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FEMINIST TAX JUDGMENTS: OPERATIONALIZING DIVERSITY

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FEMINIST TAX JUDGMENTS: OPERATIONALIZING DIVERSITY

*Alice G. Abreu**

In *Feminist Judgments: Rewritten Tax Opinions*, Bridget Crawford and Tony Infanti reveal the power of feminist theory to offer new insights on a broad range of tax cases.¹ The collection of essays contained in the book operationalizes diversity and inclusion by showing how tax law is imbued with social values in both its statutory and judicial expressions.

My reflections on the book have three distinct parts. To provide a sense for the breadth and scope of the project I begin by describing the ways in which the collection itself reflects diversity in its broadest sense. I then discuss the rewritten opinion and commentary on one of the cases, *Welch v. Helvering*,² as an example of the type of insights the collection provides. Finally, I offer some reflections of other, often simple, ways of bringing feminist values to the teaching of tax law.

I. DIVERSITY OF THE COMPILATION

First, the case selection and the analytical style are diverse. The eleven rewritten opinions involve both old cases—the oldest is *Rickert*, decided in 1903,³ which predates the ratification of the Sixteenth Amendment and the enactment of the first constitutional income tax—and recent cases, notably,

* Professor of Law, Temple University Beasley School of Law. My thanks to Bridget and Tony for inviting me to serve on the Advisory Board for this project and for inviting me to offer my reflections. I am also grateful to my colleague and coauthor, Rick Greenstein, for what is now a long collaboration which has allowed me to explore many nontechnical, but enlightening, aspects of the tax law, some of which form part of my reflections here. All errors, regrettably, are my own.

¹ FEMINIST JUDGMENTS: REWRITTEN TAX OPINIONS (Bridget J. Crawford & Anthony C. Infanti eds., 2017).

² 290 U.S. 111 (1933).

³ Chloe Thompson, *Commentary on United States v. Rickert*, in FEMINIST JUDGMENTS, *supra* note 1, at 55.

Windsor,⁴ decided in 2013. Moreover, not all of the rewritten opinions involve taxpayer losses, which might have been converted into wins if the decisionmaker had embraced a feminist perspective. Moreover, in some cases the rewritten opinion reaches the same result as the original⁵—the difference is in the description of the facts and the analysis.

Second, the rewritten opinions range from those that have clear precedential value and are widely recognized as deciding issues that established enduring doctrines—opinions of the U.S. Supreme Court that established concepts like the assignment of income doctrine⁶ and the meaning of the term “ordinary and necessary business expenses”⁷—to one with no precedential value at all—a memorandum opinion issued by the U.S. Tax Court.⁸

Third, the participants in the project are diverse. Like the Advisory Panel for the book, the authors of the rewritten opinions and the commentators thereon include a range of ages, genders, sexual orientations, races, professional backgrounds, and geographical locations.⁹

Fourth, the cases involve a broad range of issues and taxpayers. Some are cases which I was not surprised to see as part of a project like this; *Windsor* (constitutionality of DOMA)¹⁰ and *O’Donnabhain* (deductibility of the costs of gender confirmation surgery as a medical expense),¹¹ are but two

⁴ Allison Anna Tait, *Commentary on United States v. Windsor*, in *FEMINIST JUDGMENTS*, *supra* note 1, at 297.

⁵ See, e.g., Thompson, *supra* note 3, at 61.

⁶ Francine J. Lipman, *Commentary on Lucas v. Earl*, in *FEMINIST JUDGMENTS*, *supra* note 1, at 80.

⁷ Nicole Appleberry, *Commentary on Welch v. Helvering*, in *FEMINIST JUDGMENTS*, *supra* note 1, at 96.

⁸ Katherine Pratt, *Commentary on Magdalin v. Commissioner*, in *FEMINIST JUDGMENTS*, *supra* note 1, at 243.

⁹ Bridget J. Crawford & Anthony C. Infanti, *Introduction to the Feminist Judgments: Rewritten Tax Opinions Project*, in *FEMINIST JUDGMENTS*, *supra* note 1, at 9.

¹⁰ Tait, *supra* note 4, at 297.

