Hughes Properties and General Dynamics: The Supreme Court, the All Events Test, and the 1984 Tax Act," 32 Tax Notes 911 (1986)

"Taxation, the Student Athlete, and the Professionalization of College Athletics," 1987 Utah Law Review 35

"The Supreme Court and the Timing of Deductions for Accrual-Basis Taxpayers," 22 Georgia Law Review 229 (1988)

"The Supreme Court's Misleading Footnote in General Dynamics," 41 Tax Notes 665 (1988)

"Commentary: Food for Thought and Thoughts About Food: Can Meals and Lodging Provided to Domestic Servants Be for the Convenience of the Employer?" 65 Indiana Law Journal 639 (1990)

"The Unanswered Question in Tufts: What Was the Purchaser's Basis?" 10 Virginia Tax Review 455 (1991), excerpted in Federal Income Tax Anthology, edited by Paul L. Caron et al., at 180 (Anderson 1997)

"Aside: The Heroic Nature of Tax Lawyers," 140 University of Pennsylvania Law Review 367 (1991) (discussing John Grisham, The Firm), reprinted in 54 Tax Notes 1557 (1992)

"A Monologue on the Taxation of Business Gifts," 1992 Brigham Young University Law Review 397

"Nonrecourse Liabilities and Real Costs: A Reply to Professor Johnson," 11 Virginia Tax Review 643 (1992)

"American Indian Tribes and 401(k) Plans," 68 Tax Notes 117 (1995)

"The Apportionment of 'Direct Taxes': Are Consumption Taxes Constitutional?", 97 Columbia Law Review 2334 (1997), abridged version printed in 81 Tax Notes 611 (1998) and 15 State Tax Notes 1407 (1998)

"The Control of Avoidance: The US Alternative," 1998 British Tax Review 161 (with John Tiley)

"Critical Theory and the Loneliness of the Tax Prof," 76 North Carolina Law Review 1753 (1998) (symposium)

"Respect for Statutory Text Versus 'Blithe Unconcern': A Reply to Professor Coverdale," 72 Tulane Law Review 1749 (1998)

"American Indian Law Meets the Internal Revenue Code: Warbus v. Commissioner," 74 North Dakota Law Review 691 (1998), reprinted in 83 Tax Notes 105 (1999)

"Unapportioned Direct-Consumption Taxes and the Sixteenth Amendment," 84 Tax Notes 1089 (1999)

"Taxation and the Constitution: How to Read the Direct-Tax Clauses," 15 The Journal of Law and Politics 689 (1999)

"Taxation, Compensation, and Judicial Independence: Hatter v. United States," 90 Tax Notes 1541 (2001) (with Jonathan L. Entin)

"United States v. Hatter and the Taxation of Federal Judges," 92 Tax Notes 673 (2001) (with Jonathan L. Entin)

"The Taxing Power, the Sixteenth Amendment, and the Meaning of 'Incomes,'" 33 Arizona State Law Journal 1057 (2001), abridged version printed in 97 Tax Notes 99 (2002)

"Chickasaw Nation: Interpreting a Broken Statute," 97 Tax Notes 1195 (2002), reprinted in 39 The Exempt Organization Tax Review 37 (2003)

"Doing Business in Indian Country: Introduction to American Indian Law Concepts Affecting Taxation," 20 Journal of Taxation of Investments 223 (2003)

"The Constitution Matters in Taxation," 100 Tax Notes 821 (2003); "Jensen's Response to Johnson's Response to Jensen's Response to Johnson's Response to Jensen (Or Is It the Other Way Around?)" 100 Tax Notes 841 (2003)

"The Export Clause," 6 Florida Tax Review 1 (2003), abstracted in 102 Tax Notes 1295 (2004)

"Are Recoveries for Nonphysical Injuries Automatically Taxable?" 105 Tax Notes 1439 (2004); "Further Thoughts on Recoveries for Nonphysical Injuries," 106 Tax Notes 985 (2005) (letter to the editor); "Dodge's Darts Don't Pass Inspection," 106 Tax Notes 1463 (2005) (letter to the editor); "Nonphysical Injuries: The Last Word (?)" 107 Tax Notes 524 (2005) (letter to the editor)

"Interpreting the Sixteenth Amendment (By Way of the Direct-Tax Clauses)," 21 Constitutional Commentary 355 (2004)

Four entries ("Article I, Section 2, Clause 3-Three-fifths Clause"; "Article I, Section 7, Clause 1-Origination Clause"; "Article I, Section 9, Clause 4-Direct Taxes"; and "Amendment XVI-Sixteenth Amendment"), in The Heritage Guide to the Constitution, at 54, 85, 159, 411 (Edwin Meese III et al. eds., Heritage Foundation, Regnery Publishing Co., 2005), Origination Clause essay posted as "Hands Off My Purse! Why Money Bills Originate in the House," Heritage Foundation First Principles Series (January 27, 2011), <http://www.heritage.org/Research/Reports/2011/01/Hand-Off-My-Purse-Why-Money-Bills-Originate-in-the-House>

"Taxation, Compensation, and Judicial Independence," 56 Case Western Reserve Law Review 965 (2006) (symposium issue) (with Jonathan L. Entin)

"Taxation and Doing Business in Indian Country," 60 Maine Law Review 1 (2008)

"The US Legislative and Regulatory Approach to Tax Avoidance", in Comparative Perspectives on Revenue Law: Essays in Honour of John Tiley, edited by John Avery Jones et al., at 99 (Cambridge University Press, 2008)

"Would a Tax on AIG Bonus Recipients Really Be a Tax?" 123 Tax Notes 1033 (2009)

"The Receipt of Cash for Losses of Personal Rights," 126 Tax Notes 103 (2010)

"Parsing the Meaning of 'Personal Injuries' Under Section 104(a)(2)," Journal of Taxation of Investments, Winter 2010, at 92

"Murphy v. Internal Revenue Service, the Meaning of 'Income,' and Sky-Is-Falling Tax Commentary," 60 Case Western Reserve Law Review 751 (2010)

"Codification of the Economic Substance Doctrine," Journal of Taxation of Investments, Winter 2011, at 87

"The More Things Change—Much Talk of Reform, But Are Real Results Likely?" Journal of Taxation of Investments, Spring 2011, at 89

"Quirky Constitutional Provisions Matter: The Tonnage Clause, Polar Tankers, and State Taxation of Commerce," 18 George Mason Law Review 669 (2011)

"The Sale of State Tax Credits: A Tax Court Decision Isn't a Tempel of Doom," Journal of Taxation of Investments, Summer 2011, at 91

"The Home Bathroom Deduction," 133 Tax Notes 480 (2011)

"Business Versus Nonbusiness Bad Debts: Dagres v. Commissioner Presents New Variations on an Old Theme," Journal of Taxation of Investments, Winter 2012, at 73

"The Individual Mandate and the Taxing Power," 134 Tax Notes 97 (2012)

"The Sale of Tax Credits Revisited: A CCA Consecrates (Most of) Tempel," Journal of Taxation of Investments, Spring 2012, at 59

"Does the Taxing Clause Give Congress Unlimited Power?", 135 Tax Notes 1515 (2012)

"Post-*NFIB*: Does the Taxing Clause Give Congress Unlimited Power?", 136 Tax Notes 1309 (2012)

"The Individual Mandate, Taxation, and the Constitution," Journal of Taxation of Investments, Fall 2012, at 31

"Legislative and Regulatory Responses to Tax Avoidance: Explicating and Evaluating the Alternatives," 57 St. Louis University Law Journal 1 (2012)

"A Question Important to Investors (Whether They Realize It or Not): Is Realization a Constitutional Requirement for Income Taxation?" Journal of Taxation of Investments, Fall 2013, at 19

"Back to the Future with Rescission Decisions: Impact of IRS Decision to Issue No New Guidance," Journal of Taxation of Investments, Winter 2014, at 21

