

EXAM SPECIFICATIONS FOR TAX LAW

PURPOSE OF THE EXAM. The purpose of the certification exam is to require an applicant to demonstrate substantial knowledge of significant legal concepts and corresponding skills in tax law.

EXAM FORMAT. The exam consists of a three-hour morning session with three essay questions each worth 100 points and a three-hour afternoon session with 100 multiple choice questions (10 of which involve professional ethics) each worth 2 points. The required passing score is **350**. The essay portion of the exam may be taken by laptop (supplied by the examinee) or by writing. Answers to the multiple choice questions will be documented by the applicant on a scantron answer sheet supplied by TBLS.

ESSAY QUESTIONS. Essay questions consist of a fact pattern followed by a series of questions (usually 4-6) for an applicant to answer. Essays are designed to require an applicant to recognize and analyze issues in the fact pattern and explain how those issues should be resolved. The fact patterns will involve situations you would likely encounter in your practice. Essays typically involve (1) mergers and acquisition, (2) partnerships, and, (3) estate/gift/GST tax issues, including related tax litigation issues. Applicants should make sure to provide the specific information each question asks for and to communicate as clearly as possible. An organized, clearly written answer using complete sentences will almost always receive a higher score than a choppy, disorganized one. In order to pass the exam, applicants must be able to clearly express answers in a manner that would be persuasive to the decision-maker in a case.

MULTIPLE CHOICE QUESTIONS. These questions are designed to test a breadth of issues in the specialty area and require an applicant to select the **best** available answer option.

EXAM MATERIALS. Applicants will be permitted to bring and use during the exam, if desired, unannotated, unmarked, commercially published sets of the Internal Revenue Code and Federal Tax Regulations, and Estate and Gift Tax Regulations. In answering any question, an applicant will be expected to consider the impact of recently enacted legislation and may be called upon to comment in general terms on pending legislation or proposals. Copies of pending legislation or proposals will not be permitted in the exam room, nor will copies of other materials, such as Revenue Procedures, Revenue Rulings, Announcements, Committee Reports, or interpretative or explanatory summaries be permitted.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES. An applicant in tax law is expected to have a broad-based knowledge of tax law which includes, but is not limited to, income, estate or gift tax law, international tax law, business associations tax law, oil and gas tax law, employee benefits tax law, and criminal tax law. A certification applicant is also expected to be knowledgeable in the practice of law involving the Internal Revenue Code and other federal, state and local tax statutes and interpretive material in connection with matters in which tax issues are significant. Types of matters include client consultations and advice regarding the tax consequences of proposed, completed and ongoing transactions; advice regarding the reporting of transactions and other tax matters; working with taxing authorities; and the administrative appeal and litigation of tax issues.

This exam requires a hands on/working knowledge of the Internal Revenue Code and the Treasury Regulations including a strong familiarity with the organization of the tax statutes and the administrative documents. The knowledge, skills and abilities required of a tax law applicant are set out below.

NOTE: NOT ALL TOPICS LISTED BELOW WILL BE COVERED ON ANY GIVEN EXAM. APPLICANTS WILL BE TESTED ON RULES AND LAWS IN EFFECT AT THE TIME OF THE EXAM UNLESS OTHERWISE SPECIFIED.

1. **Federal Income Tax aspects of:**
 - a. Marital Property Rights
 - b. Foreclosure, Bankruptcy and Debt Reorganization
 - c. Cancellation of Indebtedness Income
2. **Federal Income Tax rules relating to:**
 - a. Partnerships
 - b. Corporations, including S and C corporations
 - c. Related Party Transactions, Passive Activity Losses and Limitations on Deductions, At Risk Rules
 - d. Fiduciaries
3. Tax Exempt Organization, including public charities and private foundations
4. **Tax Consequences of Pass-Through Entities**
5. **Corporate Formation, Redemption, Liquidation, Acquisition, and Reorganization**
6. **Real Estate Like-Kind Exchange and Installment Reporting**
7. **Employee Benefit Plans**
 - a. Qualified Retirement Plans, including rules for:
 - b. Non-Qualified Employee Benefit Plans
 - c. IRAs
 - d. Deferred Compensation
 - e. Stock Options
 - f. Other Compensation Arrangements
 - g. Federal Income Tax Rules Re: Assignment of Income
 - h. Required Beginning Date (RBD) Rules
 - i. Minimum Required Distribution (MRD) Rules
8. **Federal Estate, Gift and Generation-Skipping Transfer Tax Rules and Considerations, including related income tax concepts pertaining to estates, trusts, individuals, fiduciaries, and business entities; including income in respect of decedent (IRD) rules; asset adjusted cost basis rules; distributable net income (DNI) rules; distribution deduction rules; the impact of the Uniform Principal and Income Act; and the pertinent elections.**
9. **Tax Ethics; including the pertinent ABA Model Rules, Treasury Circular 230, the tax return preparer rules, tax/representation matters, and confidentiality/new restrictive disclosure rules.**
10. **Procedures Related to the Imposition, Collection and Payment of Federal Taxes, Penalties and Interest, including IRS Appeals; also including civil and criminal tax matters and procedures in the United States Court of Federal Claims, United States Tax Court and the United States District Court in which civil and criminal tax controversies may be litigated.**

11. **Texas state and local tax matters, including:**

- a. Texas Franchise Tax
- b. Sales and Use Tax
- c. Ad Valorem Tax
- d. Texas Tax Procedure

12. **International Tax Matters, including:**

- a. U. S. taxation of U. S. citizens, residents, and non-resident aliens
- b. Disclosure/reporting of foreign financial accounts, foreign trusts, and transactions, and the penalties for failure to disclose

13. **The Texas Disciplinary Rules of Professional Conduct.** The ethics questions regarding this topic will involve an array of hypothetical fact situations which will cover several different aspects of ethical issues that arise in the practice of law. The questions will not be limited to the practice of any one specialty area, and consequently, an applicant is advised to be familiar with all provisions of the TDRPC.

SKILLS.

An applicant must demonstrate the ability to:

- Communicate effectively and persuasively to clients, counsel and courts
- Develop and evaluate strategies for solving a problem or accomplishing an objective
- Analyze and apply legal rules and principles
- Analyze, sort and use facts; plan and direct factual investigations
- Organize and manage a legal task efficiently within time constraints
- Represent a client consistent with applicable ethical standards
- Invoke and utilize the procedures normally required in the specialty area, including pleadings and filings