

BRADLEY T. BORDEN

Washburn University School of Law
1700 SW College
Topeka, Kansas 66621

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TEACHING EXPERIENCE

WASHBURN UNIVERSITY SCHOOL OF LAW, Topeka, Kansas

Associate Professor, August 2004–Present

Courses: Commercial Real Estate Transactions; Taxation of Business Enterprises;
Taxation of Corporations and Shareholders; Taxation of Individual Income;
Taxation of Partnerships and Partners; Taxation of Property Transactions; Tax
Policy Seminar

EDUCATION

LL.M. in Taxation, UNIVERSITY OF FLORIDA FREDRIC G. LEVIN COLLEGE OF LAW, May 2000

J.D., UNIVERSITY OF FLORIDA FREDRIC G. LEVIN COLLEGE OF LAW, May 1999

Order of the Coif, High Honors

M.B.A. with Accounting Emphasis, IDAHO STATE UNIVERSITY, December 1996

B.B.A. in Accounting, IDAHO STATE UNIVERSITY, December 1995

High Honors, Phi Kappa Phi, Beta Gamma Sigma, Beta Alpha Psi, 1995 Outstanding
Accounting Student

PUBLICATIONS

LAW REVIEW ARTICLES

- *Partnership Debt and Equity*, (in progress)
- *Private Ordering of the Incidence of Taxation*, (in progress)
- *The Inequity Function in Doctrinal Line Drawing*, (in progress)
- *Partners' Interests in a Partnership*, (in progress)
- *Residual-Risk Model for Classifying Business Arrangements*, 37 FLA. ST. U. L. REV. ____ (forthcoming 2010)
- *Taxing Shared Economies of Scale*, 61 BAYLOR L. REV. ____ (forthcoming 2009)
- *Profits-Only Partnership Interests*, 74 BROOK. L. REV. 1283 (2009)
- *Aggregate-Plus Theory of Partnership Taxation*, 43 GA. L. REV. 717 (2009)
- *Open Tenancies-in-Common*, 39 SETON HALL L. REV. 387 (2009)
- *The Like-Kind Exchange Equity Conundrum*, 60 FLA. L. REV. 643 (2008)
- *Policy and Theoretical Dimensions of Qualified Tax Partnerships*, 56 U. KAN. L. REV. 317 (2008)
- *Partnership Tax Allocations and the Internalization of Tax-Item Transactions*, 59 S.C. L. REV. 297 (2008)
- *The Federal Definition of Tax Partnership*, 43 HOUS. L. REV. 925 (2006)
- *Reverse Like-Kind Exchanges: A Principled Approach*, 20 VA. TAX REV. 659 (2001)

BOOKS

- TAX, LEGAL, AND FINANCIAL ASPECTS OF REAL ESTATE VENTURES (Civic Research Institute) (in progress—2011 publication)
- ECONOMIC THEORY OF PARTNERSHIP TAXATION (in progress—2010 publication target)

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- TAX-FREE LIKE-KIND EXCHANGES (Civic Research Institute 2008)
- TAX-FREE SWAPS: USING SECTION 1031 LIKE-KIND EXCHANGES TO PRESERVE INVESTMENT NET WORTH (DNA Press 2007)

BOOK CHAPTERS AND SIMILAR PUBLICATIONS

- *Real Estate Development Tax Issues*, TAX MANAGEMENT PORTFOLIO, (in progress)
- Title 6, *Partnership Operations & Terminations*, TAX ADVISORS PLANNING SERIES (RIA 2009)
- *Real Estate Transactions by Tax-Exempt Entities*, TAX MANAGEMENT PORTFOLIO, 591-2nd T.M. (2008)
- *A Catalogue of Legal Authority Addressing the Federal Definition of Tax Partnership*, 746 TAX PLANNING FOR DOMESTIC & FOREIGN PARTNERSHIPS, LLCs, JOINT VENTURES & OTHER STRATEGIC ALLIANCES 477 (Louis S. Freeman & Clifford M. Warren eds., 2007)
- Title 20, *How to Structure Like-Kind Exchanges*, TAX ADVISORS PLANNING SERIES (RIA 2006)
- Chapter 2970, *The At-Risk Rules*, TAX PRACTICE SERIES ANALYSIS (Tax Management 2005)
- Chapter 13, *Liens*, FEDERAL TAX PRACTICE AND PROCEDURE (Matthew Bender & Company, LexisNexis, 2003)
- Chapter 14, *Collection of Taxes*, FEDERAL TAX PRACTICE AND PROCEDURE (Matthew Bender & Company, LexisNexis, 2003)

