

**CAL POLY**  
ACCOUNTING & LAW  
ORFALEA COLLEGE OF BUSINESS

---

**STATE AND LOCAL TAXATION (GSA 537)**

---

**FALL QUARTER 2015**

*Class Schedule:* **MW 10:10pm-Noon**

*Classroom:* **03-300A**

*Office Location:* **Room 03-336**

*Office Hours:* **9:30 am MW**  
(and by appointment)

---

EDDY M. QUIJANO, Instructor

[equijano@calpoly.edu](mailto:equijano@calpoly.edu)

805.305.0819 (M)

805.756.2931 (O)

---

*Contrary to popular belief, the brain is **not** designed for thinking. It's designed to save you from having to think, because the brain is actually not very good at thinking. Thinking is slow and unreliable. Nevertheless, people enjoy mental work if it is successful. People like to solve problems, but not to work on unsolvable problems.*

"WHY DON'T STUDENTS *LIKE* SCHOOL"?

Daniel T. Willingham, Professor  
University of Virginia

THE SYLLABUS PROVIDES A **GENERAL PLAN** FOR THE COURSE, WHICH PERMITS THE INSTRUCTOR TO AMEND AND/OR SUPPLEMENT THE SYLLABUS DURING THE ACADEMIC QUARTER.

## **1. COURSE INTRODUCTION**

This course is an overview of the basic principles of state and local taxation. Because of the variety and number of state and governmental subdivision laws, ordinances, regulations, rulings, and judicial authorities involved in state and local taxation, the course is limited to the examination of general rules that apply in many states. Thus, SALT study significantly differs from the study of federal taxation, which focuses on one body of law generally applicable to all taxpayers.

SALT begins by addressing the jurisdictional limitations of state taxation imposed by the U.S. Constitution and federal preemption provisions. It then proceeds to an overview of state income taxation of residents and nonresidents with an emphasis on California personal income taxation. The course continues with an analysis of corporate income and franchise taxes, including apportionment, the unitary business principle, state taxation of non-U.S. income, and the Uniform Division of Income for Tax Purposes Act (UDITPA) with a particular emphasis on California law. It concludes with a review of state and local sales, lease, and use taxes, and ad valorem property taxes.

## **2. LEARNING GOALS AND OBJECTIVES.** Successful completion of the course will enable you to:

- Identify and describe the three main types of state and local taxes—income, sales and use, and property;
- Articulate the federal and state constitutional and statutory restrictions on the power to tax of states and governmental subdivisions based on “nexus”;
- Apply the principles of allocation, apportionment, and unitary taxation to determine a taxpayer’s state income tax;
- **Professionally communicate in writing;** and
- **Analyze and solve tax compliance issues through the application of critical thinking skills and complex reasoning.**

## **3. CASEBOOK AND RELATED MATERIALS**

3.1 *State and Local Taxation*, 10th Edition, by Hellerstein, Stark, Swain, Youngman, American Casebook Series, ISBN 978-0-314-28698-7. The MSA-Taxation faculty selected the casebook. You **must** bring the casebook to every class session.

3.2 *Supplementary Materials and Tax Research Databases*. We will study several landmark U.S. Supreme Court cases during the academic quarter, many of which contain cryptic, arcane, or obscure language. The website [OYEZ](#) may assist you in understanding these cases. You also have access to *RIA Checkpoint* electronic state tax research database through the Kennedy Library to assist you in understanding material in the casebook. Finally, the California Franchise Tax Board website provides assistance regarding California tax matters at the tab “[Tax Professionals](#)”.

#### 4. CLASS ATTENDANCE AND PARTICIPATION

- 4.1 *Attendance.* Punctual **attendance** at every class session is required. Failure to comply with this requirement may result in lowering of your final grade or preclude you from taking the final examination in the course. You must provide the instructor with **prior notification stating good cause** if you will be unavoidably absent from, or will arrive late to, a class session. Examples of good cause include illness, injury, or family emergency.
- 4.2 *Sanctions.* The instructor will reduce your final grade if you miss two (2) class sessions *without good cause*. Additionally, the instructor will reduce your grade for each class session missed without good cause after two (2) missed class sessions even if you established good cause for missing the first two (2) classes. The reduction will be one-half a letter (e.g., from “B” to “B–”). *The instructor may not permit you to take the final examination in the course if you miss more than four (4) class sessions.*

#### 5. COURSE METHODOLOGY AND CLASS PARTICIPATION

- 5.1 *Format.* This course is discussion based and highly interactive. The instructor uses the **Socratic** method to brief and analyze the cases and the constitutional, statutory, and regulatory provisions and rulings addressed in the casebook. The course format requires, therefore, that you: (a) **study** the assigned cases and readings before each class session, (b) **actively participate** through discussion in issue identification and analysis during class sessions.