"The Constitutionality of a Mark-to-Market Taxing System," 143 Tax Notes 1299 (2014)

"The Tiley Trilogy and US Anti-avoidance Law," 12 eJournal of Tax Research 74 (2014)

"Taking the Student Out of Student Athlete: College Sports and the Unrelated Business Income Tax," Journal of Taxation of Investments, Summer 2014, at 29

"Did the Sixteenth Amendment Ever Matter? Does It Matter Today?" 108 Northwestern University Law Review 799 (2014)

"'Student' Athletes Revisited," Journal of Taxation of Investments, Fall 2014, at 43

Four entries ("Article I, Section 2, Clause 3—Three-fifths Clause"; "Article I, Section 7, Clause 1—Origination Clause"; "Article I, Section 9, Clause 4—Direct Taxes"; and "Amendment XVI—Sixteenth Amendment"), in The Heritage Guide to the Constitution, Fully Revised Second Edition, at 67, 107, 207, 524 (David F. Forte et al. eds., Heritage Foundation, Regnery Publishing Co., 2014)

"Sometimes Unguided (or Maybe Misguided) Economic Substance Guidance," Journal of Taxation of Investments, Winter 2015, at 27

"King v. Burwell, the Affordable Care Act, and Deference to Administrative Interpretations of the Internal Revenue Code,"

Journal of Taxation of Investments, Fall 2015, at 29

"Taxation and the Constitution: Recent Articles," 151 Tax Notes 231 (2016) (solicited article)

"Capital Assets: A Guide for the Novice, with Tips for the Experienced," Journal of Taxation of Investments, Summer 2016, at 47

"Are Recoveries for Losses Taxable? The Commissioner's Nonacquiescence in Cosentino Muddies the Waters," Journal of Taxation of Investments, Winter 2017, at 47

"Sales of Property to Comply with Conflict-of-Interest Requirements: Section 1043 Assumes New Significance," Journal of Taxation of Investments, Spring 2017, at 3

"The Tax Classification of Snuggies, Tomatoes, and Beans (Oh My!)," 155 Tax Notes 851 (2017)

"Taxation and the Constitution: Recent Articles," 155 Tax Notes 1607 (2017) (solicited article)

"The Sixteenth Amendment" (with Joseph Fishkin and William Forbath) and "Additional Thoughts on the Sixteenth Amendment," National Constitution Center's Interactive Constitution (2017), <https://constitutioncenter.org/interactive-constitution/amendments/amendment-xvi>

"Update on Section 1043: Deferral of Gain on Sale of Assets to Satisfy Conflict-of-Interest Rules," Journal of Taxation of Investments, Winter 2018, at 53

"Graduate Education and the Taxation of Tuition Reductions," 158 Tax Notes 1187 (2018), reprinted in The Exempt Organization Tax Review, April 2018, at 245

"Is Capping the Deduction for State and Local Taxes Unconstitutional?" Journal of Taxation of Investments, Spring 2018, at 27

"Taxation and the Constitution: Recent Articles," 159 Tax Notes 1155 (2018) (solicited article)

"If a Tuition Reduction is Taxable, What's the Measure of Income?" Journal of Taxation of Investments, Summer 2018, at

"Four States Challenge the Cap on SALT Deductions," Journal of Taxation of Investments, Fall 2018, at 51

"The Origination Clause and the Validity of Taxing Statutes," Journal of Taxation of Investments, Winter 2019, at 61

"Is a Tax on Wealth Constitutional?" Journal of Taxation of Investments, Spring 2019, at 79

"The IRS Can't Use a Notice to Change Statutory Meaning in an Anti-Taxpayer Way: Feigh v. Commissioner," Journal of Taxation of Investments, Fall 2019, at 75

"Counterpoint: An Unapportioned Wealth Tax Has Constitutional Problems," 39(1) ABA Tax Times 10 (November 2019), https://www.americanbar.org/groups/taxation/publications/abat_axtimes_home/19nov/

"Provisions in the Constitution Matter: A Reply to Professor Johnson," 165 Tax Notes Federal 1829 (2019)

"College Athletics and the Tax on Unrelated Business Income: Will 'Student Athletes' Still Be Students After the NCAA Changes Its Rules?" Journal of Taxation of Investments, Winter 2020, at 59

"Marijuana Businesses, Section 280E, and the Sixteenth Amendment," 168 Tax Notes Federal 1643 (2020); 97 Tax Notes State 929 (2020)

"Valuing Tuition Waivers for Tax Purposes," 45 Journal of College and University Law 289 (2020), https://jcul.law.rutgers.edu/wp-content/uploads/2020/08/45_jcul_No2_FULL.pdf

"When Is an Investment Loss Deductible? Adkins v. United States Provides Taxpayer-Friendly Guidance," Journal of Taxation of Investments, Fall 2020, at 83

"A SALT Cap Workaround That Works? Notice 2020-75," Journal of Taxation of Investments, Winter 2021, at 75

"When Can Taxpayers Invoke the Substance-over-Form Doctrine?" Journal of Taxation of Investments, Spring 2021, at 75

"News Flash: Pay Your Federal Income Taxes; The Sixteenth Amendment Was Properly Ratified," Journal of Taxation of Investments, Summer 2021, at 69

"Developments Affecting Intercollegiate Athletics and Taxation," Journal of Taxation of Investments, Fall 2021, at 61

"Recent Developments Affecting the SALT Cap, Including an Appellate Court Decision Upholding the Cap's Constitutionality," Journal of Taxation of Investments, Winter 2022, at 65

"What's a Tax for Bankruptcy Law Purposes?" Journal of Taxation of Investments, Summer 2022, at 49

"Tax Issues Affecting Marijuana Businesses," 67 South Dakota Law Review 465 (2022)

"Washington's Capital Gains Tax Isn't an Income Tax," Journal of Taxation of Investments, Spring 2023, at 65

"Is Realization Necessary to Have Taxable Income? The Supreme Court Might Tell Us," Journal of Taxation of Investments, Summer 2023, at 39

"Supreme Court Must Go the Distance to End Tax Confusion" (Bloomberg Tax, Dec. 4, 2023),
<https://news.bloombergtax.com/tax-insights-and-commentary/supreme-court-must-go-the-distance-in-moore-to-end-tax-confusion?context=search&index=1>

"The Commerce Clause Doesn't Override Rules Governing the Taxing Power," 182 Tax Notes Federal 1603 (2024); 113 Tax Notes International 1169 (2024)

"Moore's Unrealized Potential," Law & Liberty (June 26, 2024),
https://lawliberty.org/moores-unrealized-potential/?mc_cid=545ae9aa65&mc_eid=fe0a7fe83a

"The Supreme Court Punts on the Realization Issue in Moore," Journal of Taxation of Investments, Summer 2024, at 55

"Why Endowments of Educational Institutions Shouldn't Be Taxed," Civitas Outlook (February 27, 2025),
<https://www.civitasinstitute.org/research/why-endowments-of-educational-institutions-shouldnt-be-taxed>

Other:

Note, "The Standard of Proof of Causation in Legal Malpractice Cases," 63 Cornell Law Review 666 (1978)

"The State of Trial Advocacy and Legal Education: Three New Studies," 30 Journal of Legal Education 253 (1979) (with Roger C. Cramton), reprinted in 14 International Society of Barristers Quarterly 352 (1979); 11 ALI-ABA CLE Review nos. 21-23 (1980); Continuing Legal Education for Professional Competence and Responsibility Since Arden House II, at 78 (ALI-ABA Committee on Continuing Professional Education 1984)

"Monroe G. McKay and American Indian Law: In Honor of Judge McKay's Tenth Anniversary on the Federal Bench," 1987 Brigham Young University Law Review 1103

"Commentary: The Extraordinary Revival of Dred Scott," 66 Washington University Law Quarterly 1 (1988)

"The Law Review Manuscript Glut: The Need for Guidelines," 39 Journal of Legal Education 383 (1989)

