



**Michael
K. Friel**



**Martin J.
McMahon, Jr.**

By Jasper L. Cummings, Jr. and Alan J.J. Swirski*

Mike Friel is Director of, and Marty McMahon is the Stephen C. O'Connell Professor of Law, teaching in, the Graduate Tax Program of the University of Florida Levin College of Law, Gainesville, Florida. Florida's Graduate Tax Program is 35 years old and has one of the largest groups of full-time tax faculty and of full-time tax graduate students among the more than 25 graduate tax programs in law schools in the United States.

Q How did the Florida Graduate Tax Program get started?

A (Mike Friel) The program started in 1974, preceded by several years of preparation. The co-founders of the tax program were Dick Stephens and Jack Freeland, who were well known and highly regarded tax professors and scholars who worked together for a few years laying the ground work. The two of them and Steve Lind, Larry Lokken, and Doug Miller were part of the faculty that initial year, and Dennis Calfee came on board right after that. Collectively, they designed the program, wrote the materials, and taught the courses. We are indebted to them. They put together a terrific program that we have been building on

ever since 1974 and that has long been recognized for its quality. We have had truly excellent faculty members over the years and today. They have written leading textbooks and treatises that are used nationwide and have always been dedicated to their teaching. That has helped the program attract outstanding students with distinguished records from across the country and around the world.

Q Who are your full-time faculty today?

A (Mike Friel) Today they include Paul McDaniel, David Hudson, Pat Dilley, Steve Willis, Yariv Brauner, and Charlene Luke, in addition to Larry Lokken, Doug Miller, Dennis Calfee, Marty McMahon,

and me. We also continue to have superb adjunct professors who have always added a special dimension to our program. And every year we are joined by an outstanding graduate of our program who is interested in teaching, and for whom the opportunity to be a visiting professor here frequently serves as a springboard to a career in tax teaching.

Q Unlike many graduate tax programs, yours has a high percentage of full-time students. How do you find that impacts the educational experience?

A (Mike Friel) The full-time nature of the program is an important part of the educational experience here. Students get to know each other and to work together regularly. The professors get to know the students, because we are here full-time and the interactions that take place with the students are much more extensive. So, all of the learning that goes on outside the classroom becomes easier to accomplish.

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* Jasper L. Cummings, Jr., Alston & Bird LLP, Washington, DC, and Raleigh, NC, and Alan J.J. Swirski, Skadden, Arps, Slate, Meagher & Flom LLP, Washington, DC.

full-time students and almost exclusively full-time faculty is that the entire educational process becomes more collaborative. Our students typically join together in groups of three or four students to study for all of their classes. Almost all of our classes here are taught by the problem method and the students have the problems well in advance. They work the problems out among themselves, going back and forth on their proposed solutions because they know they are going to be called on in class to present them. We expect them to be prepared and they respond very professionally with excellent preparation. That collaborative experience extends outside the classroom because our faculty is here in the building all the time, and all of us frequently have groups of students in our offices to go over the problems that we studied in class. Oftentimes the students want to go a step farther than we went in class and pursue alternatives that we did not have time to pursue in class. This is something that can readily happen with full-time students and full-time faculty.

Q How has the curriculum in your program changed over the years?

A (Mike Friel) The curriculum winds up reflecting the greater complexity that we have seen take place in federal taxation over the years.

(Marty McMahon) We have increasingly moved to three-credit courses. For example, I teach corporate tax in two three-credit blocks, rather than in either two two-credit blocks or three two-credit blocks. I have found that by using three-hour blocks, particularly with two segments back to back—and almost all of our students go into the second corporate tax course as well—you can really pursue great depth because you understand what the students have learned in the earlier courses and what background they have. It gives us the opportunity to pursue a lesser number of subjects but in greater depth than using only two-credit courses.

(Mike Friel) Curricular changes occur in numerous other ways as well. Some examples: A collaborative writing experience for students in international tax planning; an expanded course in taxation of financial instruments; the founding and development of an innovative Center for Estate and Elder Law Planning; the ongoing revision and expansion of courses in employee benefits, executive compensation, and deferred compensation; an advanced seminar in estate and gift and generation-skipping transfer tax; the revision and development of our state and local tax coverage; the incorporation of important technological advances into materials and courses on timing and tax exempt organizations; the creation of an opportunity for in-depth study of taxation and fiscal policy; the development of courses and materials on intangibles and on taxation and economic development; and new teaching approaches in business tax courses. The curricular changes emerge from faculty research and from writing of their textbooks and treatises; from their active involvement in major state, national, and international professional organizations; from their experiences and services as staffers and consultants at the national level relating to federal taxation; from experience in practice; and from lecturing on taxation at institutes, seminars, and workshops in the U.S. and abroad.