***Because class preparation and participation represents 15% of your final grade in the course, the instructor assumes that each student will be prepared to discuss the assigned readings at each class session unless the student provides the instructor with written notice otherwise prior to the class session.***

- 5.2 *Written Assignments.* All written assignments must (a) include your **name** and **course number** at the top of the page; (b) be **typewritten**; and (c) be **deposited** on **POLYLEARN** by **11:55 P.M.** on the **day immediately preceding the day the written assignment is due**. Please save your written assignments with the following file protocol: **“537\_name\_no.\_.doc (or .pdf).”**
- 5.3 *Student Presentations.* You and another student are required to make a joint 20-minute presentation on a selected state or local taxation topic. The instructor must approve your proposed presentation topic. The **focus** and **outcome** of your presentation must **supplement** or **enhance** a graduate tax student’s **knowledge** and **understanding** of the topic addressed in the presentation. You may use any pedagogical tools or resources you deem appropriate to make your presentation.

You must provide the instructor with one **multiple-choice** question (with five (5) possible responses) and one **true-false** question on the topic(s) covered in your presentation as part of your presentation. The instructor, in his sole discretion, will determine whether a question is appropriate for inclusion on the SALT Final Examination.

## 6. ASSESSMENT OF ACADEMIC PERFORMANCE

6.1 *Performance Assessment.* The instructor will evaluate your performance through (a) a final examination; (b) quizzes; (c) written assignments, attendance, preparation, and participation, and (d) class presentation. You can score a maximum of **100 points** in determining your final grade in the course as follows:

Final Examination	45 points
Quizzes	30 points
Written Assignments, Prep, & Participation	15 points
Presentation	<u>10 points</u>
	100 points

6.2 *Quizzes.* The instructor administers unannounced quizzes throughout the academic quarter. Quizzes take approximately 5-7 minutes at the **beginning** of a class session—the reason for punctual attendance—and generally consist of true-false and/or multiple-choice questions. The instructor will drop your lowest quiz grade in calculating the total points you earned for quizzes. **Studies show that students score higher in final examinations when they have been quizzed throughout the course.**

6.3 *No Quiz Make-up.* You **cannot** make-up a missed quiz **even if your absence is excused** for good cause.

6.4 *Assessment of Written Assignments, Attendance, Preparation, Participation etc.* You will prepare a **self-assessment** of your attendance, class preparation, participation, and **timeliness** of your written assignments at the end of the course. The instructor will separately evaluate the **timeliness** and **quality** of your written assignments, and your attendance, preparation and participation vis à vis your self-assessment.

## 7. PROFESSIONALISM, ETHICS AND ACADEMIC HONESTY

7.1 *Academic Conduct.* Academic honesty is essential to an academic institution's educational process and reputation. Accordingly, both students and the instructor must comply with Cal Poly's policy on [Academic Dishonesty](#).

7.2 *Ethics, Professional Conduct, Courtesy, and Civility.* Cal Poly's graduate tax faculty is committed to preparing graduates of the MSA–Taxation Program to be successful professional practitioners governed by rules and standards of professional responsibility, conduct and ethical behavior including the *AICPA Code of Professional Conduct*, *U.S. Treasury Circular 230*, and various State Boards of Accountancy. Accordingly, **your conduct throughout your graduate tax program should comport with the ethical behavior, professionalism, integrity, honesty, respect, courtesy and civility expected of a licensed professional practitioner.**

## 8. DISABILITY ACCOMMODATIONS

If you have a documented disability for which you are or may be requesting academic accommodation, you are encouraged to contact both your instructor and the Disability Resource Center, Building 124, Room 119, at (805) 756-1395, within the **first two (2) weeks of class.**

## 9. SCHEDULE OF ASSIGNMENTS

9.1 *Assignments—Generally.* You must prepare to discuss both the **reading** and **written assignments** at each class session. **Study** the cases to understand them. The casebook reading assignments include the *NOTES AND QUESTIONS* on the assigned pages to read, unless specifically excluded in the assignment.

