

Henry M. Ordower

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Saint Louis University School of Law
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ACADEMIC EXPERIENCE

Professor of Law, Saint Louis University School of Law
Co-Director of the Center for International and Comparative Law (2002-2010)
Director Berlin Summer Program (2007-8)
Associate Professor 1980-1983
Assistant Professor 1977-1980

Course Responsibilities: Federal Income Taxation, Partnership Taxation, Corporate Taxation, Estate and Gift Taxation, International Taxation, Introduction to Business Enterprises Taxation, Business Associations, Corporate Finance, Real Estate Transactions, various seminars (small group, specialized topics, discussion and term paper-based grading) including *Law and Literature*, *Exempt Organizations*, *Cultural Origins of Taxation Rules*, *Special Problems in Legal Ethics*, *Blockchain and Cryptocurrencies*.

Significant University Appointments: Chair of Provost's Select Committee to Design a Family Leave Policy (2003).

Visiting Lecturer, Juristische Fakultät, Ruhr-Universität Bochum, Bochum, Germany.
Introduction to American Tax Law and Terminology (In English.) Spring 2006.

Visiting Docent, Juristische Fakultät, Humboldt-Universität zu Berlin, Bebelplatz 1, Berlin, Germany. Short course in American Investment Law (In German and English). Spring 2002.

Visiting Lecturer, Juristische Fakultät, Ruhr-Universität Bochum, Bochum, Germany Short course in Introduction to American Legal Thought and Methods. (In German and English.) Spring 1995.

Visiting Professor, Department of Law, Sichuan University, Chengdu, Sichuan, Peoples Republic of China. Lectures on American Taxation and Property Concepts. Spring 1993.

Bigelow Teaching Fellow and Instructor, The University of Chicago Law School, 1111 E. 60th Street, Chicago, Illinois 60637. October 1975 - June 1976.

PRACTICE EXPERIENCE

Expert Testimony. Expert legal evaluation and testimony for litigation concerning tax and business entity matters. Tax shelter litigation. Recent toxic torts: *Alexander v. Fluor* in St. Louis City.

Consultant/Of Counsel. Consulting in the private sector on taxation matters, corporate and partnership transactions, offshore investment planning, municipal financing, tax shelters, commodities pools and investments, exempt organizations, investment pools, and estate planning. 1977 - present

Vice President and General Counsel. Managing legal function for an emerging markets capital management company (“hedge and private equity fund” manager). January - December 1998. Croesus Capital Management, New York NY 10017.

Associate Attorney. Sonnenschein, Carlin, Nath & Rosenthal, Chicago, Illinois 60606, responsibility to assist in tax structuring of business transactions, structuring, negotiation and documentation of real estate transactions. June 1975 - August 1977.

LANGUAGES

Relative fluency in all aspects of Swedish and German. Reading comprehension and limited oral ability in Norwegian, Danish, Dutch, Spanish, French, and Icelandic. Reading comprehension of several antique languages. Fundamental Hebrew and Russian.

AWARDS

Beaumont Grant for research on **Tax Law as Hybrid** (2023).

Beaumont Grant for research on **Unbundling Social Security from its Anachronistic Payroll Tax Funding Mechanism** (2022).

President’s Research Fund Grant for Cross-disciplinary research with Onesimo Sandoval (Sociology and Anthropology), and Kenneth Warren (Political Science): **Municipal Courts: Role as Revenue Source and Discriminatory Impact**

Thompson Coburn Faculty Scholarship Award 1993, 2003, 2018, 2020 (honorable mention), 2021.

PUBLICATIONS 2006 – Present

Cryptocurrency Public Key Reporting: Using Embedded Technology to Aid Tax Compliance (with Haozheng Jiang), Tax Notes (12/16/2024 forthcoming).

Tax Hybridity and the Globalization of Taxation: Convergence, Borrowing, Culture, 44 Va Tax Rev. No. 1 (2024) (forthcoming).