"Law Review Correspondence: Better Read Than Dead?" 24 Connecticut Law Review 159 (1991); and "Commentary Redux," 24 Connecticut Law Review 207 (1991)

"The Imaginary Connection Between the Great Law of Peace and the United States Constitution: A Reply to Professor Schaaf," 15 American Indian Law Review 295 (1991)

"American Indian Tribes and Secession," 42 Tulsa Law Journal 385 (1993)

"Pragmatic Instrumentalism and the Future of American Legal Education," in Prescriptive Formality and Normative Rationality in Modern Legal Systems: Festschrift for Robert S. Summers, edited by Werner Krawietz et al., at 161 (Duncker & Humblot 1994)

"Commandeering, the Tenth Amendment, and the Federal Requisition Power: New York v. United States Revisited," 15 Constitutional Commentary 353 (1998) (with Jonathan L. Entin), excerpted in In Brief, no. 71, at 3 (1998)

"The Continuing Vitality of Tribal Sovereignty Under the

Constitution," 60 Montana Law Review 3 (1999); "The End of (This Discussion of) Tribal Sovereignty," 60 Montana Law Review 35 (1999)

"Legal Education's 'Learned Society,'" Academic Questions, Spring 2001, at 46

"Reflections on Editing a Journal for Law Teachers," 2 Wyoming Law Review 119 (2002)

"Law Reviews and Academic Debate," 77 Washington Law Review 769 (2002)

"The Case for a Flat-Earth Law School," 15 Cardozo Journal of International and Comparative Law 119 (2007)

"Indian Gaming on Newly Acquired Lands," 47 Washburn Law Journal 675 (2008) (solicited for symposium issue)

"Hylton v. United States," "Life Tenure of Judges," and "The Sixteenth Amendment" in Encyclopedia of the Supreme Court of the United States (Macmillan Reference USA, 2008)

"Propositions in the Constitution," 14 The Green Bag, 2d 163 (2011)

"The Export Clause and the Port Preference Clause," National Constitution Center's Interactive Constitution (2016), <http://constitutioncenter.org/interactive-constitution/articles/article-i/export-and-port-preference-clauses-jensen/clause/27>

"E. B. White Could Nod Too: Thoughts Occasioned by Reading 'Death of a Pig,'" 66 Journal of Legal Education 409 (2017)

"The Harvard Law Review and the Iroquois Influence Thesis," 6 British Journal of American Legal Studies 225 (2017)

"The Foreign Emoluments Clause," 10 Elon Law Review 73 (2018)

"A Comment on Justice Thomas's Commas," 28 The Green Bag 2d 99 (2025)

Humor:

"A Call for a New Buffalo Law Scholarship," 38 University of Kansas Law Review 433 (1990), reprinted in In Brief, no. 49,

at 7 (1990), and Amicus Humorise: An Anthology of Legal Humor, edited by Robert M. Jarvis et al., at 195 (Carolina Academic Press 2003)

"A Day in the Life of S. Breckinridge Tushingham," 69 Denver University Law Review 231 (1992)

"Performance Scholarship and the Internal Revenue Code," 29 Houston Law Review 429 (1992)

"The Unwritten Article," 17 Nova Law Review 785 (1993)

"Tough on Scholarship," 39 The Wayne Law Review 1285 (1993)

"A 1990s Law School Conversation," 44 Journal of Legal Education 608 (1994) (using pseudonym Estel Crabtree)

"Tax Notes by Any Other Name Would Smell Sweeter," 74 Tax Notes 641 (1997), reprinted in 135 Tax Notes 1619 (2012)

"Y2K and the Income Tax," 83 Tax Notes 1641 (1999); "News Flash: The Income Tax Remains Constitutional," 86 Tax Notes 291 (2000)

"Dean Breck," 2 The Green Bag, 2d 395 (1999)

"The Redundant Professors Fund," 49 Journal of Legal Education 151 (1999)

"Nineteenth-Century Sixteenth Amendment Jurisprudence," 3 The Green Bag, 2d 241 (2000)

"The Shortest Article in Law Review History," 50 Journal of Legal Education 156 (2000); "Comments in Reply," 50 Journal of Legal Education 312 (2000), translated and reprinted in 2005 Legal Medenî Usû l ve I crâ I flâs Hukuku Dergisi 373, 376

"Sixteenth-Century Nineteenth Amendment Jurisprudence," 4 The Green Bag, 2d 465 (2001)

Four limericks in "Tax Case Limericks: A Casual Collection," 93 Tax Notes 865 (2001)

"Taxation of Beards," 6 The Green Bag, 2d 431 (2003), reprinted in 102 Tax Notes 153 (2004)

"Scholars United Against Suppression of the Cleveland School," 9 The Green Bag, 2d 221 (2006) (with Arthur D. Austin & Edgar Hahn)

"Wheir's the Beef?: Buffalo Law and Taxation," 36 New Mexico Law Review 517 (2006), reprinted in Taxation and International Perspectives (ICFAI (Institute of Chartered Financial Analysts of India) University Press, 2007)

"Law School Attire: A Call for a Uniform Uniform Code," 33 Oklahoma City University Law Review 419 (2008), revised and abridged version published as "A Call for Professional Attire," Insider Higher Ed (Feb. 8, 2008) (<http://www.insidehighered.com/views/2008/02/08/jensen>)

"Under the Robes: A Judicial Right to Bare Arms (and Legs and . . .)?" 12 The Green Bag, 2d 221 (2009)

"The Intellectual History of 'The Shortest Article in Law Review History,'" 59 Case Western Reserve Law Review 445 (2009)

"Planning for the Next Century or the Next Week, Whichever Comes First," 117 Penn State Law Review Penn Statim 7 (2012)

"(Almost) President Breck," available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2985100

"Ties in Baseball (and Beyond)," Baseball Research Journal Fall 2018, at 120

"Aphorism Cookies," 38 Mississippi College Law Review 45 (2019)

"Judicial Attire: An Alteration to 'Under the Robes,'" Minnesota Law Review De Novo (October 2, 2019), <https://minnesotalawreview.org/2019/10/02/judicial-attire-an-alteration-to-under-the-robres/>

Book Reviews:

American Indians, Time, and the Law (Charles Wilkinson), 38 Case Western Reserve Law Review 318 (1987)

Right V. Might: International Law and the Use of Force (Louis Henkin et al.), 22 Vanderbilt Journal of Transnational Law

1249 (1989)

A Law Unto Itself: The Untold Story of the Law Firm Sullivan & Cromwell (Nancy Lisagor & Frank Lipsius), 1990 Columbia Business Law Review 133

Congress and the Income Tax (Barber Conable, Jr.), Policy Currents, March 1992, at 8

Taxation and Supervision of Branches of International Banks: A Comparative Study of Banks and Other Enterprises (Irene J.J. Burgers), 6(1) Journal of Bank Taxation 46 (1992)

Pleading Guilty (Scott Turow), Cleveland Plain Dealer, at 10-H (May 30, 1993)

The Seven Cultures of Capitalism (Charles Hampden-Turner & Alfons Trompenaars), Cleveland Plain Dealer, at 13-I (October 10, 1993)

The Armchair Economist (Steven E. Landsburg), Cleveland Plain Dealer, at 11-H (February 20, 1994)

Financing the Corporation (Richard A. Booth), Business Law Today, at 42 (March/April 1994)

Law School: A Survivor's Guide (James D. Gordon III), 96 West Virginia Law Review 1191 (1994)

Complete and Utter Failure (Neil Steinberg), Cleveland Plain Dealer, at 10-J (January 29, 1995)

The Oxford Book of Money (ed. Kevin Jackson), Cleveland Plain Dealer, at 12-K (April 16, 1995)

Men Are Not Cost-Effective: Male Crime in America (June Stephenson), Cleveland Plain Dealer, at 14-K (May 29, 1995)

Federal Income Tax: Doctrine, Structure and Policy (Joseph M. Dodge et al.), 68 Tax Notes 223 (1995)

