

BENJAMIN M. LEFF

Professor of Law

American University Washington College of Law
4300 Nebraska Ave NW, Y240, Washington DC 20016
(202) 274-4359 (w) bleff@wcl.american.edu (202) 679-5242 (m)

ACADEMIC EMPLOYMENT

American University Washington College of Law

Professor of Law, 2015–present

Associate Professor, 2012–2015

Assistant Professor, 2009–2012

Classes: Federal Income Tax, Law of Nonprofit Organizations, Tax Policy, Property

Georgetown University Law Center

Visiting Professor of Law, Fall 2020

George Washington University School of Law

Visiting Professor of Law, Fall 2019

University of Oxford Faculty of Laws

Visitor, 2016-2017

Harvard Law School

Visiting Assistant Professor, 2008 – 2009

FORTHCOMING

What Safe Space Gets Right and What it Gets Dangerously Wrong (forthcoming Tax Notes 2024)

Tax Class podcast (forthcoming 2024)

PUBLICATIONS

Alternatives to Basic Income (with A Percy, M Story, M Szlinder), THE PALGRAVE INTERNATIONAL HANDBOOK OF BASIC INCOME 2d edition (Palgrave 2023)

Marijuana Taxation: Theory and Practice, 101 B.U.L.R. 915 (2021)

Fixing the Johnson Amendment Without Totally Destroying It, 6 U. PA. J.L. & PUB. AFF. 115 (2020)

What is Lost When Philanthropy Avoids Philanthropy Law? 70 FLA. L. REV. F. 155 (2019)

EITC for All: A Universal Basic Income Compromise Proposal, 26 WASH. & LEE J. CIV. RTS & SOC. JUST. 85 (2019)

Alternatives to Basic Income (with A Percy, M Story, M Szlinder), THE PALGRAVE INTERNATIONAL HANDBOOK OF BASIC INCOME (Palgrave 2019)

Some Implications of the Agency-Cost Theory of the Nonprofit Firm, THE CAMBRIDGE HANDBOOK OF SOCIAL ENTERPRISE LAW (Cambridge 2018)

The Boundary Between Not-for-Profits and Business: Social Enterprise and Hybrid Models, RESEARCH HANDBOOK ON NOT-FOR-PROFIT LAW (Elgar 2018)

Tax Benefits of Government-Owned Marijuana Stores, 50 U.C. DAVIS L. REV. 559 (2016)

Student Loan Derivatives: Improving on Income-Based Approaches to Financing Law School, 61 VILLANOVA L. REV. 99 (2016), co-authored with Heather Hughes

Preventing Private Inurement in Tranched Social Enterprises, 45 SETON HALL LAW REVIEW 1 (2015)

Tax Planning for Marijuana Dealers, 99 IOWA LAW REVIEW 523 (2014)

The Case Against For-Profit Charity, 42 SETON HALL LAW REVIEW 819 (2012)

Federal Regulation of Nonprofit Board Independence: Focus on Independent Stakeholders as a “Middle Way”, 99 KENTUCKY LAW REVIEW 731 (2011)

“Sit Down and Count the Cost:” A Framework for Constitutionally Enforcing the 501(c)(3) Campaign Intervention Ban, 28 VIRGINIA TAX REVIEW 673 (2009)

WORKS IN PROGRESS

Getting Donor-Advised Fund Regulation Right

Universal Basic Wealth

Taxation of Forgivable Debt and Conditional Scholarships

BLOGGING

Nonprofit Law Professors Blog (2023-present)

Surly Subgroup (2016-2017)

FELLOWSHIPS

Attenborough Fellow, Institute for the Study of Employee Ownership and Profit Sharing, Rutgers School of Management and Labor Relations, 2020

LEGAL EMPLOYMENT

Vinson & Elkins LLP, Austin, Texas, 2001-2007

Associate: Tax Litigation, Tax Exempt Finance, and Tax Exempt Organizations
“Texas Rising Star” for 2004, 2005 and 2007

Judge Douglas P. Woodlock, U. S. District Court, Boston, Massachusetts, 2000-2001