Does the Social Security Tax Violate Rule of Law Principles? in Dominic DeCogan, Alexis Brassey and May Hen (editors), TAX, PUBLIC FINANCE, AND THE RULE OF LAW, Ch. 10 (Hart Publishing 2024 forthcoming).

Tax as Hybrid Law: Borrowing and Convergences, __ J. of International and Comparative Law __ (2024) (forthcoming).

Is Aggressive Tax Planning a Failure of Tax Adviser Integrity? 31 J Financial Crime No. 4, 837-48, <https://doi.org/10.1108/JFC-08-2023-0207> (2023).

Unbundling Social Security from the Payroll Tax, 27 Fla. Tax Rev. ____ (2023) (forthcoming).

The Contagion of Corruption: A Model for Understanding Systemic Ethical Failures (with James Fisher, James Gilsinan, Muhammad Islam, and Wassim Shahin), *Journal of Financial Crime* Vol. 30 No. 5, pp. 1208-1219 (*Journal of Financial Crime*, © Emerald Publishing Limited 1359-0790, DOI 10.1108/JFC-02-2023-0021).

Block Rewards, Carried Interests, and Other Valuation Quandaries in Taxing Compensation, 175 Tax Notes Federal 1551 (June 6, 2022) and 104 Tax Notes State 989 (June 6, 2022).

Uniform International Tax Collection and Distribution for Global Development, a Utopian BEPS Alternative, 12 Columbia J of Tax L 126 (2021).

Taxes in Kimberley L. Kinsley and Robert S. Rycroft, editors, *Inequality in America: Causes and Consequences* 309 (Santa Barbara, June, 2021).

Avoiding Constitutional Limitations; Overruling and Legislating beyond Precedent; Ignoring U.S. Constitutions in Oswaldo Othon de Pontes Saraiva Filho, et al., eds. *Noções Gerais e Limitações Formais ao Poder de Tributar (General Notions and Formal Limitations on the Power to Tax)* 111 - 131 (Forum, Belo Horizonte, Brazil 2021).

New York's Proposed Mark to Market Tax Decouples from Federal Tax, 99 Tax Notes State 795 and 170 Tax Notes Federal 1243 (February 22, 2021).

Capital, an Elusive Tax Object and Impediment to Sustainable Taxation, 23 Fla. Tax Rev. 625 (2020) (2020 Thompson Coburn Faculty Scholarship Award honorable mention).

Immigration, Emigration, Fungible Labour and the Retreat from Progressive Taxation in Dominic De Cogan and Peter Harris, ed., *Tax Justice and Tax Law: Understanding Unfairness in Tax Systems*, ch. 8, 133 (Oxford, Hart Publishing 2020).

Avoiding Federal and State Constitutional Limitations in Taxation, 168 Tax Notes Federal 1447 (August 24, 2020) and 97 Tax Notes State 803 (August 24, 2020).

The Village of Billionaires: Fair Taxation and Redistribution Amid Relative and Absolute Poverty (with Alexis Brassey), 99 Tax Notes Int'l 97 (July 6, 2020).

The Undeserving Rich: Can They Be Redeemed? Policy Options for Curbing Illegal Wealth (with James Fisher, James Gilsinan, Muhammad Islam, and Wassim Shahin), 27 J. Financial Crime 1075 (2020). Video presentation (Emerald Press, 2020).

Abandoning Realization and the Transition Tax: Toward a Comprehensive Tax Base, 67 Buffalo L. Rev. 1371 (2019).

Exploring the Impact of Taxation on Immigration in Hermann Remsperger, Volker W. Wieland, Michael Sachs, and Theodor Baums eds., Zentralbanken, Währungsunion und stabiles Finanzsystem: Festschrift für Helmut Siekmann 637 (Duncker und Humblot Berlin, 2019), reprinted in 100 Tax Notes International 809 (November 9, 2020).

Taxing Others in the Age of Trump: Foreigners (and the Politically Weak) as Tax Subjects, 62 Saint Louis University L.J. 157 (2017).