9.2 *Reading assignments.* Reading assignments include: (i) all materials specifically listed in the Syllabus and PowerPoint slides (if posted before class) related to those materials; and (ii) supplementary reading materials periodically posted on *PolyLearn* that are not listed in the Syllabus. Generally, supplementary materials include recent developments on topics covered in the course and/or relate to specific provisions of California State Taxation.

9.3 *Written Assignments; Case Briefs.* The written assignments may require you to prepare a case “brief” of a specific case included in the casebook relating to the assigned readings. A case brief is a necessary study aid in professional schools that help to encapsulate and analyze the significant volume of material that a student must digest. The case brief represents a final product after reading a case, **rereading** it, “**deconstructing**” it, and “**reconstructing**” it. In addition to its function as a tool for **self-instruction**, the case brief also provides a **valuable short reference for class participation** and **examination preparation**.

Briefing a case develops skills you will use throughout your professional career, including (i) recommending your client report an “uncertain tax position” on a tax return, (ii) writing tax memoranda, tax analyses, etc., in connection with “tax provision work,” (iii) submitting a memorandum of points and authorities in connection with an administrative appeal to state or federal tax authorities, etc. The format for a case brief follows.

1. *Parties.* Identify the plaintiff and the defendant in the lower court; and appellant and appellee in the appellate court.
2. *Facts.* Summarize only those facts critical to the outcome of the case.
3. *Procedural History.* If an appellate case, who filed the appeal? For what party (e.g., taxpayer or tax authority) did the lower court(s) decide?
4. *Issue.* Note the central question (issue) or questions (issues) on which the case turns.
5. *Holding.* How did the court resolve the issue(s)? Who won?
6. *Reasoning.* Explain the logic/reasoning that supported the court's decision.

Additional information on analyzing cases using the “**IRAC**” method (Issue, Rule, Analysis, and Conclusion) is posted on *PolyLearn*.

9.4 *Tentative Schedule of Assignments.* Following is a **tentative schedule** of the topics and reading and written assignments for each class session. The topic and assignment for a particular class may change during the academic quarter.