In addition, a few years ago, we added an LL.M. in International Taxation degree to our program. Our curriculum has changed in a significant way to provide greater exposure to international taxation, which reflects the ever increasing importance of that topic in the tax world outside. We have introduced courses in international tax planning, international tax policy, tax treaties, and other areas that reflect the globalization of tax practice.

(Marty McMahon) Our International Tax degree, in addition to attracting some U.S. students who opt into that particular degree, which is labeled separately from our LL.M. in Taxation degree, also

attracts a large number of students from other countries. This year we have 22 students from other countries, and these are all people who have practice or government experience beyond their law school degree. Almost all of them take the full six-hour corporate tax sequence because they view understanding U.S. corporate tax as part of being an international tax lawyer in their home country. And they are phenomenally good students.

Another addition in the last decade is a very extensive enrichment speaker series that is co-curricular in one sense, but that all the students attend. Every year we have a number of speakers drawn from a variety of backgrounds. In the last few years, for example, we have had Tax Court Judges Juan Vasquez, Joe Gale, Bob Wherry, and John Colvin. We have had from the government side Eric Solomon and Pam Olson when they were the Assistant Secretaries for Tax Policy. We have had John Buckley and Mark Prater from the Hill, George Yin and Lindy Paull, Chiefs of Staff of the Joint Committee, and eminent practitioners like Emily Parker, Larry Gibbs, and Jerry Cohen. [After finishing this interview] I am going to go to the airport in a few hours to pick up Chris Rizek. And for the last five years running now, we have had Chief Counsel Don Korb, and we will have Acting Chief Counsel Clarissa Potter coming in a couple of weeks.

(Mike Friel) We present, in addition, an annual International Tax Symposium with leading tax scholars from within and outside our own faculty. And we also work closely with the Tax Section of The Florida Bar to provide an annual Ethics in Taxation Workshop and other presentations that have in the past year included prominent practitioners such as Richard Comiter, Lauren Detzel, Cristin Keane, Mike Lampert, Brian Phillips, David Pratt, and Sam Ullman. So while all these activities are taking place outside the normal classroom setting, they are very much an important part of our curriculum.

Q What are the most in-demand or “hot” specialties for new tax lawyers, in your opinion? You may have already answered that in terms of the international emphasis, but do you have any further thoughts on that question?

A (Mike Friel) While international tax is a good example of an enhanced emphasis, I can also stress what does not change: Being in this program involves the rigorous study of the Code and regulations, the rigorous application of the Code and regulations and other administrative guidance to problems and hypotheticals. This infuses our entire curriculum and does not change even if the particular aspect of tax law that we are talking about on a given day has changed. The methodology, the approach, does not change.

(Marty McMahon) I would add that the way I explain our philosophy to our students—and indeed to lawyers when I talk to them about why they should hire our students—is that all of us here focus on teaching methodology, not on what the current rules are. The students learn a lot about what the current rules are as a by-product of our focus on methodology. But we are teaching how to read the Code, how to read the Regs, how to do problem solving. I tell my students all the time that my role is to help them learn an operating system that will serve them well for 30 years, not to fill up a data disc with what the state of the law is today, because a few years from now not only will they be asked to solve problems and answer questions that they have never before seen in their lives, but the rules that they are going to apply will be different rules. My goal, and the goal of all of us here, is to prepare the students to answer questions that they have never before seen in their life to which rules apply that they have never before seen in their life.

(Mike Friel) All of us express something of the same notion by telling our students that what we are trying to do is to provide the foundation on which

they can build the tax practice they are going to be involved in for the next 30 or 40 years. Most of the employers we talk with are looking to hire the graduate who has the foundation, the operating system, that is going to allow that person to be a productive high quality tax lawyer for the next 30 or 40 years, regardless of what may take up more of the billable hours in one year as opposed to another year.

Q Do you think the need for an LL.M. in Taxation has increased or decreased for law students going into tax practice over the last 30 years; and how do potential employers view the degree?

A (Mike Friel) We regularly encounter potential employers who say in so many words that the people they want to hire as tax associates in their tax department are students who hold an LL.M. in Taxation. The degree has validated itself over the years, and we are increasingly seeing that it is an expected part of the preparation for a tax career.

(Marty McMahon) I am often out talking at CLE programs all over the country. Many of the lawyers that I talk to tell me that except in some of the biggest cities they are not going to hire someone to do tax work unless they have an LL.M. In fact, recently a hiring partner from one of the tax boutiques told me that he had recently had somebody who had clerked for him summers and told this person when she graduated with her J.D. that she was terrific, he would love to hire her, but she had to come and get an LL.M. from Florida before he would actually put her to work.

Q How has the relationship of LL.M. tax programs to their law schools generally evolved over the last 30 years?

A (Mike Friel) LL.M. programs in taxation have become an accepted part of the landscape at 25 or 30 law schools. Those programs are viewed as providing important parts of the curricu-

lum and as providing an advanced degree that the law schools value as a way of distinguishing themselves from others of their peer schools. Here at Florida, we have been part of this law school and its faculty for more than 30 years, and we are committed to its excellence.