¹¹ Nancy J. Knauer, *Commentary on O’Donnabhain v. Commissioner*, in *FEMINIST JUDGMENTS*, *supra* note 1, at 266. In *O’Donnabhain*, the court found that what it described as the taxpayer’s “[gender identity disorder was] a ‘disease’ within the meaning of section 213” and that “her hormone therapy and sex reassignment surgery treated [this] disease within the meaning of section 213 . . . for which a deduction is allowed under section 213(a).” *O’Donnabhain v. Comm’r*, 134 T.C. 34, 59, 77 (2010).

examples of this category of cases, even though both were taxpayer victories. But the inclusion of some others really surprised me. *Welch v. Helvering*¹² and *Bob Jones University v. United States*¹³ are two examples of this category. Neither *Welch* nor *Bob Jones* involve a female taxpayer, and *Bob Jones* doesn't even involve a human taxpayer.¹⁴ Nevertheless, the authors of the rewritten opinions and the commentators thereon deploy feminist ideas in their analysis of those cases in ways that reveal the capacious reach of a feminist perspective.

II. THE REWRITTEN OPINION IN *WELCH V. HELVERING*

I decided to focus my reflections on the rewritten *Welch* opinion and the commentary thereon because it is a case I have taught in nearly every one of the thirty-four years I've been teaching tax. It is also a case I have written about as part of the work I've done with my colleague, Rick Greenstein, on rules and standards in the interpretation of the Code,¹⁵ so I thought I knew the case well. And yet, I learned much from reading Mary Lou Fellows's rewritten opinion and Nicole Appleberry's commentary.

The most astonishing thing I learned is that there is an important issue that I failed to see despite teaching the case for thirty-four years and railing against Justice Cardozo's discussion of the meaning of "ordinary," which I think has confused generations of law students.¹⁶ Although I have mocked

However, the taxpayer's victory was not complete because the court also found that her breast enlargement surgery did not treat her gender identity disorder because she "appears to have significant breast development secondary to hormone therapy." *Id.* at 72. As such, this surgery was considered a "'cosmetic surgery' that is excluded from deductible 'medical care.'" *Id.* at 73.

¹² 290 U.S. 111 (1933); Appleberry, *supra* note 7, at 95.

¹³ 461 U.S. 574 (1983). Elaine Waterhouse Wilson, *Commentary on Bob Jones University v. United States*, in *FEMINIST JUDGMENTS*, *supra* note 1, at 140.

¹⁴ Appleberry, *supra* note 7, at 95; Wilson, *supra* note 13, at 140.

¹⁵ In other work, Rick Greenstein and I have argued that by trying to define "ordinary and necessary" in *Welch*, the Court created a standard (not a rule). This gives the IRS "the ability to weigh the relative values, including non-economic values, and make decisions that reflect current circumstances, [and that] the very cloudiness of the definition thus becomes its strength." Alice G. Abreu & Richard K. Greenstein, *Defining Income*, 11 FLA. TAX REV. 295, 345 (2011).

¹⁶ For example, Justice Cardozo argues that "ordinary" payments are not necessarily habitual and normal to the taxpayer, and a further analysis of the "norms of conduct" in "the life of the group, the

Justice Cardozo’s exhortation to seek guidance from “life in all its fullness”¹⁷ for decades, one of the points made in Fellows’s rewritten opinion had *never* occurred to me—and did not occur to the Supreme Court. That point involves the tax position likely taken by the E.L. Welch Company with regard to the debts paid off by Thomas Welch, the taxpayer in the case.¹⁸

Nicole Appleberry, in her commentary,¹⁹ and Mary Lou Fellows, in her rewritten opinion,²⁰ point out that the debts of the Welch Company repaid by Thomas Welch represented amounts that had almost certainly already been deducted by the company itself. They were likely either amounts owed to trade creditors or to lenders and had already been deducted as ordinary and necessary business expenses or through depreciation, or they created basis in an asset.²¹ To allow Thomas Welch to deduct those same amounts would duplicate a deduction already allowed or would provide a tax benefit upon the occurrence of a realization event.²²

That is an important insight, and one that I am embarrassed to admit had never occurred to me.²³ Of course, Mary Lou Fellows recognizes that the duplication, alone, may not be enough to justify denial of the deduction because it is well established that tax consequences are to be determined separately for separate taxpayers, and an individual and a corporation are separate taxpayers even if the individual owns all of the stock in the

community, of which [the taxpayer] is part” is required in order to make such a determination. Appleberry, *supra* note 7, at 96.

