

San José State University

Lucas College and Graduate School of Business Accounting and Finance Department

State Taxation Fundamentals

Bus 225F
Summer 2022

Instructor:	Joel Busch
Telephone:	(408) 924-3494
Email:	Via Canvas Email
Office Hours:	Flexible (via Zoom) - please email for an appointment
Class Days/Time:	Wednesdays, 6:00 – 10:00 pm, June 22 – August 10 Saturday, 9 am – 5 pm (July 23)
Classroom:	BBC 301 (Except for 7/6, 7/13 and 7/27, which will be via Zoom)
Prerequisites:	Bus 223A

Canvas Course Website

Course materials such as syllabus, handouts, PowerPoint slides, notes, assignment instructions, etc. may be found on the Canvas Learning Management System course login website at <http://sjsu.instructure.com>. You are responsible for regularly checking Canvas to learn of any course updates – including new messages, readings and assignments

Course Description

Introduction to the legal foundation, nature and operation of key state and local taxes. Constitutional constraints regarding nexus, sourcing and apportionment are covered. Additional topics include research techniques, compliance and planning considerations, current issues and state tax reform. Prerequisite: BUS 223A

Course Learning Outcomes

Upon completion of this course students will both gain a strong understanding and working knowledge of key concepts, rules and constitutional restrictions of state taxation and will be able to explain:

CLO 1: Key types of state taxes and purpose.

CLO 2: U.S. constitutional constraints on state and local taxation.

CLO 3: Key state sales and use taxation terms and concepts such as nexus, sourcing, tangible personal property, and exemptions.

CLO 4: Key state / local property tax terms and concepts such as situs, lien date, real vs. personal property assessments and the provisions of California's Proposition 13 to taxpayers.

CLO 5: Key state income taxation terms and concepts such as nexus, sourcing, apportionment, allocation, separate, combined, withholding, credit for taxes paid to other states and unitary.

CLO 6: Important guidance relevant to state taxation including PL 86-272, UDITPA, and major judicial decisions.

CLO 7: Basic tax planning considerations for multistate businesses, including consideration of tax incentives.

CLO 9: Basic considerations in state and local tax compliance and audits.

CLO 10: The basics of gross receipts and common local taxes.

CLO 11: Current state tax policy issues.

Required Texts/Readings and Tax Research Services

Textbooks

1. Multistate Income Tax (Johnson)

Author: Andrew Johnson

ISBN:9781119756477

Publisher: AICPA

Edition: September 2020

An electronic version of this textbook (**at no cost to you**) is available via the SJSU online library, which can be accessed at: <https://one.sjsu.edu/>

However, if you would like a *printed* version of this textbook, it is also available for purchase at the San Jose State campus bookstore and various online sources, including Amazon.

The link to (optionally) purchase the printed book via Amazon is:

<https://www.amazon.com/Multistate-Income-AICPA-Andrew-Johnson/dp/1119756472>

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2. State and Local Taxation, Principles and Practices, 3rd Edition (Swenson)

By Charles W. **Swenson**, John E. Karayan, Sanjay Gupta, and Joseph Neff

ISBN: 978-1-60427-095-2

Available at various online bookstores.

Also, a hardcopy of the book is available directly from the publisher at:

<https://www.jrosspub.com/state-and-local-taxation-3rd-edition.html>

Discount Code: **JR095230R**

- Discount amount: 30% off the retail price

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3. Readings outside of the two primary textbooks:

- Additional (supplemental) materials will be distributed via Canvas
- Note that the use of CCH and/or RIA will be required in this course as well.

Assignments and Grading Policy

Quizzes: There will be four (4) online Canvas quizzes that will be taken outside of class hours. The four **outside-of-class hours** online quizzes will be taken online on Canvas. You will have two attempts at each of these outside-of-class hours quizzes. The highest score of the two attempts will be used as your score for that particular quiz.

Late submissions of quizzes may only be done with permission from the instructor and are subject to a deduction of points.

The outside-of-class hours quizzes are open book quizzes, and you can and will be expected to do research online to complete these quizzes.

The highest three of the four quizzes will count towards your final grade for the course.

As with all individual-based work, you may not share any aspect of the quizzes with any other student. Failure to comply with this requirement may result in a failing grade for the course and additional disciplinary action.

Final Exam: A final examination will be administered during the final week of class. One page of notes (not larger than 8.5" x 11", double-sided) will be allowed.

The exam may be a combination of multiple-choice, fill-in-the-blank and written responses (short answer and/or essay(s)), unless stated otherwise. For any multiple-choice questions you must choose the best answer to each question to be awarded points for that particular question.