(Marty McMahon) Different tax programs have different relationships with their law schools. I understand that at some schools the graduate tax program is viewed as a money maker for the law school to help subsidize the overall budget. This law school provides the LL.M. program in taxation as a public service.

Q I know you have a writing requirement for your students. Please tell us about that.

A (Mike Friel) We have a requirement that each student must complete a substantial research paper in order to receive our graduate tax degree. As part of that experience we provide training in tax research techniques and an understanding of the tools of tax research. We then ask that each student, under the supervision of a member of the tax faculty, undertake research and writing that leads to a high quality paper. So that is now, and has been since its inception, an important and prominent feature of our program.

(Marty McMahon) Year in, year out, more than one of those papers ends up published in places like *Tax Notes*, *Tax Notes International*, the *ABA Tax Section Tax Lawyer*, the *Florida Tax Review*, and the *Virginia Tax Review*, and in the last couple of years we have had a winner of the Tannenwald competition and the ACTEC competition, and an honorable mention in the Tannenwald competition. So, we really get some very, very good writing products from our students.

In addition to the required writing project, many of the faculty members have individually decided to use writing projects as all or part of the evaluation process in their classes. Larry Lokken, for example, in the Taxation of Property

Transactions course, uses a number of interim writing assignments during the course of the semester in addition to an examination at the end. Paul McDaniel, in the Tax Treaties, International Tax Planning, and International Tax Policy courses, assigns only papers, and he goes over first drafts and second drafts of those papers with the students. And in the Taxation and Fiscal Policy course that I teach, I assign a number of short papers during the semester. I review the papers with the students, and they rewrite them and turn them in again until I am satisfied with the paper; and the course culminates in a larger paper. These are not papers that satisfy the writing requirement; these are over and above that writing requirement. So many of our students have written multiple papers before they graduate.

(Mike Friel) Other writing opportunities include independent study papers and research under the supervision of a member of the tax faculty. All of the members of the tax faculty have provided supervision of numerous research papers, seminar papers, independent study projects, or other writing projects out of a shared conviction of the importance of such work.

Q What changes do you foresee for graduate tax programs in the coming years?

A (Marty McMahon) We are interested in international collaboration with both faculty and practitioners and law schools in other countries. We, for example, regularly have a law professor from another country in residence here for part of the semester teaching a course or working as a visiting research scholar. That is part of that international collaboration program. Many of our faculty travel abroad to lecture at other law schools or in international programs. For example, many of us have taught in the LL.M. Program at Leiden. In addition, to some extent through the contacts initiated by our international students who have graduated and are well established

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in their home countries, we are starting to work on programs in other countries. For example, just last summer, the UF Graduate Tax Program and IFA Peru co-sponsored a multi-day conference for practicing lawyers in Lima, Peru, focusing on international tax law. We had over 200 Latin American lawyers in attendance.

(Mike Friel) We are also looking into opportunities in other Latin American countries where we have been approached about possible collaboration, including recent visits to Chile, Argentina, and Colombia, but our interest extends to other parts of the world as well. We have had faculty members regularly teaching in Taiwan and in Europe. Others were recently in Korea and China in response to some inquiries there. It is striking to me the extent to which our faculty participates in workshops, in conferences, in giving lectures both in this country and throughout the world. What we are seeing is a moving beyond simply one professor talking to another; it is becoming institutional. And we are developing closer ties to tax programs in other countries and to organizations of tax professionals in other countries as well.

Q Thinking back to the 1950s and '60s, graduate tax programs were one of the first options available to lawyers to go back to school and retrain for a specialty. Now there are many more such opportunities. Do you see that early role as having continuing importance for graduate tax programs, and if so what does Florida do to foster that role?

A (Marty McMahon) I think that even though other areas of the law are increasing in complexity, tax laws are

probably increasing in complexity even more so. As a result of this increasing complexity, I think that an LL.M. program in tax becomes more important relative to other specialized programs than it ever was before. And, we have had a great deal of success with lawyers who have been practicing in other areas of law and then have decided to become tax lawyers.

I think one of the reasons they want to become tax lawyers is that tax lawyers have business when the economy is going up and when the economy is going down. When it is going up, you are putting deals together, and when it is going down, you are restructuring financing to try to bail people out. And, over the years, year in, year out, we have had a significant number of students who have been out of school anywhere from three, four, even in some instances 10 or 15 years. Oftentimes those experienced lawyers, who might have had one tax course when they were in law school many years ago, will come back and turn out to be among the very best students because of their professional habits. Some of our graduates who came back here after a number of years doing other things, like bankruptcy or litigation, have gone on to have quite successful tax careers after graduating.

(Mike Friel) And then on top of that, they bring a wonderful dimension to our classroom discussions and to the learning experience outside the classroom for all our students. They enrich the program for everyone. ■