The Expatriation Tax, Deferrals, Mark to Market, the *Macomber* Conundrum and Doubtful Constitutionality, 15 Pitt Tax Rev 1 (2017). 2018 Thompson Coburn Faculty Scholarship Award.

Out of Ferguson: Misdemeanors, Municipal Courts, Tax Distribution and Constitutional Limitations (with J.S. Sandoval and Kenneth Warren), 61 Howard L.J. 113 (2017).

Perspectives on the tax avoidance culture: legislative, administrative, and judicial ambiguity in Yulia Epifantseva (Boston, USA) and Nigar Hashimzade (Durham, UK) editors, The Routledge Companion To Tax Avoidance Research 26 (2017).

Tax neutrality between CIT and non-CIT subjects: how to improve our systems? in Daniel Gutmann, ed., Corporate Income Tax Subjects (Amsterdam, 2015). Recommends full tax transparency for corporations with corporate withholding at maximum individual rate of tax.

United States in Daniel Gutmann, ed., Corporate Income Tax Subjects (Amsterdam, 2015). Describes generally taxation of corporations and other entities in the United States.

Global Regulatory and Ethical Framework in H. Kent Baker, Greg Filbeck, and Halil Kiyamaz, editors, Private Equity: Opportunities and Risks (Oxford University Press, 2015). Examines regulation of private equity funds, corporate takeovers, and ethical considerations in private equity fund activities.

Income Imputation: Toward Equal Treatment of Renters and Owners in Anthony C. Infanti, editor, *Controversies in Tax Law: A Matter of Perspective* (Ashgate Press, 2015). Argues that current exclusion of the imputed income from owner occupied housing increases wealth disparities as the exclusion benefits homeowners.

Schedularity in U.S. Income Taxation and its Effect on Tax Distribution, 108 NORTHWESTERN U L REV 905 (2014) ("100 Years under the Income Tax" Symposium Issue). Identifies schedular elements and argues that those elements generally undercut both horizontal and vertical equity in the in the U.S. income tax.

Charitable Contributions of Services: Charitable Gift Planning for Non-Itemizers, 67 *The Tax Lawyer* 517 - 545 (2014). Argues that contributing services rather than money or property is the better choice for non-itemizing taxpayers so that charities ought to encourage service contributions.

Preserving the Corporate Tax Base through Tax Transparency, 71 *TAX NOTES INTERNATIONAL* 993 – 97 (9/9/2013). Argues that full transparency would protect the corporate tax base and counter constant corporate rate reduction pressure.

Utopian Visions toward a Grand Unified Global Income Tax, 14 *FLA. TAX REV.* 361 (2013). Designs a uniform income tax apportioning worldwide income.

United States of America in Gerard Meussen, ed., *The Burden of Proof in Tax Law* chapter 3.15 (Amsterdam, 2013). Describes the placement of the burden of proof in U.S. and the placement of tax litigation.

United States in Eddy Wymeersch, ed. *Alternative Investment Fund Regulation*, *International Banking and Finance Law Series v. 16*, Chap. 17, 401-431 (the Netherlands 2012). Analyzes and presents the regulation in the United States of hedge funds, private equity funds, and sovereign wealth funds.

The Culture of Tax Avoidance, 55 *SAINT LOUIS U. L. J.* 47 (2010) Analyzes the development of tax planning and sheltering comparatively as tax avoidance became an independent culture, general anti-avoidance rules, and proposes a broad-based approach to combating tax avoidance.

United States of America Experience with and Administrative Practice concerning Mutual Assistance in Tax Affairs, in Roman Seer and Isabel Gabert, general reporter and ed., *Mutual Assistance and Information Exchange* 569-596 (Amsterdam, 2010).

The Regulation of Private Equity, Hedge Funds And State Funds, United States National Report, 58 *AMERICAN JOURNAL OF COMPARATIVE LAW – SUPPLEMENT 1* 295-321 (2010). Describes United States regulation of hedge funds, private equity funds, and sovereign wealth funds and legislative proposals to control systemic risk associated with those funds.