Projects: There will be three (3) graded projects during the course.

The projects may be required to be turned in during a class session or a specified date and time outside of class hours and may be assigned as an individual or group project.

The project may neither be undertaken with other students if assigned as an individual project nor with anybody outside of the assigned group if assigned as a group project.

Group Presentation: During class session #9, in groups assigned by the instructor, groups will present on the impact of state and local taxes of a company in a real-life setting.

Additional details of the presentation will be covered after the beginning of the course.

Additional Tips for Success in this Course:

Be sure to read the materials before class – that is how you will get the most out of this class. You need to be as prepared as you expect your instructor to be.

- You will get more out of this course if you participate in class and group discussions and activities. You should also find ways to engage with the materials outside of class – discuss them with colleagues via Canvas chat. You can also form study groups with some classmates conveniently via Zoom.
- Take your time on the Canvas quizzes. You will not get much out of this work if you rush taking the quizzes. The purpose of the quizzes is to give you an opportunity to really think about what the rules and concepts mean and how to apply them.

Grading:

Group Presentation	30
Projects (3)	60 (20 points each)
Three Canvas quizzes (highest of four)	60 (20 points each)
Final Exam on 8/10	<u>100</u>
Total	250

Grades will follow the pattern of 90% or higher for an A, 80% or higher for a B, 70% or higher for a C, etc. Plus and minus grades will be used for scores within two percentage points (rounded) of the grade breakpoint (for example, 91% for an A- grade). I may lower the percentage required to earn a certain grade, however, I will not raise the percentage.

MST Program Administrative Guidelines

- Please see the 2021/2022 New Student Handbook available in the MS Taxation Students Canvas Course.

- ✓ **Also, you are not to share course materials with current or future MST students**

Virtual Classroom Protocol

While most classes will be live (in-person) on campus, for the online class sessions (please refer below for the dates of the online (Zoom) class sessions), as is expected for working tax professionals, you are *required* to keep your video feed **on** during each class session within Zoom (except for limited, appropriate personal situations during the class). In addition, cell phones are to be in silent / vibrate mode only. You are highly encouraged to ask or answer questions in class either verbally or through the Zoom chat function.

If there are any special situations which may prevent you from having your camera on during an extended period of time, please e-mail me through Canvas to discuss the particulars and to review the request on a case-by-case basis.

- **Mute Your Microphone:** To help keep background noise to a minimum, make sure you mute your microphone when you are not speaking.
- **Be Mindful of Background Noise and Distractions:** Find a quiet place to “attend” class, to the greatest extent possible.
 - Avoid video setups where people may be walking behind you, people talking/making noise, etc.
 - Avoid activities that could create additional noise, such as shuffling papers, listening to music in the background, etc.
- **Position Your Camera Properly:** Be sure your webcam is in a stable position and focused at eye level.
- **Limit Your Distractions/Avoid Multitasking:** You can make it easier to focus on the meeting by turning off notifications, closing or minimizing running apps, and putting your smartphone away (unless you are using it to access Zoom).
- **Use Appropriate Virtual Backgrounds:** If using a virtual background, it should be appropriate and professional and should NOT suggest or include content that is objectively offensive or demeaning.

Zoom Sessions Will be Recorded and Available for Viewing

Subject to change, the online Zoom class sessions will be recorded and available for later viewing. You will be prompted in Zoom for your consent to be included in the Zoom recording. If there is a situation where you do not want to be included in the Zoom recording, please e-mail me via Canvas at least 48 hours prior to a class session to allow me to review the request on a case-by-case basis.

- Please note that students are permitted to only view the Zoom recordings. Downloads of the Zoom videos are not permitted.