¹⁷ *Id.*

¹⁸ Mary Louise Fellows, *Welch v. Helvering*, in *FEMINIST JUDGMENTS*, *supra* note 1, at 107–09.

¹⁹ Appleberry, *supra* note 7, at 95.

²⁰ Fellows, *supra* note 18, at 103.

²¹ *Id.* at 107–09.

²² If the amount borrowed created basis in an asset, that basis would allow the company to have no income when it recovered the basis upon the occurrence of a realization event or to incur a deductible loss.

²³ Mary Louise Fellows specifically acknowledges and thanks Professor Charlotte Crane “for her insights about how a deduction for Welch’s payments of E. L. Welch Company’s debt might have duplicated the deductions already enjoyed by E. L. Welch Company.” Appleberry, *supra* note 7, at 99 n.18.

corporation.²⁴ But the insight is nevertheless pivotal because of the frame that Mary Lou Fellows adopts for her analysis.

That frame is what Fellows describes as “tax fairness.”²⁵ As Nicole Appleberry observes, “Fellows takes on the responsibility of considering the practical, personal, historical, and sociological in her quest to ‘shape a fair and just federal income tax system.’ Taking a broader, more contextualized view is arguably political, if not necessarily feminist.”²⁶ The concern for tax fairness, which proceeds from feminist sensibilities, produces a richer context in which to evaluate the proper treatment of the transaction as a whole.

Finally, Fellows’s use of Mary Shelley’s *Frankenstein* as a lens through which to “promote . . . a marketplace that embraces an ethos of caring,” is not only provocative but conveys an underappreciated message about the nature of tax as a field of law.²⁷ That message is that tax is a field of law that involves much more than numbers and money; it is about more than raising revenue. That is an important message. In other work, Rick Greenstein and I argue that if tax were more commonly understood to be a field of law which reflects multiple and heterogeneous values—including but not limited to feminism—it might attract a more diverse group of individuals to its study and practice.²⁸ I believe that approaches like Fellows’s are key to rebranding tax so that it is no longer understood to be a field of law confined to the sole value of raising revenue. That can, in turn, increase the diversity of the tax bar. Put differently, analyzing tax cases and issues from a feminist perspective can help to produce a more diverse tax bar. The collection of

²⁴ Fellows, *supra* note 18, at 109.

²⁵ *Id.* at 107–08.

²⁶ Appleberry, *supra* note 7, at 98.

²⁷ *Id.* at 111.

²⁸ Alice G. Abreu & Richard K. Greenstein, *Rebranding Tax/Increasing Diversity*, 96 DENV. L. REV. 2 (2018) (showing that the tax bar is less diverse than the bar as a whole and suggesting that its relative lack of diversity might be explained by the confluence of two factors: first, members of racial or minority groups are more likely to report wanting to attend law school to “change or improve society” and engage in “socially responsible work”; and, second, tax is commonly thought to be a field of law properly concerned only with raising revenue—social values are thought to be reflected only in the provisions classified as tax expenditures, which traditional analysis regards as interlopers to what would otherwise constitute a pristine revenue raising machine).

rewritten opinions and commentaries contained in this book make an important contribution to that project.

III. REFLECTIONS ON WAYS TO USE A FEMINIST PERSPECTIVE IN TEACHING TAX

The book also prompted me to think about other ways in which a feminist perspective might cause us to think differently about the tax law and about those who create it. For those of us who are academics, it might also cause us to present the tax law differently to our students in at least three ways.

First, a feminist perspective might lead us to be conscious of the role of women as taxpayers whose transactions are the subject of cases many of us teach. For example, when taxpayer litigants are women, simply identifying them—by referring to them by their full name rather than generically as “the taxpayer”—can serve as a vehicle for delivering a message of empowerment for women, while also countering gender stereotypes. Two iconic cases make it easy to do that.