Methods for Study: Immutable Tax Rules and their Cultural Determinants (Discussion

Draft) (available on the Meeting website for the Law and Society Association, July 2007). Argues that certain tax rules are immutable because they emanate from cultural factors rather than economic and tax theory and develops a methodology for study of such tax rules.

First Drafts of Technical Guidance: Industry Participation, 115 TAX NOTES 761 (May 21, 2007). Viewpoint supporting government proposal to permit industry experts to prepare first drafts of technical guidance on tax legislation.

Demystifying Hedge Funds: A Design Primer, 7 U. CAL. DAVIS BUSINESS L. J. 323 (2007), and as Working Paper Series No. 9, Institute for Monetary and Financial Stability, Johann Wolfgang Goethe Universität., Frankfurt am Main, Germany (2007). Describes and analyzes hedge fund structures in the context of the United States statutes and regulations that inform those structures.

General Report on Restricting the Legislative Power to Tax: Intersections of Taxation and Constitutional Law in K. Boele Woelki & S. van Erp (eds.), General Reports of the XVIIth Congress of the International Academy of Comparative Law – Rapports généraux du XVII^e Congrès de l'Académie Internationale de Droit Comparé (Utrecht 2007), and with all tax section reports in 15 Michigan State University International Law Journal (2007)) and also published in 11.3 Electronic Journal of Comparative Law (December 2007), (available at <http://www.ejcl.org/113/article113-31.pdf>).

Comparative Law Observations on Taxation of Same Sex Couples, 111 TAX NOTES 229 (April 10, 2006), 42 TAX NOTES INTERNATIONAL 235 (April 17, 2006) and at ABA Section on Taxation, Mid-Year Meeting CD Rom, Teaching Taxation Section (2006). Identifies the various models for addressing the interplay between same sex relationship protections and taxation outside the United States.

Horizontal and Vertical Equity in Taxation as Constitutional Principles: Germany and the United States Contrasted, 7 FLA. TAX REV. 259 - 334 (2006). Explores U. S. Supreme Court and German Constitutional Court decisions that apply their respective constitutions to taxation controversies, especially controversies in matters involving equal protection or due process protection.

SYMPOSIA ORGANIZER AND FACILITATOR

Sanford E. Sarasohn Memorial Conference on Critical Issues in International and Comparative Taxation II: Taxation and Migration, Saint Louis University School of Law, Center for International and Comparative Law, March 31, 2017.

Sanford E. Sarasohn Memorial Conference on Critical Issues in International and Comparative Taxation at Saint Louis University School of Law, April 9, 2010 (with Kerry Ryan and Nancy Kaufman).

Lawyers and Jurists in the 21st Century: Celebrating the Centennial of Comparative Law in the

United States and the Universal Congress of Lawyers and Jurists, St. Louis, 1904, at Saint Louis University School of Law and Washington University School of Law, November 12-13, 2004 (with John Haley and Stephen Thaman).

SELECTED RECENT SPEAKING ENGAGEMENTS

Toward an Independent Global Tax: Coercing Convergence or Contextualizing Need, Tax Research Network, Cardiff, Wales, U.K., September 2024.

The Taxpayer Choice Dilemma: Benefit to Affluent, Barrier to Uniform Taxation, Society of Legal Scholars Conference, Bristol, U.K., September 2024.

Out of Ferguson: Misdemeanors, Municipal Courts, Tax Distribution and Constitutional Limitations, Conference on Coerced Debt, Identity Theft, and Financial Exploitation, Rutgers Law School, Newark, New Jersey, June 2024.

Tax Hybridity and the Globalization of Taxation: Convergence, Borrowing, Culture, Law and Society Conference, Denver, June 2024.

Tax Hybridity and the Globalization of Taxation: Convergence, Borrowing, Culture, Critical Tax, University of Florida, Gainesville, May 2024.