Course Topics and Reading Assignments

Session	Date	Topics, Readings, Assignments, Deadlines
1	6/22	<p>Introduction to Course and Various State & Local Taxes and Governmental Tax Agencies</p> <ul style="list-style-type: none"> • Introduction to types of state and local taxes, their purpose, and their impacts to taxpayers. • State tax research tools (including the use of RIA and CCH for state and local legal authorities) • Introduction to state and local tax issues – focus on sales tax and property tax • Introduction to nexus, the <i>Wayfair</i> case and why nexus issues exist and challenges in resolving them for taxpayers <p><i>Read:</i></p> <ul style="list-style-type: none"> ❖ Swenson: Chapter 1 – Through Judicial Law Sources on Pg. 20 ❖ Swenson: Chapter 4 – through Accounting Methods on Page 144 ❖ Swenson: Chapter 5 ❖ <i>Skim:</i> Federation of Tax Administrators’ State Tax Agencies Website Compilation: https://www.taxadmin.org/state-tax-agencies
2	6/29	<p>California Property Tax – Including Prop. 13</p> <p>Sales and Use Tax – Part I</p> <ul style="list-style-type: none"> • Nexus, nature of the tax, terminology, concepts, exemptions, special rules, compliance considerations, differences among states, policy considerations <p><i>Read:</i></p> <ul style="list-style-type: none"> ❖ Your California Seller’s Permit (California Sales/Use Tax) (CDTFA Pub. 73 – September 2019 Edition): http://www.cdtfa.ca.gov/formspubs/pub73.pdf [<i>Skip</i> areas concerning: drop shipments and sales of fuel.] ❖ California Property Tax – An Overview: https://www.boe.ca.gov/proptaxes/pdf/pub29.pdf [Through Pg. 17 – skip Timber & Yield Tax]

		<ul style="list-style-type: none"> ❖ Journal of Accountancy – A practical guide to economic nexus (June 1, 2021) – (Please copy & paste the URL in your internet browser): https://www.journalofaccountancy.com/issues/2021/jun/economic-nexus-sales-and-use-tax.html ❖ <i>South Dakota v. Wayfair, Inc.</i>, 138 S. Ct. 2080 (2018) ❖ California Regulation 1701 (using RIA or CCH) ❖ <i>Skim</i> San Mateo County Business Property Statement (571-L) – Including Instructions: https://www.smcacre.org/media/4664 https://www.smcacre.org/media/1464/download?attachment ❖ Review the California General Resale Certificate at: https://www.cdtfa.ca.gov/formspubs/cdtfa230.pdf ❖ Video: “Prop. 19 - What it Means for You and Your Clients” at: https://sjsu.zoom.us/rec/share/ljPfADloQ4VuvikWdiUoQb6-Zke7jqoVTeY50skncROlycH77jI8CychNfovMUQN.aX6CppJezWtrNk9A?startTime=1622833301000 (Please copy & paste the URL above in your internet browser) ❖ Supplemental Reading Posted on Canvas
3	<p style="text-align: center;">7/6</p> <p>***** Online Zoom Class *****</p>	<p>Sales and Use Tax – Part II</p> <p>Constitutional Restraints on State and Local Taxation</p> <ul style="list-style-type: none"> ➤ Continuation of Part I • Constitutional principles relevant to state and multistate taxation • California local government considerations • Tax reform considerations <p><i>Read:</i></p> <ul style="list-style-type: none"> ❖ Swenson: Chapter 2 – Federal-Level Constitutional Issues on Pg. 36 through Pg. 48 ❖ “California’s Tax System: A Visual Guide (California LAO) [Pages 3 and 19-36]: https://lao.ca.gov/reports/2018/3805/ca-tax-system-041218.pdf <ul style="list-style-type: none"> ❖ Supplemental reading posted in Canvas

4	7/13 ***** Online Zoom Class *****	<p>Sales and Use Tax – Part III</p> <p>Survey of Gross Receipts and Local Business Taxes</p> <ul style="list-style-type: none"> ❖ Continuation from Parts I & II ❖ Current sales tax issues <p><i>Read:</i></p> <ul style="list-style-type: none"> ❖ California Regulation 1595(a) [Occasional Sale] ❖ CDTFA Publication 102 (Sales to the United State Government) – (Read the (1) Exempt Sales and Leases & (2) Required Documentation tabs only): https://www.cdtfa.ca.gov/formspubs/pub102/#federal ❖ FAQs on the Streamlined Sales and Use Tax Agreement: https://www.streamlinedsalestax.org/Shared-Pages/faqs/faqs---about-streamlined#id ❖ Tax Foundation: Does Your State Have a Gross Receipts Tax: https://taxfoundation.org/state-gross-receipts-taxes-2020/ ❖ Washington Department of Revenue – Business and Occupation (B&O) Tax Overview: https://dor.wa.gov/taxes-rates/business-occupation-tax ❖ Swenson: Chapter 9 - Problems of Applying Sales and Use Tax Laws to E-Commerce Transactions (Pgs. 270-271) and Sales Tax Issues in Internet-Delivered Services: Taxing Services in the Cyberspace Economy (Pgs. 271-273) ❖ Additional supplemental reading posted in Canvas
5	7/20	<p>State Income Taxation – Part I</p> <ul style="list-style-type: none"> ❖ Constitutional considerations, nexus and PL 86-272, nature of the tax, rules and concepts of taxing multistate income, theories, Federal-to-state taxable income adjustments / modifications, sourcing, compliance, current issues <p><i>Read:</i></p>