*Gregory v. Helvering*²⁹ and *Eisner v. Macomber*,³⁰ not only involve taxpayers who are women, but the actions and positions taken by Evelyn Gregory and Myrtle Macomber can disrupt traditional gender roles.³¹ I’ve long relished the image of a shrewd Evelyn Gregory seeking out advice to avoid the payment of two levels of tax on the sale of the Monitor stock owned by her corporation.³² Greed is not an admirable trait, but the image of an empowered woman who owns all the stock in a corporation and is financially proactive and determined to reduce her tax liability, is an attractive one to me. It counters a gendered stereotype. And just referring to the taxpayer by her full name subverts the gendered stereotype.

²⁹ 293 U.S. 465 (1935).

³⁰ 252 U.S. 189 (1920).

³¹ There’s also Beulah Crane, cannily arguing for no cancellation of debt income, but the doctrine derived from that case is often discussed without presentation of the actual case in many contemporary casebooks. *Crane v. Comm’r*, 331 U.S. 1, 11–12 (1947).

³² *Gregory*, 293 U.S. at 467.

Similarly, Myrtle Macomber's willingness to litigate the issue of whether a pro rata stock dividend was income counters a gendered stereotype.³³ It evokes a resolute woman willing to litigate the constitutionality of a statutory provision all the way up to the United States Supreme Court. It is perhaps fitting that litigation brought by a woman gave birth to the realization doctrine.

Second, in those all-too-rare cases when the judge writing the opinion is a woman, referring to the judge by using both her first and last names can help to counter the all-too-frequent tendency to use the pronoun "he" when referring to a judge. *Zarin v. Commissioner*³⁴ provides a wonderful opportunity to do this because Judge Mary Ann Cohen wrote the Tax Court's majority opinion, which is reproduced in many basic income tax casebooks.³⁵ Similarly, when discussing *Hernandez v. Commissioner*,³⁶ it is well to refer to Justice Sandra Day O'Connor using her first name; many of our current students are not old enough to have been alive or politically aware when Justice O'Connor became the first woman to be appointed to the Supreme Court in 1981, and they might not know her gender without the clue provided by her first name.³⁷

Third, there is at least one case in which the role of lawyers who litigated a tax case, and the values they brought to the pursuit of that litigation, ought to be more widely known to students and to the general public. I'm speaking of the lawyers who represented the taxpayer in *Moritz v. Commissioner*,³⁸ a case in which the Tenth Circuit found a Code provision to be unconstitutional because it discriminated on the basis of gender.³⁹ Those lawyers were Ruth

³³ *Macomber*, 252 U.S. at 198.

³⁴ 92 T.C. 1084 (1989), *rev'd*, 916 F.2d 110 (3d Cir. 1990).

³⁵ Interestingly, Judge Cohen went on to become Chief Judge of the Tax Court.

³⁶ 490 U.S. 680 (1989).

³⁷ Brian P. Smentkowski, *Sandra Day O'Connor: United States Jurist*, ENCYCLOPÆDIA BRITANNICA, <https://www.britannica.com/biography/Sandra-Day-OConnor> (last updated Apr. 9, 2019).

³⁸ 469 F.2d 466 (10th Cir. 1972), *cert. denied*, 412 U.S. 906 (1973).

³⁹ As the Tenth Circuit explained, the provision in question "gave the deduction to a woman or widower, a divorce[e] and a husband whose wife is incapacitated or institutionalized, but denied it to a man who has not married." *Id.* at 469–70. I commend Professors Michael Graetz, Deborah Schenk, and Anne Alstott for including a reference to *Moritz* in the new edition of their tax law casebook. MICHAEL J.

