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University of Colorado Law School  
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ACADEMIC APPOINTMENTS

University of Colorado Law School, Associate Professor, 2005-present  
The University of Illinois College of Law, Associate Professor and Richard W. and Marie  
L. Corman Scholar, 2007-2009  
New York University School of Law, Scholar in Residence, Fall 2010; Acting Assistant  
Professor of Tax Law, 2003-2005

OTHER EMPLOYMENT

Shaw Pittman LLP, Associate, 2000-2002  
Institute for Justice, Staff Attorney, 1998-2000  
Wiley, Rein & Fielding, Associate, 1997-1998  
Hon. Morris Sheppard Arnold, U.S. Court of Appeals for the Eighth Circuit,  
Law Clerk, 1996-1997

EDUCATION

NYU School of Law, LL.M. in Taxation, 2003  
Harry J. Rudick Memorial Award (for academic distinction)  
*Tax Law Review*, Student Editor and Merit Scholarship Recipient  
3.96 GPA  
University of Chicago, The Law School, J.D., 1996  
*University of Chicago Law Review*, Member  
*The Federalist Society*, President  
Duke University, B.A., Economics, 1993  
1992 Alice Baldwin Scholarship for Academic Achievement

## WORKS IN PROGRESS

### *Utilitarianism and the Charitable Tax Subsidies* (Submitted Fall 2012)

This piece, the third in a series that examines the interaction between distributive justice and the charitable tax subsidies, explores the conceptions of utility most common to legal scholarship. Unfortunately, applying utilitarianism to the charitable tax subsidies provides limited policy guidance, despite its prevalence in modern tax scholarship. In different ways, each definition of utility suggests that even charities that do not aid the poor should be subsidized, and each definition counsels subsidizing a broad range of activities. But choosing among these theories for guidance requires value judgments that contradict the pluralism-enhancing role of the sector. Moreover, each conception of utility has intrinsic drawbacks. Measurement, identification, and comparison problems make its traditional application (focusing on downward income redistribution) too indeterminate to be useful. Defining utility as preference satisfaction largely ignores the preferences of non-donors and leads to a tyranny of the majority with respect to controversial issues. Focusing on happiness is less vulnerable to the latter charge, but still disadvantages individuals made happy by quirky or unusual activities. A practical policy implication nonetheless follows from the analysis. When viewed in conjunction with each other, a common theme emerges: charitable giving that benefits the financially-poor increases utility under any of these theories—as well as under the leximin and the most common equality of opportunity theories. This overlap suggests that tax policy should subsidize groups that help the poor more heavily than others, thus reconciling distributional concerns with pluralism by emphasizing what various moral theories have in common.

## PUBLICATIONS

### LAW REVIEW ARTICLES

*Equality of Opportunity and the Charitable Tax Subsidies*, 91 Boston University Law Review 601-663 (2011).

Although equal opportunity is a foundational principle of our society, most legal scholarship invoking the concept often fails to address complexities raised by the political philosophy literature, such as the “equality of what” debate. Moreover, current scholarship on the charitable tax subsidies overemphasizes the benefits of efficiency and pluralism to the detriment of distributive justice, resulting in substantial normative gaps. For example, which organizations should be subsidized? Should charities be required to assist the poor? Is a deduction or a credit preferable? This Article carefully mines the equal opportunity philosophy literature for insights into those questions. Often, these nuances lend rigorous philosophical support for commonly held intuitions. The basic version of ex ante equality of material resources, for example, confirms the intuition that the charitable sector does not do enough to provide opportunities for the financially poor to participate fully in our society. Other insights seem counter-intuitive: a broader version of resource equality that addresses talent-pooling and expensive tastes suggests that we continue to subsidize elite cultural institutions, such as the opera, without requiring them to offer free or discounted services to the poor.

*Theorizing the Charitable Tax Subsidies: The Role of Distributive Justice*, 87  
Washington University (St. Louis) Law Review 505-566 (2010).