Law Clerk

Caplin & Drysdale, Washington, D.C., 1999

Summer Associate, Tax Section

Jenner & Block, Washington, D.C., 1999

Summer Associate, Litigation Section

President Aharon Barak, Supreme Court of Israel, Jerusalem, Israel, 1998

Summer Comparative Law Clerk

EDUCATION

Yale Law School, New Haven, Connecticut, J.D., 2000

University of Chicago Divinity School, Chicago, Illinois

Completed Ph.D coursework (*Brauer Fellow*), 1997

A.M. Religious Studies, 1994

Hebrew University, Jerusalem, Israel, 1992-1993

Oberlin College, Oberlin, Ohio, B.A., 1990, Phi Beta Kappa

PRESENTATIONS

Getting DAF Regulation Right, Law and Society Association (June 7, 2024)

Panel on FOR PROFIT PHILANTHROPY, Law and Society Association (June 6, 2024)

Constitutional Self-Help and the Johnson Amendment, Association of Midlevel Tax Scholars
(May 30, 2024)

Constitutional Self-Help and the Johnson Amendment, WCL Faculty Speaker Series (Mar 2024)

Imposter Scams and Their Tax Treatment, DC Bar Conference (January 2024)

Taxation of Forgivable Debt and Conditional Scholarships, WCL Business Law Workshop (Feb 2023)

Charity Law and “Dangerous” Financial Products, Assoc of Midlevel Tax Scholars (May 2022)

Charity Law and “Dangerous” Financial Products, The Nonprofit Forum (April 14, 2022)

Solving the Cannabis Tax Puzzle, Ohio State University Drug Enforcement and Policy Center (January 26, 2022)

The Pigou Project, Association of Midlevel Tax Scholars (July 21, 2021)

Cannabis Taxation: Theory and Practice, B.U. Law Review Conference (November 12, 2020)

Toward Universal Capital Accounts for Emergency Liquidity, Beyster Symposium (June 3, 2020)

Toward Universal Capital Accounts for Emergency Liquidity, Association of Midlevel Tax Scholars (May 29, 2020)

Nonprofit Law Aspects of the Proposed Sale of the .ORG Registry, Washington College of Law (February 11, 2020)

Universal Capital Accounts Panel, Kelso Conference, New Brunswick NJ (January 11, 2020)

EITC for All: A Universal Basic Income Compromise Proposal, APPEAL, Baltimore MD (June 2, 2019)

EITC for All: A Universal Basic Income Compromise Proposal, Washington and Lee JCRSJ Symposium (November 2, 2018)

EITC for All: A Universal Basic Income Compromise Proposal, Association of Midlevel Tax Scholars, Washington DC (May 21, 2018)

EITC for All: A Universal Basic Income Compromise Proposal, Poverty Law Conference, Washington DC (March 24, 2018)

Crafting an Enforceable Johnson Amendment Safe Harbor, Nonprofit Forum, New York, NY (December 7, 2017)

EITC for All: A Universal Basic Income Compromise Proposal, National Tax Association Annual Meeting, Philadelphia, PA (November 10, 2017)

EITC for All: A Universal Basic Income Compromise Proposal, Basic Income Earth Network Congress, Lisbon, Portugal (September 25, 2017)

Some Implications of the Agency-Cost Theory of the Nonprofit Firm, Notre Dame Law School Symposium (March 4, 2017)

Tax Benefits of Governmental Marijuana Stores, Indiana University Law School Tax Policy Seminar, IU Maurer School of Law, Bloomington, IN. (February 18, 2016)

Tax Benefits of Governmental Marijuana Stores, UC Davis Law Review Symposium on Marijuana Law, Davis, CA. (January 29, 2016)

Understanding Income-Based Financing for Higher Education, National Tax Association, Boston, MA. (November 20, 2015)

Exempt Organizations After Obergefell and Bob Jones, AHLA Annual Meeting Lunch Panel, American Health Law Association (October 8, 2015)

Income-Based Repayment Swap, Assoc. of Midlevel Tax Professors (June 4, 2015)

Income-Based Repayment Swap, Georgetown Tax and Public Finance Wkshop (February 2015)

Income-Based Repayment Swap, American Association of Law Schools Annual Meeting (January 2015)