Bader and Marty Ginsburg. Indeed, as Marty told the story on the occasion of his receipt of the ABA Tax Section’s Distinguished Service Award in 2006, RBG’s victory in that case launched her career as a litigator and started her on the road that led to the seat she now holds on the Supreme Court.⁴⁰

The *Moritz* case, and the fact that RBG was the lead lawyer on it, are important not just because *Moritz* is one of the very few cases in which a statutory tax provision was held unconstitutional⁴¹ (*Macomber* is one of the very few others), but because both the Tenth Circuit’s decision in the case and Marty and RBG’s decision to undertake the representation of Mr. Moritz pro bono are examples of feminist values in action, and of the way the tax law reflects social values. The story of *Moritz* also reveals that Marty, corporate tax maven extraordinaire that he was, nevertheless understood how the tax law reflected social values, so much so that when he saw the *Moritz* advance sheet from the Tax Court, he instantly understood how the statutory provision in question reflected values ripe for change. He therefore brought the case to RBG’s attention.

The story of how a tax case provided the spark that ignited RBG’s career as a litigator should be more widely known because it can change the view of tax law. The story, as Marty told it publicly for the first time when he accepted the ABA Tax Section’s Distinguished Service Award, appears as an appendix hereto and I commend it even to those who may be familiar with it. Those who have seen the 2018 film “On the Basis of Sex” will recognize Marty’s story as the foundation for that film, which even depicts the oral argument before the Tenth Circuit.⁴²

Tax law is not just about numbers and about money; at its core, tax law is about values. Marty’s story about *Moritz* and the movie it spawned make that point explicitly. Marty’s actions in bringing the *Moritz* advance sheet to Ruth’s attention in 1970, when they were both young lawyers, their decision

GRAETZ ET AL., FEDERAL INCOME TAXATION: PRINCIPLES AND POLICIES 503 (8th ed. 2018). In this edition they not only refer to the *Moritz* case but they also discuss the role that Marty and Ruth Bader Ginsburg played in the litigation of the case.

⁴⁰ Martin D. Ginsburg, *ABA Tax Section Distinguished Service Award Presentation*, ABA TAX 1, 2 (May 5, 2006), <https://www.americanbar.org/content/dam/aba/administrative/taxation/awards/dsa/ginsburgremarks.pdf> [<http://web.archive.org/web/20190404214618/https://www.americanbar.org/content/dam/aba/administrative/taxation/Awards/ginsburgremarks.pdf>].

⁴¹ See *Moritz*, 469 F.2d at 470.

⁴² ON THE BASIS OF SEX (Participant Media 2018).

to take the case, and Marty's decision thirty-six years later to make his role in bringing *Moritz* to RBG's attention the centerpiece of his speech accepting the ABA's Distinguished Service Award reflect feminist values that animate tax lawyers, of whatever gender, and sometimes, the tax law itself.

As Marty so eloquently put it:

So Mr. Moritz's case mattered a lot. First, it fueled Ruth's early 1970s career shift from diligent academic to enormously skilled and successful appellate advocate—which in turn led to her next career on the higher side of the bench. Second, with Dean Griswold's help, *Moritz* furnished the litigation agenda Ruth actively pursued until she joined the D.C. Circuit in 1980. [As part of his argument in support of the Government's petition for certiorari, Erwin Griswold, then Solicitor General, provided a list of the hundreds of statutes that were imperiled by the Tenth Circuit's decision in *Moritz*. The list was generated by government computers and would not have existed but for the *Moritz* litigation.]

All in all, great achievements from a tax case with an amount in controversy that totaled exactly \$296.70.

In bringing those Tax Court advance sheets to Ruth 36 years ago, I changed history. For the better. And, I shall claim, thereby rendered a uniquely distinguished service. I have decided to believe it is the service for which you have given me this great award.⁴³

The *Moritz* story sends a powerful message about the role of values in tax law. It makes patent that tax is not just about money and helping rich people and businesses keep more of it. If RBG can care enough about a tax case to serve as the lead lawyer on it, pro bono, then tax should be the province of everyone who cares about social justice and other communitarian values. And if Marty Ginsburg, one of the most revered corporate tax lawyers of his generation and author of the most respected reference on the taxation of corporate mergers and acquisitions,⁴⁴ can understand the important role of social values in tax, shouldn't we make those known to all of our students?

The answer is that of course we should, which brings me back to the rewritten opinion in *Welch*. One of the many things I liked about Mary Lou Fellows's rewritten opinion is the extent to which she explicitly makes the

⁴³ Ginsburg, *supra* note 40, at 3.