REPRESENTATIVE ARTICLES IN OTHER JOURNALS (more than 30 articles since February, 2001)

- *Liability-Offset Theory of Peracchi* (in progress with Douglas L. Longhofer)
- *Allocations Made in Accordance with Partners' Interests in the Partnership*, 11 BUS. ENT. ____ (forthcoming 2009)
- *Like-Kind Exchanges and Qualified Intermediaries*, 124 TAX NOTES 55 (July 6, 2009) (with Paul L. B. McKenney and David Shechtman)
- *Workout-Driven Exchanges*, 25 TAX MGMT. REAL EST. J. 23 (Feb. 4, 2009) (with Todd D. Keator)
- *A Win-Win Proposal for Analyzing Profits-Only Partnership Interests*, 121 TAX NOTES 75 (Oct. 6, 2008)
- *Financing Reverse Exchanges and Safeguarding Exchange Proceeds*, 22 J. TAX'N & REG. FIN. INST. 33 (Sep./Oct. 2008)
- *Safe Harbors and Careful Planning Make Deferred Exchanges a Valuable Tool*, 25 J. TAX'N INV. 43 (Spring 2008)
- *Related-Party Like-Kind Exchanges*, 115 TAX NOTES 467 (Apr. 30, 2007) (with Kelly E. Alton and Alan S. Lederman)
- *Tax Opinions in TIC Offerings and Reverse TIC Exchanges*, 23 TAX MGMT. REAL EST. J. 88 (Mar. 7, 2007) (with Todd D. Keator); *republished in TAX LAWS: GLOBAL PERSPECTIVES* 20-46 (Icfai University Press 2007)
- *Section 1031 Alchemy: Transforming Personal and Intangible Property into Real Property*, 34 REAL EST. TAX'N 52 (1st Quarter 2007) (with Kelly E. Alton)
- *Revisiting the Federal Tax Definition of Partnership and the § 761(a)(1) Election in the TIC Environment*, 47 TAX MGMT. MEMO. 51 (Feb. 6, 2006)
- *A History and Analysis of the Co-Ownership-Partnership Question*, 106 TAX NOTES 1175 (Mar. 7, 2005) (with Sandra Favelukes, Todd Molz)
- *Rev. Proc. 2004-51: The IRS Strikes Back*, 83 TAXES 17 (Feb. 2005) (with Kelly E. Alton and Alan S. Lederman)

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- *Syndicated Tenancy-in-Common Arrangements: How Tax-Motivated Real Estate Transactions Raise Serious Non-Tax Issues*, 18 PROB. AND PROP. 18, (Sept./Oct. 2004) (with W. Richey Wyatt)
- *Unearthing Neglected and Emerging Issues of Section 1031 Real Property Transactions*, 20 TAX MGMT. REAL EST. J. 199 (Aug. 4, 2004)
- *Don't Overlook Section 1031's Like-Kind Property Requirements in Real Estate Transactions*, BNA TAX MGMT. INSIGHTS AND COMMENT. (Aug. 2004)
- *A Discussion Regarding Leasehold Improvement Exchanges*, 104 TAX NOTES 93 (July 5, 2004) (with Howard J. Levine)
- *Section 1031 and Proximate and Midstream Business Transactions*, 19 TAX MGMT. REAL EST. J. 307 (Nov. 2003)
- *The Whole Truth About Using Partial Real Estate Interests in Section 1031 Exchanges*, 31 REAL EST. TAX'N 19, (4th Quarter, 2003)
- *Build-to-Suit Ruling Breaks New Ground for Taxpayers Seeking Swap Treatment*, 98 J. TAX'N 22 (Jan. 2003) (with Alan S. Lederman and Glenn Spear)
- *Exchanges Involving Tenancy-in-Common Interests can be Tax-Free*, 70 PRAC. TAX STRAT. 4 (Jan. 2003); TAX IDEAS
- *What You Should Know About Mergers and Divisions of Partnerships*, 17 PRAC. TAX LAW. 45 (Winter 2003)
- *Planning Strategies for Distributions from Retirement Plans*, 69 PRAC. TAX STRAT. 273 (Nov. 2002) (with Gregory S. Stieg)
- *Section 1031 and Proximate and Midstream Business Transactions*, 19 REAL EST. TAX DIGEST 3 (December 2001) and 20 REAL ESTATE TAX DIGEST 3 (Jan. 2002)
- *Confluence of Section 1031 and Subchapter K*, 29 TEX. TAX LAW. 28 (Oct. 2001)
- *New Safe Harbor Promotes Reverse Exchanges*, 66 PRAC. TAX STRAT. 68 (Feb. 2001); 11 J. OF CONST. ACTG. AND TAX'N 3 (Mar./Apr. 2001); TAX IDEAS

