

Brant J. Hellwig

University of South Carolina School of Law
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Education

New York University School of Law, New York, NY

LL.M., Taxation, 2000

Harry J. Rudick Memorial Award (for distinction in the Graduate Tax Program)

Tax Law Review, Student Editor and Merit Scholarship Recipient

Wake Forest University School of Law, Winston-Salem, NC

J.D. *magna cum laude*, 1997

Guy T. Carswell Scholar

Order of the Coif

Wake Forest Law Review, Editorial Board Member

Wake Forest University, Winston-Salem, NC

B.S. Mathematical Economics, *summa cum laude*, 1994

Guy T. Carswell Scholar

Kenneth Tyson Raynor Award in Mathematics

Phi Beta Kappa

Academic Employment

University of South Carolina School of Law, Columbia, SC

Professor of Law (2010 to present)

Associate Professor of Law (2007-2010)

Assistant Professor of Law (2002-2007)

Courses Taught: Federal Income Taxation; Partnership and LLC Taxation;
Estate and Gift Taxation; Wills, Trusts and Estates;
Taxation of Property Transfers; Corporate Taxation

New York University School of Law, New York, NY

Acting Assistant Professor (2001-2002)

Assistant Editor of *Tax Law Review*

Courses Taught: Estate and Gift Taxation; Taxation of Property Transactions;
Survey of Tax Procedure

Practice Experience

United States Tax Court, Washington, DC
Law Clerk to the Honorable Juan F. Vasquez (2000-2001)

Bell, Davis & Pitt, P.A., Winston-Salem, NC
Associate (1997-1999) in business and taxation group,
with practice concentrated in estate planning and estate administration

Primary Publications

Estate and Gift Taxation (LexisNexis 2011) (with Robert T. Danforth)
Textbook published as part of the LexisNexis Graduate Tax Series

Taxing Structured Settlements
51 B.C. LAW REV. 39 (2010) (with Gregg D. Polsky)
Highlights the tax benefit of yield exemption statutorily provided to physical injury plaintiffs who structure payment of damage recoveries, and explains how this tax benefit has been claimed by parties outside the physical injury setting.

On Discounted Partnership Interests and Adequate Consideration
28 VA. TAX REV. 531 (2009)
Traces and critiques the evolving application of the statutory exception to § 2036(a) for transfers made for adequate and full consideration in context of transfers to family limited partnerships.

Nonqualified Deferred Compensation and the Pre-Statutory Limits on Deferral
Book chapter in FEDERAL INCOME TAXATION OF RETIREMENT PLANS (Alvin D. Lurie, ed. 2008)
Explains judicial doctrines employed to determine when a contractual right to a future payment is included in gross income prior to enactment of IRC § 409A; explores deferred income recognition from standpoint of tax policy.

Questioning the Wisdom of Patent Protection for Tax Planning
26 VA. TAX REV. 1005 (2007)
Presented at University of Minnesota Law School Symposium on The Future of Tax Shelters
Outlines policy arguments against patent protection for tax planning strategies.

The Supreme Court's Casual Use of the Assignment of Income Doctrine
2006 U. ILL. L. REV. 751 (2006)
Reprinted in THE MONTHLY DIGEST OF TAX ARTICLES (Dec. 2007)
Critiques the Supreme Court's analysis in *Commissioner v. Banks* on basis that the Court inappropriately applied the assignment-of-income doctrine outside the context of gratuitous assignments.

Taxing the Promise to Pay

89 MINN. L. REV. 1092 (2005) (with Gregg D. Polsky)

Reprinted in the *Journal of Deferred Compensation* (Summer 2006)

Explains that compensatory payment obligations entitled to deferred income tax treatment do not include obligations issued by a third party to the service transaction, both as a matter of statutory construction and tax policy.

Litigation Expenses and the Alternative Minimum Tax

6 FLA. TAX REV. 899 (2004) (with Gregg D. Polsky)

Details the implications of treating litigation expenses as miscellaneous itemized deductions subject to disallowance under the alternative minimum tax, and proposes statutory change.

Revisiting Byrum

23 VA. TAX REV. 275 (2003)

Reviews the analytical basis for the Supreme Court's decision in *United States v. Byrum* and contends that the decision does not serve as meaningful impediment to the application of § 2036(a)(2) in the family limited partnership context.

Estate Tax Exposure of Family Limited Partnerships Under Section 2036

38 REAL PROP. PROB. & TR. J. 169 (2003)

Proposes an expanded interpretation of § 2036 that would apply to family limited partnerships employed as trust substitutes for estate planning purposes.