Tax Hybridity and the Globalization of Taxation: Convergence, Borrowing, Culture, University of Akron International Tax Symposium, May 2024.

Is Aggressive Tax Planning a Failure of Tax Adviser Integrity?, 40th Cambridge Financial Crimes Symposium, Jesus College Cambridge University, September 2023.

Confidence Men: Tax Hucksters, 40th Cambridge Financial Crimes Symposium, College Cambridge University, September 2023.

Tax as Hybrid, Tax Research Network Conference, Cambridge University, September 2023

Social Security Funding and Rule of Law, Cambridge University Tax Policy Conference, Cambridge, UK (July 2023).

Tax Law as Hybrid Law, The World Society of Mixed Jurisdiction Jurists: Fifth World Congress 2023, Valletta, Malta (June 2023).

Unbundling Social Security from the Payroll Tax, Berkeley Poverty Law Conference, Berkeley (March 2023).

Corporate Responsibility, Financial Crimes Symposium, Jesus College, Cambridge University, Cambridge, UK (September 2022).

Contagion of Corruption, Financial Crimes Symposium, Jesus College, Cambridge University, Cambridge, UK (September 2022).

Repealing the Anachronistic Payroll Tax to Limit Continuing Harm to Workers, Law and Society Meeting, Lisbon, Portugal, July 2022.

Uniform International Tax Collection and Distribution for Global Development, a Utopian BEPS Alternative, University of Surrey, Tax Fairness Symposium, June 2022.

Exploiting Human Capital in the Danish West Indies and Denmark: Slaves and Jews, Society for the Advancement of Scandinavian Studies, April 2022.

Block Rewards, Carried Interests, and Other Valuation Quandaries in Taxing Compensation, Critical Tax Conference, Villanova, PA, April 2022.

Uniform International Tax Collection and Distribution for Global Development, a Utopian BEPS Alternative, Cambridge University Tax Discussion Group, remote, February 2022.

Uniform International Tax Collection and Distribution for Global Development, a Utopian BEPS Alternative, American Society of Comparative Law annual meeting, Madison October, 2021.

Repealing the Obsolete and Anachronistic Payroll Tax to Limit Continuing Harm to Workers, LLRN5 (Labor Law Research Network), June 28, 2021 (Warsaw, Poland virtual).

Uniform International Tax Collection and Distribution for Global Development, a Utopian BEPS Alternative, Indiana University/Leeds University Summer Workshop Series, Virtual June 4, 2021.

Public Health and Tax Compliance Convergence (with Ana Santos Rutschman), Law and Society (Virtual May 27, 2021).

Uniform International Tax Collection and Distribution for Global Development, a ******topian BEPS Alternative, Critical Tax Conference, UCI (Virtual April 8, 2021).

SLU Law Podcast: Know Before You File: Tax Law in a Pandemic World (March 2021).

Public Health and Tax Compliance Convergence (with Ana Santos Rutschman), The 3rd Annual UCI Law - A. Lavar Taylor Tax Symposium: Taxation in a Time of Crisis, University of California Irvine (Virtual February 22, 2021)

Taxing Capital Appreciation for Fairer Taxation, Constitutions and a Comprehensive Tax Base, Cambridge Tax Discussion Group (Virtual, July 2020).

The Village of Billionaires, Cambridge Tax Discussion Group (Virtual, June 2020).

Tax and Borders, a *******topian Model, Law and Society Virtual Conference (May 2020).

Capital, an Elusive Tax Object and Impediment to Sustainable Taxation, Critical Tax Theory Virtual Conference, U.Fla (April 2020).

Cooperation or Capture? Perspectives on Privatization, Financial Crimes Symposium, Jesus College, Cambridge University, UK (September 2019).