The Education of Rick Green, Esq. (Harvey Sawikin), Cleveland Plain Dealer, at 14-J (August 6, 1995)

A Civil Action (Jonathan Harr), Cleveland Plain Dealer, at 12-J (September 17, 1995)

Finding Moon (Tony Hillerman), Cleveland Plain Dealer, at 11-E (November 2, 1995)

Here's the Deal: The Buying and Selling of a Great American City (Ross Miller), Cleveland Plain Dealer, at 12-J (March 24, 1996)

Fat and Mean: The Corporate Squeeze of Working Americans and the Myth of Managerial "Downsizing" (David M. Gordon), Cleveland Plain Dealer, at 11-J (May 12, 1996)

The Laws of Our Fathers (Scott Turow), Cleveland Plain Dealer, at 14-J (October 13, 1996)

Against the Gods: The Remarkable Story of Risk (Peter L. Bernstein), Cleveland Plain Dealer, at 11-H (December 29, 1996)

Frontiers of Tax Reform (ed. Michael J. Boskin), 47 Case Western Reserve Law Review 253 (1996)

No Contest: Corporate Lawyers and the Perversion of Justice in America (Ralph Nader & Wesley J. Smith), Cleveland Plain Dealer, at 12-I (January 5, 1997)

Frozen Desire: The Meaning of Money (James Buchan), Cleveland Plain Dealer, at 14-I (October 19, 1997)

The Money: The Battle for Howard Hughes's Billions (James R. Phelan & Lewis Chester), Cleveland Plain Dealer, at 13-I (October 26, 1997)

Those Dirty Rotten Taxes: The Tax Revolts That Built America (Charles Adams), Cleveland Plain Dealer, at 12-H (March 1, 1998)

The Empire Strikes Back: Outsiders and the Struggle Over Legal Education (Arthur Austin), 52 Oklahoma Law Review 515 (1999)

"Death by Bluebook," The Law Review (S. Scott Gaille), 9 Roger Williams University Law Review 207 (2003)

Death by a Thousand Cuts: The Fight over Taxing Inherited Wealth (Michael J. Graetz & Ian Shapiro), 4 Perspectives on Politics 593 (2006)

The Chief Purpose of Universities: Academic Discourse and the Diversity of Ideas (William M. Bowen & Michael Schwartz), 54 Cleveland State Law Review 393 (2006)

Making America Work (Jonathan Barry Forman), 5 Pittsburgh Tax Review 165 (2008)

Tax-Free Like-Kind Exchanges (Bradley T. Borden), 120 Tax Notes 479 (2008), reprinted in The Advocate: Official Publication of the Idaho State Bar, August 2009, at 28

True Tales for Trying Times: Legal Fables for Today (Bob Rains), 10 Nevada Law Journal 181 (2009)

The Timing of Income Recognition in Tax Law and the Time Value of Money (Moshe Shekel), 1 Columbia Journal of Tax Law 262 (2010)

Newspaper Columns, Magazine Articles, and Miscellany:

"An Argument Against 'Apocryphal Stories,'" National Law Journal, at 17 (March 10, 1980)

"Should College Sports Be Professionalized? Maybe, but They Would Have to Pay Income Tax," Cleveland Plain Dealer, at 9-B (May 23, 1985)

"Taxation and the Professionalization of College Athletics," In Brief, no. 38, at 2 (1986)

"The Portable John Tiley," In Brief, no. 39, at 8 (1987)

"Bork Pick Opens Debate on Court--'Much of Criticism is Laughable,'" Cleveland Plain Dealer, at 7-B (July 10, 1987)

"Is It a Crime to Murder the Queen's English?" Cleveland Plain Dealer, at 5-B (July 1, 1988)

"Life's Essentials," 1 CWRU no. 4, at 29 (1989)

"Economic Performance and Progressive Jackpots: A Better Analysis," 45 Tax Notes 635 (1989), excerpted in Kevin K. Washburn, The Law of Gaming and Gambling: Policies and Principles (Aspen 2010)

"Strings Attached to Support for the Arts Aren't an Evil," Crain's Cleveland Business, at 7 (July 9, 1990)

"Reread the 'Brown' Opinion," Cleveland Plain Dealer, at 9-B (March 20, 1991)

"To Whom It May Concern," Cleveland Plain Dealer, at 5-C (August 2, 1991)

"Pro-Abstinence Message Stops Ears," Cleveland Plain Dealer, at 9-C (December 27, 1991)

"Iroquois Didn't Write U.S. Constitution," Cleveland Plain Dealer, at 3-C (August 1, 1992)

"Flat Tax Is for Flat-Earthers," Cleveland Plain Dealer, at 8-B (February 18, 1993)

"Of Crud and Dogs: An Updated Collection of Quotations in Support of the Proposition That the Supreme Court Does Not Devote the Greatest Care and Attention to Our Exciting Area of the Law; Or Something the Tax Notes Editors Might Use to Fill Up a Little Space in That Odd Week When Calvin Johnson Has Nothing to Print," 58 Tax Notes 1257 (1993)

"Can't Trust Officials Who Don't Talk Right," Cleveland Plain Dealer, at 7-B (October 16, 1993)

"New Players Break up the Old Law Game," Cleveland Plain Dealer, at 11-B (June 13, 1994)

"How Should IRS View Clinton's Defense Fund?" National Law Journal, at A21 (September 5, 1994)

"Declining Fortunes," Journal of Irreproducible Results, July/August 1994, at 5 (with Estel Crabtree)

"Flat Tax Won't Be So Simple in Complex Business World," Crain's Cleveland Business, at 11 (March 27, 1995)

"Editing the Juornal [sic] of Legal Education," In Brief, no. 65, at 11 (1995)

"Let's Quit Having Primaries," Cleveland Plain Dealer, at 11-B (February 24, 1996)

"John Tiley Redux," In Brief, no. 68, at 24 (1996)

"Affirmative Action Time Elicits a Special Salute," Crain's

Cleveland Business, at 11 (September 1, 1997)

"Henry P. Monaghan: The First Keith S. Benson Professor," In Brief, no. 70, at 7 (1997)

"Skunk Works Bill Contains Some Stinky Provisions," 84 Tax Notes 633 (1999)

"Your Grammar Wears Combat Boots," Cleveland Bar Journal, February 2000, at 6

"All Kids Must Learn Basics," Crain's Cleveland Business, at 12 (November 6, 2000)

"The Commerce Clause Can't Trump Constitutional Limits on Taxation," 125 Tax Notes 1031 (2009)

"The Constitution Matters in Taxation," Cleveland Metropolitan Bar Journal, January 2010, at 18 (with Jonathan L. Entin), reprinted in In Brief, Winter/Spring 2010, at 17

"Justice Scalia Nodded," 13 The Green Bag, 2d 378 (2010)

"Henry King," 60 Case Western Reserve Law Review 603 (2010), reprinted in Henry T. King, Jr.: A Life Dedicated to International Justice, at 27 (Michael P. Scharf ed., Carolina Academic Press 2011)

"Professor Morris Shanker," 61 Case Western Reserve Law Review 13 (2010), abridged in "Faculty Profile: Professor Morris Shanker Retires and Is Celebrated by All," In Brief, Summer/Fall 2010, at 22

"The Constitutionality of the Individual Mandate in the Affordable Care Act," Cleveland Metropolitan Bar Journal, March 2011, at 10 (with Jonathan H. Adler), reprinted in In Brief, Summer/Fall 2011, at 9

"Sin Taxes: Taxes Aren't Always the Answer," American Government ABC-CLIO, 2011. Web. 19 May 2011, <http://americangovernment.abc-clio.com/>

"A Tax or Not a Tax, That Is the Question," 14 The Green Bag, 2d 368 (2011)

"Arthur D. Austin," 62 Case Western Reserve Law Review 3 (2011), abridged in "The Retirement of Arthur D. Austin," In

