SPECIAL TOPICS
STRUCTURING REAL ESTATE PROJECTS
DePaul University
ACC 798-203
RE 798-201
Summer Quarter, 2015

SYLLABUS

Prerequisite: None

Objectives: In this course, we will identify the significant federal tax issues that arise in connection with the ownership of and investment in real estate and examine how these tax issues drive some of the various tax-driven structures used in real estate transactions. Topics to be discussed include: choice of entity issues; practical planning issues for the use of the tax-free like kind exchange structure, tax planning for distressed property situations. In this course, we will also review the various joint venture and fund formation structures and real estate investment trusts (REITs).

Text: Federal Taxes Affecting Real Estate, Thomas V. Glynn.

Suggested Reading: Assigned Sections of the Internal Revenue Code; Treasury Regulation; Cases and Rulings.

Preparation: Class is scheduled to begin promptly at 6:00 p.m., unless otherwise indicated. Students are expected to read the assigned chapter or chapters from Federal Taxes Affecting Real Estate Transactions. Each student will be expected to be prepared to discuss the assigned materials in class.

Grades: Your grade will be based on your performance on three case studies and the final exam. Each case study will comprise 20% of your grade. Your grade on the final exam will equal to 35% of your grade. Class participation will comprise 5% of your grade.

Instructors: Edward Hannon
Quarles & Brady LLP

Sam Welder
Ernst & Young
## TOPICS TO BE COVERED

### AND ASSIGNMENTS

<table>
<thead>
<tr>
<th>WEEK 1</th>
<th>June 15, 2015</th>
<th>An Overview of Tax Concepts Choice of Entity Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Welder)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>WEEK 2</td>
<td>June 22, 2015</td>
<td>Review of Twinbrook Metro Case</td>
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<tr>
<td>(Hannon)</td>
<td></td>
<td>Tax Consequences from the Acquisition and Sale of Real Estate</td>
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<tr>
<td>WEEK 3</td>
<td>June 29, 2015</td>
<td>Like Kind Exchanges</td>
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<tr>
<td>(Hannon)</td>
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<tr>
<td>WEEK 4</td>
<td>July 6, 2015</td>
<td>Choice of Entity/Sale or Exchange Case Study</td>
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<tr>
<td>(Hannon/Welder)</td>
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<tr>
<td>WEEK 5</td>
<td>July 13, 2015</td>
<td>Fund Formation</td>
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<tr>
<td>(Hannon)</td>
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<tr>
<td>WEEK 6</td>
<td>July 20, 2015</td>
<td>Advanced Fund Formation</td>
</tr>
<tr>
<td>(Welder)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>WEEK 7</td>
<td>July 27, 2015</td>
<td>Fund Formation Case Study</td>
</tr>
<tr>
<td>(Hannon/Welder)</td>
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<td></td>
</tr>
<tr>
<td>WEEK 8</td>
<td>August 3, 2015</td>
<td>Distressed Property Workouts and Note Purchases</td>
</tr>
<tr>
<td>(Welder)</td>
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<td></td>
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<tr>
<td>WEEK 9</td>
<td>August 10, 2015</td>
<td>Distressed Property Case Study</td>
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<tr>
<td>(Hannon/Welder)</td>
<td></td>
<td></td>
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<tr>
<td>WEEK 10</td>
<td>August 17, 2015</td>
<td>FINAL PRESENTATIONS / TAKE HOME EXAM</td>
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<td>(Hannon/Welder)</td>
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ASSIGNED READING

WEEK 1       June 15, 2015

An Overview of Tax Concepts
Choice of Entity Issues

Topics to be covered: (i) overviews of tax benefits and tax costs; (ii) overview of the tax planning issues (character/gain, timing and deferral, choice of entity).
Preview of the Twinbrook Metro Case

WEEK 2       June 22, 2015

Review of the Twinbrook Metro Case

Acquisition of Real Estate

FTARE Chapters 2 and 5 (Sections 5.01 and 5.02 only)

Topics to be covered: (i) the effect of indebtedness on tax basis; (ii) property acquired in satisfaction of debt or foreclosure property acquired under an option; (iii) property acquired for services; (iv) tax basis in acquired property (LLC, corporation and partnerships); (v) tax treatment of costs incurred to acquire property; (vi) allocation of basis; (vii) holding period issues; and (viii) depreciation issues.