ABA SECTION OF TAXATION COMMENT PROJECTS AND REPORTS

- *ABA Section of Taxation Comments on Additional Options to Improve Tax Compliance Prepared by the Staff of the Joint Committee on Taxation (August 3, 2006)* (Mar. 15, 2007) (reviewer)
- *Comments Regarding Rev. Proc. 2000-37 Safe Harbor Build-to-Suit Exchanges Involving Leasehold Improvements*, 2004 TNT 90-85 (May 10, 2004) (principal author with Kelly Alton and David Shechtman)
- *Comments on Advance Notice of Proposed Rulemaking Under Section 263(a) of the Internal Revenue Code Related to Capitalization Issues Regarding Expenditures Incurred in Acquiring, Creating or Enhancing Intangible Assets*, 56 TAX LAW. 269 (Fall 2002) (contributing author)
- *Survey of State Tax Treatment of Section 1031 Exchanges—ABA Tax Section Committee on Sales, Exchanges & Basis*, 56 TAX LAW. 197 (Fall 2002) (contributor)

COURT CITATIONS

- *Teruya Brothers, Ltd. v. Comm'r*, ____ F.3d ____ (9th Cir. 2009), citing Kelly E. Alton, Bradley T. Borden, Alan S. Lederman, *Related-Party Like-Kind Exchanges*, 115 TAX NOTES 467, 479–80 (Apr. 30, 2007)
- *Fisher v. United States*, 82 Fed. Cl. 780, 786 (Fed. Cl. 2008), citing Bradley T. Borden, *Reverse Like-Kind Exchanges: A Principled Approach*, 20 VA. TAX REV. 659, 665–66

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(2001)

REPRESENTATIVE PRESENTATIONS

(More than 150 presentations since December, 2000)