Brief, Winter/Spring 2012, at 33

"A Comment on Commas," Green Bag Almanac and Reader 2012 559

"The Individual Mandate and Tax Incentives," 135 Tax Notes 879 (2012)

"Does the Taxing Clause Give Congress Unlimited Power?", 135 Tax Notes 1515 (2012)

"Tribute to Professor Leon Gabinet," 65 Case Western Reserve Law Review 4 (2014)

"Let's Hope Grammar Steps Up to the Plate in Indians' Telecasts," Cleveland Plain Dealer, at E6 (April 1, 2015), posted as "Dizzy Dean, English Teachers, and Indians Baseball,"

http://www.cleveland.com/opinion/index.ssf/2015/03/dizzy_dean_english_teachers_an.html (March 31, 2015)

"In Praise of Citation and Circulation, and of Pronoun-Antecedent Agreement," 18 The Green Bag 2d 245 (2015)

"President Obama's Supreme Court Nominee Deserves Deference," http://www.cleveland.com/opinion/index.ssf/2016/04/the_founders_knew_that_if_supr.html (April 3, 2016)

"Let the pols pick the nominees," Baltimore Sun, at A-11 (May 2, 2016), <http://www.baltimoresun.com/news/opinion/oped/bs-ed-no-primaries-20160501-story.html> (May 1, 2016)

"New president won't be able to change tax code by decree," Cleveland Plain Dealer, at E2 (June 24, 2016), posted as "News flash! The president can't change the Internal Revenue Code alone,"

http://www.cleveland.com/opinion/index.ssf/2016/06/news_flash_the_president_cant.html#incart_river_index

"My father, the 'grammar nut,'" Baltimore Sun, at 13 (July 12, 2016), <http://www.baltimoresun.com/news/opinion/oped/bs-ed-grammar-nut-20160711-story.html>.

"Electoral College furthers vital values," Cleveland Plain Dealer, at E2 (August 7, 2016), posted as "Is the Electoral College Exhibit A for 'rigged elections'—or a way to avoid Bush-Gore on steroids?",

http://www.cleveland.com/opinion/index.ssf/2016/08/is_the_electora

[l_college_exhib.html](#)

"The good old days," Baltimore Sun, at 17 (September 23, 2016), posted as "Breathing old life into baseball," <http://www.baltimoresun.com/news/opinion/oped/bs-ed-baseball-life-20160922-story.html> (Sept. 22, 2016)

"Clinton Foundation donors pose constitutional quandary: Letter of law may not be violated, but its spirit has been ignored," Cleveland Plain Dealer, at E1 (September 23, 2016), posted as "The corrosive influence of 'presents' from foreign governments per the Emoluments Clause," http://www.cleveland.com/opinion/index.ssf/2016/09/pay_to_play_and_presents_from.html

"Basic civics education is urgently needed in schools," Cleveland Plain Dealer, at E2 (November 13, 2016), posted as "Restore civics lessons to America's classrooms," http://www.cleveland.com/opinion/index.ssf/2016/11/restore_civics_lessons_to_amer.html#incart_river_index

"Support science, not identity politics," http://www.cleveland.com/opinion/index.ssf/2017/05/support_science_not_identity_p.html (May 10, 2017)

"Tribute to Professor Jonathan L. Entin," 67 Case Western Reserve Law Review 1012 (2017)

"U.S. presidency powerful enough," Baltimore Sun, at 13 (August 31, 2017), posted as "Trump shows exactly why the U.S. shouldn't increase the power of the presidency," <http://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0831-powerful-presidency-20170829-story.html> (August 30, 2017)

"Tribute to Professor George W. Dent, Jr.," 68 Case Western Reserve Law Review 8 (2017)

"Remembering Our Law Professors: Arthur D. Austin II (1932-2018)," In Brief, Fall 2018, at 25

"If president wants to keep his job, 25th Amendment helps him to stay," Cleveland Plain Dealer, at E2 (October 14, 2018), posted as "It's not as easy to remove a president under the 25th Amendment as many seem to think," https://www.cleveland.com/opinion/index.ssf/2018/10/its_not_as_easy_to_remove_a_pr.html#incart_river_index

"Warren's Folly," City Journal Online, Feb. 1, 2019, <https://www.city-journal.org/elizabeth-warren-wealth-tax>

"Why Sen. Warren's wealth tax is likely unconstitutional," Baltimore Sun, at 15 (April 11, 2019), posted as "Here's why Sen. Warren's wealth tax is likely unconstitutional," <https://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0410-wealth-tax-20190408-story.html> (April 9, 2019)

"The Twenty-Fifth Amendment Wouldn't Work to Dump Trump," The Conversation (June 11, 2019), <https://theconversation.com/the-25th-amendment-wouldnt-work-to-dump-trump-114147>

"Trump's Emoluments Case Win Shows Challenging Him in the Courts Might Be a Lost Cause," NBC News THINK (July 11, 2019), <https://www.nbcnews.com/think/opinion/trump-s-emoluments-case-win-shows-challenging-him-courts-might-ncna1028791>

"In Memoriam: Robert N. Gordon," Journal of Taxation of Investments, Spring 2020, at 3

"Would Abraham Lincoln Have Turned to Twitter?" Cleveland Plain Dealer, at E2 (June 5, 2020), posted as "Would Abraham Lincoln, adept at unconventional public outreach, have used Twitter?", <https://www.cleveland.com/opinion/2020/06/would-abraham-lincoln-adept-at-unconventional-public-outreach-have-used-twitter-erik-m-jensen.html>

"Remembering Lasorda and the '66 Ogden Dodgers," Ogden Standard-Examiner (January 15, 2021), <https://www.standard.net/opinion/guest-commentary/2021/jan/14/remembering-lasorda-and-the-ogden-dodgers/>

"Revisiting the 25th Amendment," Cleveland Plain Dealer, at E5 (February 5, 2021), posted as "Revisiting the 25th Amendment in a (perhaps) calmer time," <https://www.cleveland.com/opinion/2021/02/revisiting-the-25th-amendment-in-a-perhaps-calmer-time-erik-m-jensen.html>

"The year Baltimore went 'major league,'" Baltimore Sun, at 21 (February 21, 2021), posted as "1954: the year Baltimore went 'major league,'" "

<https://baltimoresun.search.yahoo.com/search?p=Jensen>
(February 19, 2021)

"Wealth Taxes Can't Satisfy Constitutional Requirements," Bloomberg Tax Daily Tax Report (July 27, 2021),
<https://news.bloombergtax.com/daily-tax-report/wealth-taxes-cant-satisfy-constitutional-requirements>

"Broadcaster Vin Scully Mattered in Utah, too," Salt Lake Tribune (August 10, 2022),
<https://www.sltrib.com/opinion/commentary/2022/08/09/erik-m-jensen-broadcaster-vin/>

"Where's Sen. Joe McCarthy when we need him?" Cleveland Plain Dealer, at F1 (March 30, 2025), posted as "Joe McCarthy was wrong about a lot—but not about Russia's threat, then and now," <https://www.cleveland.com/opinion/2025/03/joe-mccarthy-was-wrong-about-a-lot-but-not-about-russias-threat-then-and-now-erik-m-jensen.html>

"President Trump is having a little difficulty with our 'official language,'" Cleveland Plain Dealer, at F2 (May 18, 2025), posted at
<https://www.cleveland.com/opinion/2025/05/president-trump-is-having-a-little-trouble-with-our-official-language-erik-jensen.html>

Published Outlines and Reports:

"The History of Nonrecognition for Like-Kind Exchanges," in American Bar Association Section of Taxation, May Meeting Washington, D.C. Mini Programs (May 17, 1986)

"Corporate Distributions and Liquidations," in Outlines for the 1988 Cleveland Tax Institute (Cleveland Bar Association 1988)