Additional Publications

The Holding Intent Requirement for Property Transferred in a Section 1031 Exchange

45 REAL PROP. TR. & EST. J. 635 (2011)

Close the Yield Exemption Loophole Created by Childs

123 TAX NOTES 1141 (June 1, 2009) (with Gregg D. Polsky)

Taxpayer's Family Limited Partnership in Estate of Mirowski v. Commissioner

LexisNexis Expert Commentary (June 2008)

U.S. Tax Court's Treatment of Formula Disclaimers in Estate of Christiansen v. Commissioner

LexisNexis Expert Commentary (June 2008)

The Eleventh Circuit's Acceptance of a Full Discount for the Lurking Capital Gain Liability in Estate of Jelke v. Commissioner

LexisNexis Expert Commentary (May 2008)

The Ninth Circuit's Interpretation of the Bona Fide Sale Exception to § 2036(a) in Estate of Bigelow v. Commissioner

LexisNexis Expert Commentary (May 2008)

Trust Investment Advisory Fees and the Two Percent Floor: The Supreme Court Decision in Knight

PROBATE PRACTICE REPORTER, vol. 20 no. 2 (February 2008)

The Employment Tax Challenge to the Check the Box Regulations

111 TAX NOTES 1039 (May 29, 2006) (with Gregg D. Polsky)

Evaluating the Estate Tax Exposure of the SCTC Trust Termination Provisions

Book chapter in THE SOUTH CAROLINA TRUST CODE (James C. Hardin, III and S. Alan Medlin, 2006)

Choice of Business Entity: Weighing the LLC Against the Alternatives

Book chapter in SOUTH CAROLINA CORPORATE PRACTICE MANUAL (2d ed. 2005)

Kimbell v. United States: The Rise and Apparent Fall of the Section 2036 Argument Against FLPs

104 TAX NOTES 517 (Aug. 2, 2004)

Brief as Amici Curiae filed with the United States Supreme Court

Filed in *Commissioner v. Banks* (June 11, 2004) (with Gregg D. Polsky)

Kimbell: Is the Party Over for Family Limited Partnerships?

98 TAX NOTES 1871 (Mar. 24, 2003)

Judicial Activism Is Not the Solution to the Attorney's Fee Problem

97 TAX NOTES 693 (Nov. 4, 2002)

Estate of Strangi, Section 2036, and the Continuing Relevance of Byrum

96 TAX NOTES 1259 (Aug. 26, 2002)

Selected Presentations

Defined Value Transfers

UNC Tax Institute, UNC School of Law, Chapel Hill, NC (April 28, 2011)

Tax Issues Affecting Structured Settlements

Society of Settlement Planners Annual Meeting, Washington, DC (May 3, 2010)

Taxing Structured Settlements

ABA Tax Section Midyear Meeting, San Antonio, Texas (Jan. 22, 2010)

Tax Policy Colloquium Series, SMU Dedman School of Law (Feb. 19, 2009)

Examining the Motivations Behind Nonqualified Deferred Compensation Plans

Penn State Dickinson School of Law (Mar. 6, 2008)

The Holding Period for Relinquished Property: Revisiting Bolker

ABA Tax Section Midyear Meeting (Jan. 19, 2008)

Trusts and LLCs as Creditor Protection Devices

2007 AI Todd Estate Planning Workshop (July 14, 2007)

Partnership and LLC Interests Issued for Services

6th Annual North Carolina/South Carolina Tax Section Workshop (May 25, 2007)

The Section 1031 Qualified Use Requirement

Washburn University School of Law Colloquium on Tax Law (Feb. 9, 2007)

Questioning the Wisdom of Patent Protection for Tax Planning

“The Future of Tax Shelters” Symposium at University of Minnesota Law School (Oct. 27, 2006)

Work In Progress

Commissioned by the United States Tax Court to update existing text, **The United States Tax Court: An Historical Analysis**, authored by Prof. Harold Dubroff and originally published in 1979.

Honors and Awards

2011 Recipient of the University of South Carolina School of Law G.G. Dowling Faculty Award (awarded to faculty member “who typifies outstanding qualities of integrity, concern for others, and legal scholarship”)

2006 Recipient of the University of South Carolina School of Law Award for Outstanding Faculty Publication (2006) for *Taxing the Promise to Pay*, 89 MINN. L. REV. 1092 (2005) (with Gregg D. Polsky)

2004 Recipient of the University of South Carolina School of Law Award for Outstanding Faculty Publication (2004) for *Revisiting Byrum*, 23 VA. TAX REV. 275 (2003)

ABA Tax Section Nolan Fellowship (2005)

Professional Affiliations

Southern Federal Tax Institute, Special Advisor to the Board of Trustees (2010-present)
Academic Fellow, American College of Trust and Estate Counsel (2011-present)
Real Property, Trust and Estate Journal, Associate Editor (2006-present)
Nelson Mullins Riley & Scarborough Center on Professionalism,
National Advisory Board Member (2008-present)
American Bar Association, Section of Taxation and Real Property, Trust and Estate Section

Bar Admissions

North Carolina (admitted 1997)