		<ul style="list-style-type: none"> ❖ Swenson: Multistate Law Sources (Pg. 21) ❖ Swenson: Chapter 3 – Through First Paragraph of Page 70 ❖ Swenson: Chapter 3 – Starting with the Three-Factor Apportionment Formula, through the Effect on Foreign or Other Out-of-State Businesses on Page 83 ❖ Johnson: Chapter 1 (Interstate Activity and Nexus) ❖ Johnson: Overview -5 through -7 (Tax formula for multistate corporate taxpayers) ❖ The “About Us” and “History” sections of the Multistate Tax Commission website at: https://www.mtc.gov/The-Commission/About-Us https://www.mtc.gov/The-Commission/MTC-History ❖ Skim over the “Member States” section of the Multistate Tax Commission website at: https://www.mtc.gov/The-Commission/Member-States
6 & 7	7/23 (9:00 a.m. to 5:00 p.m.) (SAT)	<p>State Income Taxation – Parts II and III UDITPA, apportionment and allocation of income</p> <p><i>Read:</i></p> <ul style="list-style-type: none"> ❖ Johnson: Chapter 2 (but <i>skip</i>: TCJA repatriation or transition income IRC Section 965 (Page 2-11) and TCJA: GILTI IRC Section 951A (Page 2-16)) ❖ Johnson: Chapter 4 (through pg. 4-15 and then 4-20 through 4-24) and Chapter 5 ❖ California Revenue and Taxation Code §§25128; 25128.7 and 25137 ❖ “Remote work creates a spectrum of state and local tax issues” – The Tax Advisor (VandenBrul and Karpchuck, December 2021) – Available at: https://www.thetaxadviser.com/issues/2021/dec/remote-work-state-local-tax-issues.html ❖ Supplemental Reading Posted on Canvas

8	7/27 ***** Online Zoom Class *****	<p>State Income Taxation – Part IV</p> <ul style="list-style-type: none"> ❖ Continuation of Parts I, II and III ❖ Reporting and filing method rules and concepts, including consolidated, combined unitary businesses and separate returns. ❖ Entity considerations ❖ Personal state income tax fundamentals – including credit for taxes paid to other states, withholding and residency. <p><i>Read:</i></p> <ul style="list-style-type: none"> ❖ Johnson: Chapter 3 ❖ Swenson: Pgs. 87 through Worldwide Unitary Group on top of page 91 and then Taxation of Flow-Through Entities on Pg. 92 through Subchapter S Corporations on Page 95. ❖ Swenson: State Constitutional Limits on Net Income Taxes (Pgs. 290-292); Sourcing Rules for Taxing Nonresidents (Pgs. 305-306); Tangible Property Located in a State (Pg. 307); Gains and Losses on Tangible Property Located in a State (Pg. 308); Personal Services (309-314); and Taxing Residents: Heads I Win, Tails You Lose (316-335). <p>Tax Incentives + Compliance Considerations</p> <ul style="list-style-type: none"> ❖ Types of incentives and their issues and opportunities ❖ Differences among states ❖ Compliance considerations <p><i>Read:</i></p> <ul style="list-style-type: none"> ❖ Swenson – <i>Skim</i> Chapter 8 ❖ Additional supplemental reading posted in Canvas <p><i>Watch:</i> Testimonial video on the California Competes Tax Credit: https://www.youtube.com/watch?v=Bbczd1aCyxA</p>
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9	8/3	<ul style="list-style-type: none"> ✓ Group Presentations ➤ Practical Fundamentals of State Income, Sales/Use and Property Tax Audits ▪ Final Exam Review <p>Read:</p> <ul style="list-style-type: none"> ➤ Swenson: Chapter 4 – Starting with Record Keeping on Pg. 145 through Remedies – Voluntary Disclosure Agreements on Pg. 147 ➤ Johnson: B-3 through B-10 ➤ California Rev. & Tax §§19057 (Statute of Limitations (SOL) for Income Tax – In General); and 19059 (Changes to CA income based on Federal changes) ➤ California Rev. & Tax. §532 (SOL for Escaped or Under-Assessments for Property Taxes) ➤ California Regulation 1668(f) - [Details on XYZ Letters] ➤ California Assessor’s Handbook 506 – Pages 12-34 <p>https://www.boe.ca.gov/proptaxes/pdf/ah506.pdf</p> <ul style="list-style-type: none"> ❖ Additional supplemental reading posted in Canvas
10	8/10	Final Exam