"Sales, Exchanges and Basis," 43 The Tax Lawyer 1421 (1990);
44 The Tax Lawyer 1387 (1991); 45 The Tax Lawyer 1343 (1992);
46 The Tax Lawyer 1199 (1993); 47 The Tax Lawyer 1303 (1994);
48 The Tax Lawyer 1307 (1995); 49 The Tax Lawyer 1193 (1996);
50 The Tax Lawyer 1107 (1997); 51 The Tax Lawyer 1109 (1998);
52 The Tax Lawyer 1171 (1999); 53 The Tax Lawyer 1197 (2000);
54 The Tax Lawyer 1109 (2001); 55 The Tax Lawyer 1279 (2002);
56 The Tax Lawyer 1155 (2003); 57 The Tax Lawyer 1159 (2004);
58 The Tax Lawyer 1189 (2005)

"Planning Issues in Asset Acquisitions," in Outlines for the 1990 Cleveland Tax Institute (Cleveland Bar Association 1990)

"Changing Methods of Accounting and Taxable Years," in Course Materials for the 1992 Cleveland Tax Institute (Cleveland Bar Association 1992)

"Biographies of Authors," in Robert Samuel Summers, ed., American Legal Theory xviii (New York University Press 1992)

"Recent Developments in the Doctrine of Substance over Form," Course Materials for the 1993 Cleveland Tax Institute (Cleveland Bar Association 1993)

"Pitfalls in Contributions and Distributions of Property," Course Materials for the 1994 Cleveland Tax Institute (Cleveland Bar Association 1994)

"Journal of Legal Education," Association of American Law Schools, 1 Proceedings of the 1994 Annual Meeting 343 (1994); Proceedings of the 1996 Annual Meeting 293 (1996)

"Changes to a Corporation's Liabilities," Course Materials for the 1995 Cleveland Tax Institute (Cleveland Bar Association 1995)

"Unwinding Transactions," Course Materials for the 1996 Cleveland Tax Institute (Cleveland Bar Association 1996)

"Developments Affecting Sales, Exchanges, and Basis," 18 Journal of Taxation of Investments 155 (2000) (with Annette Nellen)

"Comments on Advance Notice of Proposed Rulemaking Under Section 263(a) of the Internal Revenue Code Related to Capitalization Issues Regarding Expenditures Incurred in Acquiring, Creating or Enhancing Intangible Assets," 56 The Tax Lawyer 269 (2002) (committee report)

"Partnership Mergers and Divisions," Course Materials for the 2003 Cleveland Tax Institute (Cleveland Bar Association 2003)

"Recent Important Developments Affecting Exchanges, Sales, and Basis," 21 Journal of Taxation of Investments 402 (2004)

"Developments in Circular 230 and Related Areas," Course Materials for the 2004 Cleveland Tax Institute (Cleveland Bar Association 2004)

Association 2004)

"Indian Gaming in Ohio: Can It Happen?", Course Materials for the 2007 Cleveland Tax Institute (Cleveland Bar Association 2007)

"Recent Developments Affecting Sales, Exchanges, and Basis," Journal of Taxation and Regulation of Financial Institutions, January/February 2008, at 30

Written Statement, S. Hrg. 110-1075, Indian Governments and the Tax Code: Maximizing Tax Incentives for Economic Development, Hearings Before the Committee on Finance, United States Senate, One Hundred Tenth Congress, Second Session, at 66 (July 22, 2008)

"From the Editor," Journal of Taxation of Investments, Summer 2009, at 3

Comments on "Proposed Amendment to Treasury Regulation § 1.104-1(c)," submitted to Internal Revenue Service (September 22, 2009), available at 2009 TNT 191-14

"From the Editor," Journal of Taxation of Investments, Spring 2010, at 3

"Recent Developments: Notes on the Economic Substance Doctrine, the Deductibility of Qualified Residence Interest, and More," Journal of Taxation of Investments, Fall 2012, at 81

"The Supreme Court's Decision in National Federation of Independent Business v. Sebelius," 2012 Cleveland Tax Institute Course Materials (Cleveland Metropolitan Bar Association 2012)

"Update: The Service Revokes a Ruling on Allocating the Cost of Power Purchase Agreements," Journal of Taxation of Investments, Spring 2013, at 95

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Fall 2013, at 75

"Back to the Future with Rescission Decisions," 2013 Cleveland Tax Institute Course Materials (Cleveland Metropolitan Bar Association 2013)

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2014, at 75

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2014, at 53

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Fall 2014, at 59

"'Student' Athletes and Big-Time College Athletics: Compensation and UBIT Issues," The 57th Annual Cleveland Tax Institute Course Materials (Cleveland Metropolitan Bar Association 2014)

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2015, at 65

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2015, at 67

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2015, at 79

"King v. Burwell and Chevron Deference," The 58th Annual Cleveland Tax Institute Course Materials (Cleveland Metropolitan Bar Association 2015)

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2016, at 69

"Editor's Note," Journal of Taxation of Investments, Winter 2016, at 58

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2016, at 77

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2016, at 75

"The Nonacquiescence in Cosentino: The Tax Treatment of Recoveries for Losses," The 59th Annual Cleveland Tax Institute Course Materials (Cleveland Metropolitan Bar Association 2016)

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2017, at 71

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2017, at 71

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2017, at 85

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Fall 2017, at 79

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2018, at 67

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2018, at 85

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2018, at 71

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2019, at 77

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2019, at 85

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Fall 2019, at 85

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2020, at 73

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2020, at 93

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2020, at 61

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2021, at 85

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2021, at 79

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Fall 2021, at 77

"Marijuana Businesses and Section 280E: Some Current (and Ancient) Developments," The 64th Annual Cleveland Tax

Institute Course Materials (Cleveland Metropolitan Bar Association) (November 12, 2021)

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2022, at 77

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2022, at 77

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2022, at 65

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Fall 2022, at 85

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2023, at 77

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2023, at 77

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Fall 2023, at 67

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Winter 2024, at 59

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Spring 2024, at 71

"Short Takes: Recent Developments of Interest to Investors," Journal of Taxation of Investments, Summer 2024, at 75

"Editor's Note," Journal of Taxation of Investments, Summer 2024, at 3

LAW SCHOOL COURSES (to June 2025)

American Indian Law: 1991, 1992, 1993, 1995, 1997, 2001, 2004, 2007

Business Planning: 1983-84, 1985, 1986, 1987, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 2000, 2001, 2002 (spring), 2002 (fall), 2004, 2005, 2006, 2007, 2008, 2009, 2011, 2012

Business Tax Problems: 2001, 2002, 2003, 2004

Corporate Tax Problems: 1984, 1985, 1986, 1987, 1988, 1989, 1997
1999, 2000, 2005 (renamed Federal Taxation of Corporations
and Shareholders), 2008, 2009, 2011, 2012, 2013, 2014, 2015,
2016

Federal Income Tax: 1984, 1985, 1986, 1988 (spring), 1988
(fall), 1990, 1991, 1992, 1994 (spring), 1994 (fall), 1995,
1998, 1999, 2000, 2001, 2002, 2004 (summer), 2005, 2006,
2008, 2010, 2011, 2013 (spring), 2014 (spring), 2014 (fall),
2015, 2021, 2022

Federal Taxation of Partnerships and Partners: 1983, 1984, 1985,
1986, 1987, 1988, 1990, 1990 (fall), 1991, 1993 (spring),
1994, 1996, 1998 (spring), 2006, 2007 (spring), 2007 (fall),
2009, 2012, 2013, 2014, 2015

IRS Chief Counsel Externship: 2007, 2008, 2009, 2010, 2011,
2012, 2013, 2014, 2015 (spring and fall), 2016 (spring)

Research Seminar in Taxation: 1998, 2000

Advisor to multiple S.J.D. students: 2016-present

PROFESSIONAL ACTIVITIES, AFFILIATIONS, AND SERVICE

Editor, Journal of Taxation of Investments: 2009-24

Grant Recipient, American Tax Policy Institute: 2004 (to
prepare article on "Taxation and Doing Business in Indian
Country")