⁴⁴ MARTIN D. GINSBURG, ACQUISITIONS, AND BUYOUTS: A TRANSACTIONAL ANALYSIS OF THE GOVERNING TAX, LEGAL, AND ACCOUNTING CONSIDERATIONS (2018).

point that the tax law is imbued with values. Indeed, at the very beginning of the analytical part of her rewritten opinion she observes:

The facts of this case have heightened our appreciation of how much the federal income tax has and will continue to reflect this nation's values. The imperative to shape a fair and just federal income tax system rests on this Court's ability to recognize the multitude of ways the income tax influences cultural norms and institutions.⁴⁵

Three cheers for the rewritten *Welch* opinion and for Bridget and Tony for bringing us this valuable project.

⁴⁵ Fellows, *supra* note 18, at 107.

APPENDIX

DISTINGUISHED SERVICE AWARD PRESENTATION - MAY 5, 2006

by Martin D. Ginsburg, Washington, DC

My very old friend Dick Loengard—we began law school together more than 50 years ago—called me to remind that at breakfast one ought not talk too long. With that excellent thought in mind, Dick proposed I speak this morning on “The Progress of Tax Simplification in My Lifetime.” It would have been a very short speech.

I am flattered and delighted to receive the Tax Section’s Distinguished Service Award. Every prior recipient has been richly deserving. This year’s selection committee, great numbers of you suspect, was drinking heavily at the selection lunch. Initially I thought so too. A disproportionate part of my professional life has been devoted to protecting the deservedly rich from the predations of the poor and downtrodden, and it is not easy to see why that deserves a medal.

But it came to me that over a fairly long life I have performed one distinguished service. I propose to use my short time this morning to recall the highlights and claim undue credit. And as this not-previously-public story involves my spouse and home and family life, I shall start there.

In the 1960s I practiced law, mainly tax law, in New York City, and Ruth began her law teaching career at Rutgers Law School in Newark. One of the courses she taught was Constitutional Law, and toward the end of the decade she started looking into equal protection issues that might or might not be presented by statutes that differentiate on the basis of sex—a dismal academic undertaking because, back then, the United States Supreme Court had never invalidated any legislative classification that differentiated on the basis of sex.

Then, as now, at home Ruth and I work evenings in adjacent rooms. In my little room one evening in Fall

1970, I was reading Tax Court advance sheets and came upon a *pro se* litigant, one Charles E. Moritz, who on a stipulated record was denied a \$600 dependent care deduction under old section 214 even though, the Tax Court found, the operative facts fit the statute perfectly. Mr. Moritz was a traveling salesman for a book company, his 89-year-old dependent mother lived with him, and, in order to be gainfully employed, during the year he paid an unrelated individual at least \$600 to take care of old mother whenever Charles was at work.

There was just one small problem, and in the Tax Court it served to do him in. The statute awarded its up-to-\$600 deduction to a taxpayer who was a woman of any classification (divorced, widowed, or single), a married couple, a widowed man, or a divorced man. But not to a single man who had never been married. Mr. Moritz was a single man who had never married. “Deductions are a matter of legislative grace,” the Tax Court quoted, and added that if the taxpayer is raising a constitutional objection, forget about it: everyone knows, the Tax Court confidently asserted, that the Internal Revenue Code is immune from constitutional attack.

I went next door, handed the advance sheets to my wife, and said, “Read this.” Ruth replied with a warm and friendly snarl, “I don’t read tax cases.” I said, “Read this one,” and returned to my room.

No more than five minutes later—it was a short opinion—Ruth stepped into my room and, with the broadest smile you can imagine, said, “Let’s take it.” And we did.

Ruth and I took the *Moritz* appeal pro bono, of course, but since the taxpayer was not indigent we needed a pro bono organization. We thought of the American Civil Liberties Union.

Mel Wulf, the ACLU’s then legal director, naturally wished to review our proposed 10th Circuit brief—which in truth was 90% Ruth’s 10th Circuit brief—and when he did he was rightly bowled over.