ACADEMIC PRESENTATIONS

- *Inequity Function*, 2009 Junior Tax Scholars Conference, Brooklyn Law School, Brooklyn, New York, June 2009
- *Taxation of Shared Economies of Scale*, 2009 Annual Meeting of the Law and Society Association, Denver, Colorado, May 2009
- *Tax Infinitesimals*, Faculty Development Workshop, Washburn University School of Law, Topeka, Kansas, April 2009
- *Taxation of Shared Economies of Scale*, 2009 Washburn Tax Law Colloquium, Washburn University School of Law, Topeka, Kansas, March 2009
- *Open Tenancies in Common*, Faculty Development Workshop, Washburn University School of Law, Topeka, Kansas, February 2009
- *Open Tenancies in Common*, Faculty Enrichment Series, University of Florida Frederic G. Levin College of Law, Gainesville, Florida, January 2009
- *Open Tenancies in Common*, 2009 J. Reuben Clark Law Society Faculty Chapter Conference, Thomas Jefferson School of Law, San Diego, California, January 2009
- *Residual-Risk Model for Classifying Tax Entities*, Midwest Law and Economics Association Annual Meeting, Northwestern University School of Law, Chicago, Illinois, October 2008
- *Open Tenancies in Common*, Canadian Law and Economics Association Annual Meeting, University of Toronto Faculty of Law, Toronto, Canada, September 2008
- *A Win-Win Proposal for Analyzing Profits-Only Partnership Interests (Including Carried Interests)*, Junior Faculty Regional Workshop, Washington University School of Law, St. Louis, Missouri, June 2008
- *The Residual-Risk Distinction Between Tax Partnerships and Tax Corporations*, 2008 Junior Tax Scholars Conference, New York University School of Law, New York, New York, June 2008
- *The Residual-Risk Distinction Between Tax Partnerships and Tax Corporations*, 2008 Joint Annual Meetings of the Law and Society Association and the Canadian Law and Society Association, Montreal, Canada, May 2008
- *The Aggregate-Plus Theory of Partnership Taxation*, 2008 Washburn Tax Law Colloquium, Washburn University School of Law, Topeka, Kansas, April 2008
- *The Aggregate-Plus Theory of Partnership Taxation*, Midwest Law and Economics Association Annual Conference, University of Minnesota Law School, Minneapolis, Minnesota, October 2007
- *The Like-Kind Exchange Equity Conundrum*, International Conference on Law and Society in the 21st Century: Joint Annual Meetings of the Law and Society Association and the Research Committee on Sociology of Law, Berlin, Germany, July 2007
- *Policy and Theoretical Dimensions of Qualified Tax Partnerships*, University of South Carolina School of Law Faculty Presentation, Columbia, South Carolina, April 2007
- *Policy and Theoretical Dimensions of Qualified Tax Partnerships*, Charleston School of Law Faculty Presentation, Charleston, South Carolina, April 2007
- *Qualified Tax Partnerships*, 2007 Washburn Tax Law Colloquium, Washburn University School of Law, Topeka, Kansas, February 2007

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- *Tax-Free Swaps: Using Section 1031 to Preserve Investment Net Worth*, Washburn University School of Law Faculty Presentation, Topeka, Kansas, December 2006
- *The Federal Definition of Tax Partnership*, The 2006 Meetings of The Canadian Law and Economics Association, University of Toronto Faculty of Law, Toronto, Canada, September 2006
- *The Federal Definition of Tax Partnership*, Washburn University School of Law Faculty Presentation, Topeka, Kansas, February 2006

SELECTED OTHER PRESENTATIONS

- Panelist, *Conflicts Check: Who's Your Client? What's the Scope? Should you Take the Work?* American Bar Association Section of Taxation Meeting, Joint Session of Standards of Tax Practice, Civil & Criminal Tax Penalties, Young Lawyers Forum, Washington, D.C., May 2008
- Panelist, *Just What Is Real Property for Tax Purposes?* American Bar Association Section of Taxation Meeting, Real Estate Committee, Lake Las Vegas, Nevada, January 2008
- Moderator, *The Other Starker Exchange Issue: Analyzing Exchanges Involving Contract Rights or Options*, American Bar Association Section of Taxation Meeting, Sales, Exchanges & Basis Committee, Lake Las Vegas, Nevada, January 2008
- Panelist, *Tax Consequences of Foreclosures and Distressed Property Transfers: From the Subprime to the Ridiculous*, American Bar Association Section of Taxation and Section of Real Property, Probate and Trust Law Joint Meeting, Sales, Exchanges & Basis Committee Meeting, Vancouver, British Columbia, September 2007
- Panelist, *Economic Substance—Will it Invade Everyday Transactions?* American Bar Association Section of Taxation Meeting, Sales, Exchanges & Basis Committee Meeting, Washington, D.C., May 2007
- *Tax Opinions in TIC Offerings and Reverse TIC Exchanges*, BNA Tax Management Advisory Board Meeting, New York, New York, December 2006 (with Todd D. Keator)
- *Conservation Easements & Water Rights*, 2006 Federation of Exchange Accommodators Mid-Year Conference, Philadelphia, Pennsylvania, May 2006
- *Advanced 1031 Topics*, 51st Annual Spring Tax Institute of the University of Iowa College of Law and Iowa State Bar Association, Iowa City, Iowa, May 2005
- *Co-investment or Partnership: Drawing the Line*, American Bar Association Section of Taxation, Partnerships and LLCs Committee Meeting, Panelist, San Diego, California, January 2005
- *TICs & Build-to-Suit Techniques under Section 1031*, 52nd Annual University of Texas School of Law Taxation Conference, Houston, Texas, November 2004
- Panelist, *Maximizing Capital Gain in Sales of Real Estate*, American Bar Association Section of Taxation and Section of Real Property, Probate and Trust Law, Boston, Massachusetts, October 2004
- *Like-Kind Exchanges: Exchanges of Partial Interests and Build-to-Suit Issues*, 39th Annual Southern Federal Tax Institute, Atlanta, Georgia, September 2004
- *Section 1031 Update*, American Petroleum Institute 70th Annual Federal Tax Forum, Houston, Texas, April 2004
- Panelist, *Leasehold Exchange Techniques in Build-to-Suit Exchanges*, 9th Annual National Conference and General Membership Meeting of the Federation of Exchange Accommodators, Las Vegas, Nevada, October 2003