Income-Based Repayment Swap, National Tax Association Annual Meeting (November 2014)

Income-Based Repayment Swap, WCL Business Law Roundtable (October 2014)

Income-Based Repayment Swap, Junior Tax Scholars Conference (June 2014)

Tranche Investing in Social Enterprises, Michigan State Jr Scholars Workshop (November 2013)

Tax Planning for Marijuana Dealers, WCL Faculty Speaker Series (September 2013)

Tax Planning for Marijuana Dealers, Harvard Tax Policy Roundtable (August 2013)

Tax Planning for Marijuana Dealers, Junior Tax Scholars Conference (June 2013)

Tax Planning for Marijuana Dealers, Harvard Tax Policy Workshop (April 2013)

Libertarian Tax Policy: It's Not What You Think, St. Edwards University Center for Ethics and Leadership (March 2013)

What Should the Law of Social Enterprises Be? Unsectored (January 2013)

Hybrid Social Enterprise Business Forms, WCL Social Enterprise Society (October 2012)

Tax Policy from the Libertarian Center Left, Critical Tax Scholars Conference (September 2012)

Impact of the Affordable Care Act Supreme Court Decision, WCL Health Law Program (broadcast by C-SPAN) (September 2012)

Tranche Investing in Social Enterprises, Junior Tax Scholars Conference (May 2012)

What Can Experimental Behavioral Economics Tell Us About Vertical Equity? Tulane Tax Roundtable (April 2012)

Tax and Political Rhetoric: A Primer, WCL Law and Government Program (Feb 2012)

Presidential Candidates' Tax Plans WCL Law and Government Program (Nov. 2011)

Constitutionality of the Affordable Care Act WCL Constitution Day Panel (Sept. 2011)

Tax Policy Curriculum Junior Tax Scholars Conference (June 2011)

Should the IRS Require Nonprofit Organizations to Have an Independent Board? Tulane Tax Roundtable (March 2011)

Should the IRS Require Nonprofit Organizations to Have an Independent Board? AALS Annual Meeting Nonprofit Law Subcommittee (January 2011)

Should the IRS Require Nonprofit Organizations to Have an Independent Board? Washington College of Law Business Law Group (November 2010)

Should the IRS Require Nonprofit Organizations to Have an Independent Board? Florida State Law School Faculty Workshop (October 2010)

Nonprofit Speech in the 21st Century: Time for a Change? Participant in NYU National Center for Philanthropy and the Law Conference (October 2010)

Effects of Citizens United Decision on Tax Law, Urban Institute Emerging Issues in Philanthropy Seminar (June 2010)

The Case Against For-Profit Charity, Junior Tax Scholars Workshop (June 2010)

The Case Against For-Profit Charity, Law and Society Conference (May 2010)

The Case Against For-Profit Charity, WCL Junior Faculty Colloquium (January 2010)

Private Foundations and Donor Advised Funds: An Agency Cost Analysis, Junior Tax Scholars Workshop (June 2009)

Does the Norm of Separation of Church and State Justify the Denial of Tax Exemption to Churches that Engage in Partisan Political Speech? New England Law School Federalist Society (April 2009)

PROFESSIONAL SERVICE

Board of Directors, Secretary, Treasurer Oberlin Cooperative Education Fund (2022-present)

Board of Directors, Better Future Forward (2020-present)

Board of Directors, The Theodore Tannenwald Jr. Foundation for Excellence in Tax Scholarship (2019-present; Secretary 2021-present)

Director, JD/MBA Program, American University Washington College of Law (2018-present)

Faculty Senate Law School Representative, American University (2019-2022)(2024-present)

Curriculum Committee (Chair 2024-present)

ABA Accreditation Committee (2024-present)

Middle States Commission on Higher Education Accreditation Committee (2022-2023)

Chair, Section on Nonprofit and Philanthropy Law, A. A. L. S. (2018-19)

Past Committees: Admissions, Budget, Curriculum, Institutional Advancement (chair 2021-23),

Resources, Speaker Series (chair 2017-19), AU Accreditation Steering Committee (2022-24)

Admitted to Texas Bar (2001 to present)