**TENTATIVE SCHEDULE OF ASSIGNMENTS**  
**STATE AND LOCAL TAXATION (GSA 537)**

CLASS NO. DATE	TOPICS	READING AND WRITTEN ASSIGNMENTS
(1) Sept 21	INTRODUCTION and COURSE OVERVIEW AND OBJECTIVES; SYLLABUS REVIEW; LECTURE	<b>Read:</b> Chapter 1, pp. 1-22, Chapter 2, pp. 23-42, IRAC Methodology posted on <i>PolyLearn</i> , and other materials assigned in the Instructor's emails dated August 29, 2015 and September 11, 2015.  <b>No Written Assignment.</b>
(2) Sept 23	JURISDICTION TO TAX: Constitutional Limits on State Tax Jurisdiction	<b>Read:</b> Chapter 2, pp. 44-69 ( <b>stop</b> before Section C).  <b>No Written Assignment.</b>
(3) Sept 28	JURISDICTION TO TAX: Constitutional Parameters of State Income Tax Jurisdiction	<b>Read:</b> Chapter 2, pp. 73-88 and pp. 133-134 ( <i>Tyler Pipe</i> ).  <b>Written Assignment No. 1:</b> Answer the questions posted on <i>PolyLearn</i> .
(4) Sept 30	JURISDICTION TO TAX: Constitutional Parameters of State Income Tax Jurisdiction (cont'd)  JURISDICTION TO TAX: Federal Statutory Limitations on State Tax Jurisdiction: P.L. 86-272	<b>Read:</b> Chapter 2, pp. 89-113 (analyze the NEXUS OVERVIEW on p. 113) and <b>Comments</b> on the <i>Attributional Nexus Test</i> posted on <i>PolyLearn</i> .  <b>No Written Assignment.</b>
(5) Oct 5	STATE TAXES AS REGULATION OF INTERSTATE AND FOREIGN COMMERCE: The Commerce Clause and <i>Complete Auto Transit, Inc.</i>	<b>Read:</b> Chapter 3, pp. 115-132 and <b>Summary</b> of <i>Camps Newfound/Owatonna v. Harrison</i> (Third Prong of <i>Complete Auto</i> —Nondiscrimination) posted on <i>PolyLearn</i> . <i>Camps Newfound</i> appears at pp. 144-157.  <b>No Written Assignment.</b>
(6) Oct 7	STATE TAXES AS REGULATION OF INTERSTATE AND FOREIGN COMMERCE: Fair Relation to Service Provided by the State	<b>Read:</b> Chapter 3, pp. 176 ( <b>start</b> at "Fourth Prong")–200 ( <b>stop</b> before <i>NOTES AND QUESTIONS</i> ).  <b>No Written Assignment.</b>
(7) Oct 12	THE CONSTITUTIONAL REQUIREMENTS OF EQUALITY AND UNIFORMITY: Equal Protection of the Laws	<b>Read:</b> Chapter 3, pp. 202-211 ( <i>Japan Line, Ltd v. County of Los Angeles</i> ) ( <b>stop</b> before <i>NOTES AND QUESTIONS</i> ) and p. 257 (Section B. Equal Protection of the Laws). ----- <b>AND</b> ----- Chapter 4, pp. 247-255 ( <b>stop</b> before <i>NOTES AND QUESTIONS</i> ), and pp. 269-286 (Begin, "THE EQUAL PROTECTION CLAUSE AND PROPERTY TAX DISPARITIES" through the first paragraph in <i>Note A</i> on p. 286).  <b>Written Assignment No. 2.</b> Answer the questions posted on <i>PolyLearn</i> .

(8) Oct 14	<p>IMMUNITY OF FEDERAL INSTRUMENTALITIES FROM STATE TAXATION: State Taxes Discriminating Against the Federal Government</p> <p>-----AND-----</p> <p>PERSONAL INCOME TAXES: Conformity of State Income Taxes to the Federal Income Tax, Taxation of Residents and Nonresidents, Source Principle: Constitutional and Statutory Issues, etc.</p>	<p><b>Read:</b> Chapter 5, pp. 356-363.</p> <p><b>No Written Assignment.</b></p> <p>-----AND-----</p> <p><b>Read:</b> Chapter 6, pp. 373-375 (<b>stop</b> before <i>NOTES AND QUESTIONS</i>), 377-378 (<b>read only</b> <i>NOTE C</i>), 379-382 (<b>stop</b> before <i>NOTE C</i>), 383-389 (<b>stop</b> before <i>NOTE C</i>), and 391-399 (<b>stop</b> before <i>NOTES AND QUESTIONS</i>).</p> <p><b>No Written Assignment.</b></p>
(9) Oct 19	<p>PERSONAL INCOME TAXES: Nonresident Tax Rates, Discrimination, etc.</p>	<p><b>Read:</b> Chapter 6, pp. 406-412 (<b>stop</b> before <i>NOTES AND QUESTIONS</i>), 414-419 (<b>stop</b> before <i>NOTE D</i>) and materials posted on <i>PolyLearn</i>, including <i>Comptroller of the Treasury of Maryland v. Wynne</i>, 575 U.S. ____ (May 18, 2015).</p> <p><b>Written Assignment No. 3:</b> Respond to the question(s) and issue(s) posted on <i>PolyLearn</i>.</p>
(10) Oct 21	<p>CORPORATE INCOME TAXES: Corporate and Franchise Taxes Generally; Apportionment and Allocation</p>	<p><b>Read:</b> Chapter 7, pp. 433-444 and 448-469 (<b>stop</b> before <i>NOTE D</i> at p. 469).</p> <p><b>No Written Assignment.</b></p>
(11) Oct 26	<p>CORPORATE INCOME TAXES: Fair Apportionment</p>	<p><b>Read:</b> Chapter 7, pp. 472-501 (<b>omit</b> all <i>NOTES AND QUESTIONS</i>), and re-read <i>Norfolk and Western Railway Company v. Missouri State Tax Commission</i> (pp. 136-143) previously read in Chapter 3.</p> <p><b>No Written Assignment.</b></p>
(12) Oct 28	<p>CORPORATE INCOME TAXES: Apportionment by Formula of Multistate Enterprises</p>	<p><b>Read:</b> Chapter 7, pp. 504-530 (<b>stop</b> before <i>Container Corporation of America v. Franchise Tax Board</i>)</p> <p><b>No Written Assignment.</b></p>
(13) Nov 2	<p>CORPORATE INCOME TAXES: Apportionment by Formula of Multistate Enterprises (cont'd)</p>	<p><b>Read:</b> Chapter 7, pp. 530-557 (including <i>NOTES AND QUESTIONS</i>) and <b>Summary</b> of California's "Water's Edge" legislation posted on <i>PolyLearn</i>.</p> <p><b>Written Assignment No. 4:</b> Brief <i>Container Corporation of America v. Franchise Tax Board</i> (p. 530)</p>
(14) Nov 4	<p>CORPORATE INCOME TAXES: UDITPA and California Apportionment before <i>Gillette Co. v. Franchise Tax Board</i> (Note: Oral argument in <i>Gillette</i> before the Supreme Court of California is set for October 6, 2015)</p> <p>-----AND-----</p> <p>RELIEF PROVISIONS FOR VARYING STATUTORY FORMULAS: <i>Microsoft Corporation v. Franchise Tax Board</i></p>	<p><b>Read:</b> Chapter 7, pp. 563-564, 574-580 (<b>stop</b> before <i>NOTES AND QUESTIONS</i>).</p> <p><b>No Written Assignment.</b></p> <p>-----AND-----</p> <p><b>Read:</b> Chapter 7, pp. 628-637</p> <p><b>No Written Assignment.</b></p>