BRADLEY T. BORDEN

EMPLOYMENT AND PROFESSIONAL LICENSES

OPPENHEIMER, BLEND, HARRISON & TATE, INC., San Antonio, Texas

Of Counsel, June 2004–Present, *Tax Associate*, May 2000–June 2004

LEGAL LICENSES: Texas State Bar (1999–Present); United States Tax Court (2000–Present)

ACCOUNTING LICENSES: Certified Public Accountant (Texas, 2001–Present) (Florida, 1998–Present, inactive)

PROFESSIONAL ASSOCIATIONS AND SERVICE

AMERICAN BAR ASSOCIATION SECTION OF TAXATION

- Sales, Exchanges & Basis Committee, Chair (2008–Present), Vice Chair (2006–2008)
- John S. Nolan Tax Law Fellow (2002–2003)

STATE AND LOCAL BAR MEMBERSHIP AND OTHER PROFESSIONAL SERVICE

- *Kansas State Bar Association*, Tax Law Section Executive Committee (2005–Present)
- *Texas Bar Association*, Section of Taxation Partnership and Real Estate Committee (2001–2004), Advanced Tax Law Course Planning Committee (2001–2003), College of the State Bar of Texas (2001–2004)
- *Idaho State Tax Institute*, Executive Program Planning Committee (2006–Present)

ACADEMIC SERVICE

- *Washburn University*, Faculty Affairs Committee (2006–2007), Faculty Senate (2005–2007), University Benefits Committee (2005–2007), Research Committee (2004–2007), Large Research Grant Committee (2004–2007)
 - *Washburn University School of Law*, Organizer/Coordinator
 - *Washburn Law School Distinguished Tax Law Visitor*
 - Eric A. San Juan, Deputy Tax Legislative Counsel, Office of Tax Policy, United States Department of the Treasury, October 2007
 - David L. Lenter, Legislation Counsel, Joint Committee on Taxation, October 2006
 - Judge Juan Vasquez, Judge, United States Tax Court, October 2005
 - *Washburn Tax Law Colloquium*, March 2009, April 2008, February 2007 (day-long workshop with national tax scholars)
 - Director, Business Camp (one week intensive program with faculty of twenty-four instructors from the business community), August 2005
 - Acting Director, Business and Transactional Law Center (2005–2006)
 - Committee and Other Assignments: Faculty Development (2009–Present, 2007–2008, 2004–2005), Self-Study (2006–2007), Externships & Pro Bono (2008–2009), Bar Exam Passage *ad hoc* (2004–2006). Estate Planning Certificate Advisor (2005–Present), Tax Law Certificate Advisor (2004–Present), Washburn University School of Law VITA Program Faculty Director (2004–2007), Washburn University School of Law Alumni Association Long-Range Planning Committee, Law School Subcommittee (2005).

EDITORIAL POSITION

- Board of Advisors, JOURNAL OF TAXATION OF INVESTMENTS