Coordinating Editor, Journal of Legal Education: 1992-98

Member, Tax Facts Editorial Advisory Board (Tax Facts on In-
vestments and Tax Facts on Insurance and Employee
Benefits): 2010-2016

Member, Society of Benchers (CWRU): 2009-present

Member, American Law Institute: 1999-present (Life Fellow
2023-present)

Fellow, American College of Tax Counsel: 2006-present

Fellow, American Bar Foundation: 2007-16

Life Fellow, American Bar Foundation: 2017-present

Executive Committee, Cleveland Tax Institute: 2005-present

Executive Committee, Order of the Coif: 1994-2000

Selection Committee, Order of the Coif Triennial Book Award:
2000-01

Chair, Nominating Committee, Order of the Coif: 2003

Member, Board of Advisers to *Green Bag's* good legal writing
Project: 2004-15

Bar Admissions: New York (1980)
U.S. Tax Court (1981)
U.S. Claims Court (1981)
U.S. Court of Appeals for the Federal Circuit (1982)
U.S. District Court (S.D.N.Y.) (1983)

Participant, Economics Institute for Law Professors, Law and
Economics Center, Emory University School of Law, Atlanta
(May 18-June 3, 1986)

Panel Member, Mini-Program on Non-Taxable Exchanges, 1986 May
Meeting, American Bar Association Section of Taxation,
Washington (May 17, 1986)

Panel Member, "Conception, Organization, Materials and
Structure in a Beginning Tax Course," Tax Teachers
Roundtable, Capital University Graduate Center, Columbus
(April 23, 1988)

Member, Panel on Corporate Restructuring, 1988 Cleveland Tax
Institute (November 11, 1988)

Member, Panel on Purchase and Sale of a Corporate Business in
a Taxable Transaction, 1990 Cleveland Tax Institute (November
15, 1990)

Panel Member, "What Was the Purchaser's Basis in Tufts?"
Committee on Sales, Exchanges, and Basis, American Bar
Association Section of Taxation, Mid-Winter Meeting, San
Antonio (February 15, 1992)

Panel Member, "When Should Nonrecourse Liability Be Ignored for Federal Income Tax Purposes?" Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Annual Meeting, San Francisco (August 8, 1992)

Member, Panel on Tax Accounting Issues, 1992 Cleveland Tax Institute (November 12, 1992)

Member, Panel on Developments and Miscellaneous Matters, 1993 Cleveland Tax Institute (November 11, 1993)

Panel Moderator, "Exchange and Basis Issues Under Section 1041," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Mid-Year Meeting, Houston (January 29, 1994)

Member, Panel on Developments in Partnership Taxation, 1994 Cleveland Tax Institute (November 10, 1994)

Member, Panel on Transactions Involving Financial Instruments, 1995 Cleveland Tax Institute (October 20, 1995)

Panel Moderator, "Purchase-Money Debt: The Mismatch Between Section 453 and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Mid-Year Meeting, San Antonio (January 20, 1996)

Panel Moderator, "New Developments in the Area of Capitalizing Costs Under INDOPCO and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, May Meeting, Washington (May 11, 1996)

Member, Panel on Selected Topics in Taxable Business Acquisitions, 1996 Cleveland Tax Institute (October 9, 1996)

Panel Moderator, "INDOPCO: Dead Letters?", Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, May Meeting, Washington (May 10, 1997)

Member, Panel on Dispositions of Closely-Held Businesses, 1997 Cleveland Tax Institute (October 28, 1997)

Speaker, "Direct Taxes and the Constitution," Teaching Taxation Committee, American Bar Association Section of Taxation, Mid-Year Meeting, San Antonio (January 23, 1998)

Speaker, "Direct Taxes and the Constitution," University of

Kentucky College of Law, Lexington (February 12, 1998)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, May Meeting, Washington (May 16, 1998)

Speaker, "Taxes and the Constitution," Installation Ceremony as David L. Brennan Professor of Law, Case Western Reserve University, Cleveland (October 5, 1998)

Testimony, Electing Small Business Trusts, Subcommittee of Committee on Ways & Means, Ohio House of Representatives, Columbus (March 18, 1999)

Speaker, "Final Section 197 Regulations and Other Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, May Meeting, Washington (May 13, 2000)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Fall Meeting, Los Angeles (October 14, 2000)

Speaker, Faculty Colloquium, "The Taxing Power, the Sixteenth Amendment, and the Meaning of Incomes," University of Florida College of Law, Gainesville (October 27, 2000)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Mid-Year Meeting, Scottsdale (January 13, 2001)

Speaker and Panel Moderator, "Antiavoidance Doctrines and the Tax Shelter Phenomenon," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, May Meeting, Washington (May 12, 2001)

Speaker and Panel Moderator, "The Future of Section 1031," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Annual Meeting, Chicago (August 4, 2001)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Annual Meeting, Chicago (August 4, 2001)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of

Taxation, Mid-Year Meeting, New Orleans (January 19, 2002)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, May Meeting, Washington (May 11, 2002)

Testimony, Select Committee on Tax Reform, Committee on Ways and Means, Ohio House of Representatives, Cleveland (July 9, 2002)

Speaker, Faculty Workshop, "Taxes and the Constitution," Case Western Reserve University School of Law, Cleveland (September 6, 2002)

Speaker, "Doing Business in Indian Country," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Fall Meeting, Los Angeles (October 19, 2002)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Fall Meeting, Los Angeles (October 19, 2002)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, May Meeting, Washington (May 10, 2003)

Panel Member, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Fall Meeting, Chicago (September 13, 2003)

Member, Panel on Moving Property into and out of Partnerships and LLCs, 2003 Cleveland Tax Institute (October 17, 2003)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, Mid-Year Meeting, Orlando (January 31, 2004)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation, May Meeting, Washington (May 8, 2004)

Speaker, "Current Developments," Committee on Sales, Exchanges and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Boston (October 2, 2004)

Member, Panel on Tax Opinion, Tax Penalty, and Tax Minimization Strategy Developments, 2004 Cleveland Tax

Institute (October 25, 2004)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Mid-Year Meeting, San Diego (January 22, 2005)

Moderator, ABA Teleconference, "Emerging Issues: Like-Kind Exchanges" (January 26, 2005)

Speaker, "American Business Taxation," Centre for Tax Law All-Day Workshop, University of Cambridge (May 6, 2005)

Speaker, "Sales and Exchanges: Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 21, 2005)

Speaker, "Sales and Exchanges: Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, San Francisco (September 17, 2005)

Panel Member, "Taxation, Compensation, and Judicial Independence," Case Western Reserve Law Review Symposium, Cleveland (January 27, 2006)

Panel Member, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Mid-Year Meeting, San Diego (February 4, 2006)

Panel Member, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 6, 2006)

Panel Member, "Current Developments: Sales and Exchanges," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Denver (October 21, 2006)

Panel Member, "Current Developments: Sales and Exchanges," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Mid-Year Meeting, Hollywood, Florida (January 21, 2007)

Speaker, "Taxation and Doing Business in Indian Country," Tax Law Colloquium, Business and Transactional Law Center, Washburn University School of Law, Topeka (February 9, 2007)

Speaker, "Sales and Exchanges: Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 12, 2007)

Speaker, "Sales and Exchanges: Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Vancouver (September 29, 2007)

Member, Panel on Current Developments, "Indian Gaming in Ohio: Can It Happen?", Cleveland Tax Institute (November 1, 2007)

Speaker, "Sales and Exchanges: Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Mid-Year Meeting, Lake Las Vegas (January 19, 2008)

Speaker, "Taxation and Doing Business in Indian Country," Faculty Workshop Series, Salmon P. Chase College of Law, Northern Kentucky University, Highland Heights (March 28, 2008)

Speaker, "Sales and Exchanges: Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, San Francisco (September 13, 2008)

Speaker, "Professor Henry T. King, Jr., 1919-2009: Honoring His Legacy," Cleveland (September 9, 2009)