A few months later the ACLU had its first sex discrimination/equal protection case in the United States Supreme Court—as many of you will remember it was titled *Reed v. Reed*. Recalling *Moritz*, Mel asked Ruth if she would write the ACLU’s Supreme Court brief on behalf of Sally Reed. Ruth did and, reversing the decision below, the U.S. Supreme Court unanimously held for Sally. Good for Sally Reed and good for Ruth, who decided thereafter to hold down two jobs, one as a tenured professor at Columbia Law School where she had moved from Rutgers, the other as head of the ACLU’s newly created Women’s Rights Project.

Now back to *Moritz*. The 10th Circuit found Mr. Moritz to have been the victim of an equal protection violation and reversed the Tax Court. The Government, amazingly, petitioned for certiorari on the asserted ground that the 10th Circuit’s decision cast a cloud of unconstitutionality over literally hundreds of federal statutes that, like Code section 214, contemplated differential treatment on the basis of sex. In those pre-personal computer days, there was no easy way for us to test the Government’s assertion, but the Solicitor General—Erwin Griswold whom many of you will recall—took care of that by attaching to his petition a list—generated by the Department of Defense’s mainframe computer—of those hundreds of suspect statutes. Cert. was denied in *Moritz*, and the computer list proved a gift beyond price. Over the balance of the decade, in Congress, the Supreme Court, and many lower courts, Ruth successfully

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urged the unconstitutionality of those statutes.

So Mr. Moritz's case mattered a lot. First, it fueled Ruth's early 1970s career shift from diligent academic to enormously skilled and successful appellate advocate—which in turn led to her next career on the higher side of the bench. Second, with Dean

Griswold's help, *Moritz* furnished the litigation agenda Ruth actively pursued until she joined the D.C. Circuit in 1980. All in all, great achievements from a tax case with an amount in controversy that totaled exactly \$296.70.

In bringing those Tax Court advance sheets to Ruth 36 years ago, I changed history. For the better. And, I

shall claim, thereby rendered a uniquely distinguished service. I have decided to believe it is the service for which you have given me this great award. And even if you had something a little less cosmically significant in mind, I am immeasurably grateful to be so greatly honored by my peers. ■

CLE CALENDAR

CLE CALENDAR

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DATE	PROGRAM	INFORMATION
August 30, 2006	"Last Wednesday" Teleconference	ABA Tax Section www.abanet.org/tax 202-662-8670
September 7, 2006	Tax CLE on the Road – Denver Tax Issues in Drafting Partnership Agreements Denver, CO	ABA Tax Section, Colorado Bar Association www.abanet.org/tax 202-662-8670
September 27, 2006	"Last Wednesday" Teleconference Organized by the Investment Companies Committee	ABA Tax Section www.abanet.org/tax 202-662-8670
October 5-6, 2006	13th Annual Advanced ALI-ABA Course of Study: Consolidated Tax Return Regulations Grand Hyatt Washington - Washington, DC	ALI-ABA www.aliaba.org 800-253-6397
October 25, 2006	"Last Wednesday" Teleconference Organized by the Energy and Environmental Taxes Committee	ABA Tax Section www.abanet.org/tax 202-662-8670
November 1-2, 2006	17th Annual Philadelphia Tax Conference Crowne Plaza Hotel - Philadelphia, PA	ABA Tax Section www.abanet.org/tax 202-662-8670
April 19-20, 2007	7th Annual Tax Planning Strategies – U.S. and Europe Frankfurt, Germany	ABA Tax Section www.abanet.org/tax 202-662-8670

SECTION MEETING CALENDAR

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2006	JOINT FALL CLE MEETING , October 19-21, Hyatt Regency, Denver, CO
2007	MIDYEAR MEETING , January 18-20, Westin Diplomat, Hollywood, FL
	MAY MEETING , May 10-12, Grand Hyatt, Washington, DC
	JOINT FALL CLE MEETING , September 27-29, Hyatt Regency and Fairmont, Vancouver, BC
2008	MIDYEAR MEETING , January 17-19, Hyatt Regency and Ritz Carlton, Lake Las Vegas, NV
	MAY MEETING , May 8-10, Grand Hyatt, Washington, DC
	JOINT FALL CLE MEETING , October 9-11, Hyatt Regency, Chicago, IL

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