Suggested Additional Reading: Code Section 1001, Code Section 1012, Code Section 1(h); Treas. Reg. §1.1001-1; Treas. Reg. §1.1223-3, Treas. Reg. §1.1(h)(1); Crane v. Commissioner, 331 U.S. 1 (1947); Commissioner v. Tufts, 461 U.S. 300 (1983); Estate of Franklin v. Commissioner, 544 F.2d 1045 (9th Cir. 1976); Code Section 1245 and 1250.

Sale of Real Estate

FTARE Chapter 6 (skip 6.05) and 7 (skip 7.06)

Topics to be covered: (i) reporting and timing of the sale; (ii) use of options in the sale of real estate; (iii) abandonments; (iv) voluntary removal or destruction of buildings; (v) easements; (vi) the installment method of reporting gain; and (vii) installment sales with contingent purchase price.

Suggested Additional Reading: Lakewood Associates v. Commissioner, 109TC 450 (1997); Lowry v. Commissioner, TC Memo 2003-225; Keith v. Commissioner, 115TC 605 (2000); Echols v. Commissioner, 935 F.2d 703; Rev. Rul. 93-80; Code Section 280B; Code Section 168(i); Code Section 453; Temp. Reg. § 15A.453-1 (c)(2), (c)(3) and (c)(4).
WEEK 3  June 29, 2015  Like Kind Exchanges  
FTARE Chapter 8

Topics to be covered: (i) overview of the exchange structure; (ii) property excluded from the like kind exchange rules; (iii) the exchange requirement; (iv) the held for investment requirement; (v) the like kind requirement; (vi) deferred exchanges; (vii) deferred exchanges and constructive receipt; (viii) computation of gain or loss; (ix) basis in replacement property; (x) year-end exchanges and the installment method; (xi) planning to avoid boot arising from excess liabilities on the relinquished property; (xii) reverse exchanges.


WEEK 4  July 6, 2015  Choice of Entity/Sale or Exchange Case Study

WEEK 5  July 13, 2015  Fund Formation  
FTARE Chapters 12 and 14

Topics to be covered: (i) contributions of property; (ii) effect of liabilities on basis in partner's interest; (iii) issuance of partnership interests to the developer; (iv) distributions of property; (v) disguised sales; and (vi) loss limitation rules.

Suggested Additional Reading: Code Section 721; Code Section 704(c)(1)(B); Code Section 737; Code Section 707(a)(2)(B); Treas. Reg. §1.707-3; Treas. Reg. §1.707-5; Code Section 752; Treas. Reg. §1.752-2; Treas. Reg. §1.752-3; Treas. Reg. §1.721-1(b); IRS Notice 2005-43; Treas. Reg. §1.704-3(b); Treas. Reg. §1.704-3(c); Treas. Reg. §1.704-3(d); Code Section 465; Code Section 469.

WEEK 6  July 20, 2015  Advanced Fund Formation  
FTARE Chapter 16

Topics to be covered: (i) source of income requirements for REITs; (ii) asset requirements for REITs; (iii) the REIT prohibited transaction rules; (iv) taxation of a REIT; (v) taxation of REIT shareholders; and (vi) the UPREIT structure.

Suggested Additional Reading: Code Section 856; Code Section 857; Code Section 351; Code Section 368(c).
WEEK 7  July 27, 2015  Fund Formation/REIT Case Study*

WEEK 8  August 3, 2015  Distressed Properties
FTARE Chapter 12 (12.09 and 12.10 only)

Topics to be covered: (i) foreclosure on non recourse debt; (ii) foreclosure on recourse debt; (iii) timing of gain or loss on the foreclosure; (iv) tax consequences of loan modifications; (v) the qualified real property business indebtedness election; (vi) applying the bankruptcy and insolvency rules of 108.


WEEK 9  August 10, 2015  Distressed Property Case Study

WEEK 10  August 17, 2015  Presentation Recap and Discussion
Distribution of Final Exam (Take Home)

FINAL EXAM DUE AUGUST 23, 2015 (5:00 p.m.)