(15) Nov 9	CORPORATE INCOME TAXES: California Multistate Tax Compact Developments after <i>Gillette</i>	<b>Read:</b> <i>The Gillette Co. v. Franchise Tax Board</i> and CAL. REV. & TAX CODE § 25128.7 posted on <i>PolyLearn</i> .  <b>Written Assignment No. 5:</b> Brief <i>Gillette</i> .
Nov 11	<b>No CLASS. VETERANS DAY HOLIDAY.</b>	
(16) Nov 16	CORPORATE INCOME TAXES: Distinguishing Apportionable from Allocable Income under UDITPA, state statutes, and California law.	<b>Read:</b> Chapter 7, pp. 581 -590, CAL. REV. & TAX CODE §§ 25128, 25128.7, 25120(a) and CAL. CODE REGS. 18 § 25120.  <b>No Written Assignment.</b>
(17) Nov 18	SALES TAXATION	<b>Read:</b> Chapter 8, pp. 647-673 ( <b>stop</b> before <i>NOTES AND QUESTIONS</i> )  <b>No Written Assignment.</b>
(18) Nov 23	SALES TAXATION (cont'd)	<b>Read:</b> Chapter 8, pp. 679-712 ( <b>omit</b> <i>NOTES AND QUESTIONS</i> ) <b>No Written Assignment.</b>
<b>No CLASS NOVEMBER 25<sup>TH</sup>-29<sup>TH</sup>. THANKSGIVING HOLIDAYS.</b>		
(19) Nov 30	AD VALOREM PROPERTY TAXES: Characteristics, Assessments, Political Issues, Calculation, etc.	<b>Read:</b> Chapter 9, pp. 867-897 ( <b>omit</b> <i>NOTES AND QUESTIONS</i> ) and "UNDERSTANDING HOW PROPERTY VALUES ARE ASSESSED" posted on <i>PolyLearn</i> .  <b>No Written Assignment.</b>
(20) Dec 2	COURSE RECAPITULATION; REVIEW OF STUDENTS' PRESENTATION QUESTIONS; DISCUSSION OF FINAL EXAMINATION	<b>No Reading or Written Assignment.</b>
<b>Dec 7</b> 10:10-1:10pm	<b>FINAL EXAMINATION</b> (Room 03-300A)	