Immigration, Emigration, Fungible Labor and the Retreat from Progressive Taxation, Cambridge Tax Policy Workshop, Lucy Cavendish College, Cambridge University, U.K. (July 2019)

Abandoning Realization and the Transition Tax: Toward a Comprehensive Tax Base, Law and Society, Washington DC (May 2019)

Taxation and Avoidance in Transitioning, Dual Currency Economies: Cuba (Concept Draft), Saint Louis University Faculty Workshop (September 2018).

Mysterious Money: Role of the Tax Avoidance Culture, Financial Crime Symposium, Jesus College Cambridge University, Cambridge, UK (September 2018)

Perspectives on Taxation Structure: Bundling and Unbundling in Taxation, Law and Society, Toronto (June 2018)

Tax Avoidance/Evasion in Transitioning Economies: Cuba, Critical Tax Theory Conference, Columbia, SC (April 2018).

Is the Expatriation Tax Constitutional? Deferrals, Mark to Market and the *Macomber* Conundrum, Law and Society, Mexico City (June 2017).

Taxing Others in the Age of Trump: Foreigners (and the Politically Weak) as Tax Subjects, Sanford E. Sarasohn Conference on Critical Issues in International and Comparative Taxation II: Taxation and Migration, Saint Louis University (March 2017).

Out of Ferguson: Misdemeanors, Municipal Courts, Tax Distribution and Constitutional Limitations, A.B.A. Webinar (December 2016).

Out of Ferguson: Misdemeanors, Municipal Courts, Tax Distribution and Constitutional Limitations, Critical Tax Conference, A.B.A. Joint Tax and Real Property Probate and Trust Committee Meetings, Boston (September 2016).

Out of Ferguson: Misdemeanors, Municipal Courts, Tax Distribution and Constitutional Limitations, Critical Tax Conference, Tulane University (May 2016).

Is the Expatriation Tax Constitutional? Mark to Market and the *Macomber* Conundrum, Taxation and Citizenship, University of Michigan (October 2015)

Income Imputation: Toward Equal Treatment of Renters and Owners, Critical Tax Conference,

New Orleans (April 2014).

Retreat from progressive taxation in the Swedish welfare state: Does immigration matter?, Tax Justice and Human Rights Symposium, McGill University (June 2014).

Tax neutrality between CIT and non-CIT subjects: how to improve our systems?, Annual Meeting of European Association of Tax Law Professors (May 2013)

“Schedularity in the U.S. Income Tax, Effects on Distribution,” Northwestern University symposium: 100 Years Under the Income Tax (April, 2013)

“Utopian Visions toward a Grand Unified Global Tax Base,” International Fiscal Association Tax Research Symposium, Boston (September 2012).

“Charitable Contributions of Services,” Law and Society Meeting, Honolulu (June, 2012)

“Tax Transparency and Private Investment Funds: Tax Construction of Hedge and Private Equity Funds including Carried Interests” Law Faculty, Stockholm University (May 2011)

“Tackling tax abuse: ‘a problem of burden of proof?’” Annual Meeting of European Association of Tax Law Professors (June 2011)

MEMBERSHIPS

Elected Memberships: European Association of Tax Law Professors since 2006, International Academy of Comparative Law since 2010, American College of Tax Counsel since 2013.

American Association of Law Schools, American Bar Association, American Society of Comparative Law, Society for the Advancement of Scandinavian Studies.

EDUCATIONAL BACKGROUND

The University of Chicago School of Law: October 1972 - June 1975, J.D. DEGREE 1975.

The University of Chicago, Division of Humanities, Department of Germanic Languages and Literatures/Scandinavian Languages and Literatures: October 1967 - June 1972, PH.D. COMPREHENSIVE EXAMINATIONS completed 1971, M.A. DEGREE 1970.

University of Gothenburg, Sweden, Nordiska Språk/Litteraturhistoriska Institutionen: September 1970 - June 1971.

Washington University (St. Louis, Missouri), Majors in German Language and Literature and Comparative Literature: September 1963 - June 1967, A.B. DEGREE 1967.

BAR ADMISSIONS

Illinois 1975, Missouri 1978