Moderator and Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Chicago (September 26, 2009)

Moderator and Speaker, "Sale or Surrender of Life Insurance Contracts," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Chicago (September 26, 2009)

Speaker, "Current Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Mid-Year Meeting, San Antonio (January 23, 2010)

Speaker, "Current Non-Section 1031 Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 8, 2010)

Speaker, "Current Non-Section 1031 Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Toronto (September 25, 2010)

Speaker, "The Individual Mandate and the Taxing Power," Symposium, Health Care Reform and the Constitution: The Constitutionality of the Patient Protection and Affordable Care Act, Salmon P. Chase College of Law, Northern Kentucky University, Highland Heights (October 15, 2010)

Member, Panel on Current Developments, "The Individual Mandate and the Taxing Power," Cleveland Tax Institute (November 3, 2010)

Speaker, "The US Internal Revenue Code—a Model?" and "Economic Substance," Centre for Tax Law All-Day Workshop, University of Cambridge, Cambridge (December 15, 2010)

Speaker, "Current Non-Section 1031 Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Mid-Year Meeting, Boca Raton (January 22, 2011)

Speaker, "Current Non-Section 1031 Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 7, 2011)

Speaker, "Current Non-Section 1031 Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint CLE Meeting, Denver (October 22, 2011)

Speaker, "Current Developments in Sales, Exchanges, and Basis (Other Than Sections 1031 & 1033)," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation 2012 Mid-Year Meeting, San Diego (February 18, 2012)

Speaker, "Current Non-Section 1031 Developments," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Boston (September 15, 2012)

Speaker, "Professor Jensen Speaks His Mind on the Supreme Court's Decision in *National Federation*," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Boston (September 15, 2012)

Panel Member, "What's Next? Understanding the Supreme Court's Decision on the Affordable Care Act," Law-Medicine Forum, Case Western Reserve University School of Law, Cleveland (October 18, 2012)

Member, Panel on Current Developments, "The Supreme Court's Decision in National Federation of Independent Business v. Sebelius," Cleveland Tax Institute (November 28, 2012)

Moderator and Speaker, "Everything You Need to Know About the Tax Issues in the Supreme Court's Decision in National Federation of Independent Business v. Sebelius," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Mid-Year Meeting, Orlando (January 26, 2013)

Speaker, "Taxes and the Constitution," Case Downtown Lecture Series, Cleveland (March 13, 2013)

Speaker, "Does the Sixteenth Amendment Matter?" Symposium on "100 Years Under the Income Tax," Northwestern University School of Law, Chicago (April 5, 2013)

Panel Member, "What Are the Constitutional Parameters of Tax Reform and Simplification?" Committee on Tax Policy and Simplification, American Bar Association Section of Taxation May Meeting, Washington (May 10, 2013)

Panel Member, "Slogging Through Section 1(h): A Guide for the Perplexed," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 11, 2013)

Panel Member, "Current Developments in Sales, Exchanges, and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, San Francisco (September 21, 2013)

Speaker, "Taxes and the Constitution," Barristers Golden Circle CLE program, Case Western Reserve University School of Law, Cleveland (September 28, 2013)

Member, Panel on Current Developments, "Back to the Future

with Rescission Decisions," Cleveland Tax Institute (December 4, 2013)

Speaker, "Current Developments in Sales, Exchanges, and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 10, 2014)

Panel Member, "Current Developments in Sales, Exchanges, and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Denver (September 20, 2014)

Member, Panel on Current Developments, "'Student' Athletes and Big-Time College Athletics: Compensation and UBIT Issues," Cleveland Tax Institute (December 3, 2014)

Discussant, Tax Colloquium, "Uncovering a Meaning for 'Direct Tax,'" sponsored by Law, Finance and Governance @ Ohio State, Columbus (April 23, 2015)

Panel Member, "Current Developments in Sales, Exchanges, and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 9, 2015)

Panel Member, "Current Developments in Sales, Exchanges, and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Joint Fall CLE Meeting, Chicago (September 19, 2015)

Member, Panel on Current Developments, "King v. Burwell and Chevron Deference," Cleveland Tax Institute (December 2, 2015)

Panel Member, "Current Developments in Sales, Exchanges, and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation May Meeting, Washington (May 7, 2016)

Member, Panel on Current Developments, "The Nonacquiescence in Cosentino: The Tax Treatment of Recoveries for Losses," Cleveland Tax Institute (November 30, 2016)

Speaker, "A Tribute to George Dent," A Celebration of Faculty, CWRU School of Law (May 31, 2017)

Interviewed in November 2017 about the Foreign Emoluments Clause of the Constitution by representative of Blue Chalk Media. Video is posted at <https://vimeo.com/album/4916922/video/242333027>

Speaker, "Remembering Arthur D. Austin, II," CWRU School of Law (October 10, 2018)

Panel Member, "Current Developments in Sales, Exchanges, and Basis," Committee on Sales, Exchanges, and Basis, American Bar Association Section of Taxation Virtual Fall Tax Meeting (September 30, 2020)

Speaker, "Celebrating Morris Shanker," CWRU School of Law (Virtual, April 20, 2021)

Panel Member, "Federalism and Federal Laws," South Dakota Law Review Symposium 2021 ("High Crimes: Marijuana Law in South Dakota and Beyond") (October 25, 2021)

Member, Panel on Current Developments. "Marijuana Businesses and Section 280E: Some Current (and Ancient) Developments," Cleveland Tax Institute (November 12, 2021)

Speaker, "Moore v. U.S.: Is Realization a Constitutional Requirement to Have Income?", 2023 Cleveland Tax Institute (November 10, 2023)

Panel Member, "'Moore' than Tax," Indiana University Robert H. McKinney School of Law and Indiana State Bar Association Taxation Section, Indianapolis (April 2, 2024)

Member, American Bar Association Section of Taxation
 Committee on Sales and Financial Transactions: 1985-88
 Committee on Sales, Exchanges, and Basis: 1988-present
 1991-2005: Chair, Subcommittee on Important Developments
 2000-16: Vice Chair for Law Development
 Committee on Teaching Taxation: 1989-present
 Professional Services (now Section CLE) Committee: 2006-16
 Indian Tribal Tax Committee: 2012-16

Member, Cleveland Metropolitan Bar Association (General Tax Committee); Ohio State Bar Association; Historical Society of the Tenth Judicial Circuit; Society for American Baseball Research

UNIVERSITY SERVICE

Member, University Budget Committee: 2012-16
 Member, Committee on University Libraries: 2006-12
 Faculty Senator (representing Law School): 1988-92
 Member, Faculty Senate Fringe Benefits Committee: 1985-94
 University Fringe Benefits Committee: 1989-94
 Faculty Senate Personnel Committee: 1997-2001
 Search Advisory Committee for Director of Human
 Resources: 1991-92
 Panel for Hearing Procedures: 1996-2001
 Faculty Handbook Revision Committee: 1997-98
 Honorary Degree Committee: 1998-99
 Constitution Review Committee: 2000-01
 Chair, Committee to Oversee Feasibility Study on Dependent
 Care (appointed by CWRU President): 1990-91

LAW SCHOOL SERVICE

Member of various committees:
 Standing: Admissions; Appeals and Rules; Appointments
 (chair 2007-08); Curriculum; Honor Court; Judicial
 Clerkships; Library & Computers (chair 2009-11);
 Promotion and Tenure (chair 2011-15); Budget; Building
 and Space
 Ad hoc: Graduate Tax Program Review; RAW Review and
 Faculty Status (chair); Self-Study; Steering (Retreat);
 Excellence
 Law Review Advisor: 1991-93, 1997-98
 JOLTI Co-Advisor: 2012-13
 Secretary, Order of the Coif chapter: 2014-17
 Co-editor, CWRU Legal Studies Research Paper Series, SSRN:
 2004-present

COMMUNITY SERVICE

Member, Board of Trustees, Early Childhood Options
 (Cleveland, Ohio): 1997-2000