Despite the starring role played by distributive justice in many fundamental tax policy debates, current tax scholarship on the charitable tax subsidies generally either ignores or explicitly disavows distributive justice concerns. Instead, it focuses on the efficiency and pluralism-enhancing advantages of having charities provide public goods. While identifying these advantages is an important contribution to our understanding of charitable giving policy, this emphasis ignores charity's very purpose: voluntary redistribution. As a result, current scholarship is incomplete, purposely under-theorizing "the good" in order to avoid making value judgments about which projects should be subsidized. In contrast, explicitly addressing distributive justice—in addition to pluralism and efficiency—will enhance our understanding of the subsidies for three reasons. First, existing scholarship is incomplete because it does not adequately identify which projects deserve a subsidy and is inconsistent because it contains unacknowledged value judgments that have distributive justice implications. Second, popular criticisms of the charitable tax subsidies raise distributive justice issues that have not been adequately addressed. And lastly, the law on the charitable tax subsidies is itself confused on the role of distributive justice.

*Generous to a Fault? Fair Shares and Charitable Giving*, 93 Minnesota Law Review  
165-230 (2008).

Given the vital role that charities play in our society, it is not surprising that the tax Code encourages philanthropy by allowing a deduction for charitable gifts. What is surprising is that it treats the most generous among us *less* favorably than those of average generosity. This stems from one of the most puzzling limits in the Code: the cap preventing someone from claiming a charitable deduction greater than 50% of her income, even if she gives more than that to charity. As a result, someone generous enough to donate all her income must still pay income tax. Few scholars have explored whether an individual who gives all her income to charity should still pay tax; those who have seem hard-pressed to satisfactorily answer that question. This Article begins to do so, relying on the literature conceptualizing the deduction as a way of overcoming market and government failure for various public goods by spurring non-profits to produce them. It argues that precluding taxpayers from zeroing out their tax liability via charitable gifts reflects a bargain between individuals whose preferred public goods are fully funded by the government and those whose projects are only partially subsidized, and that this bargain reconciles the private provision of public goods via charitable giving with our democratic process.

*Charitable Contributions in an Ideal Estate Tax*, 60 Tax Law Review 263-321 (2007)  
(peer-reviewed law journal).

Although charitable bequests have been fully deductible for estate tax purposes since 1918, few scholars have considered the normative question of whether the estate tax should have a charitable deduction, and if so, whether any limits should apply. This Article fills that void by exploring whether various conceptions of an "ideal" estate tax base should include a charitable deduction, and if so, what the deduction should look like. It concludes that while each of the

most common rationales for the estate tax justifies some type of charitable deduction as a normative matter, only one (furthering progressivity) potentially justifies an unlimited deduction. All other rationales for the tax suggest a more limited deduction.

#### PUBLICATIONS PRIOR TO ACADEMIA

*Legal Essentials for Foundations*, Association of Small Foundations, 2002 (as Miranda Perry).

*Kids and Condoms: Parental Involvement in School Condom-Distribution Programs*, 63 University of Chicago Law Review 727-760 (1996) (Student Note) (as Miranda Perry).

#### AWARDS

2011 Provost's Faculty Achievement Award, University of Colorado (University-wide award in recognition of *Theorizing the Charitable Tax Subsidies: The Role of Distributive Justice*)

#### TEACHING

##### UNIVERSITY OF COLORADO LAW SCHOOL

Estate and Gift Tax  
Individual Income Tax  
Non-Profit Law  
Wills and Trusts

##### THE UNIVERSITY OF ILLINOIS COLLEGE OF LAW

Estate and Gift Tax  
Individual Income Tax  
Wills and Trusts

##### NYU SCHOOL OF LAW

Estate and Gift Tax  
Survey of Tax Procedure  
Taxation of Property Transactions I  
Tax Policy  
Timing Issues and the Income Tax

INVITED PRESENTATIONS

*Utilitarianism and the Charitable Tax Subsidies*, The University of Texas School of Law Faculty Colloquium Series, April 2012

*Utilitarianism and the Charitable Tax Subsidies*, Duke University Tax Law and Policy Workshop, March 2012

*Utilitarianism and the Charitable Tax Subsidies*, University of Toronto Tax Law and Policy Workshop, February 2012

Invited panelist, *Perspectives on Tax Reform: Charitable Contributions and the Nonprofit Sector*, ABA Tax Section Mid-Year Meeting, Tax Policy and Simplification Section, February 2012

Invited panelist, *Death and Taxes: Now and Beyond 2012*, AALS Annual Meeting, Tax and Trusts and Estates Sections, January 2012

Invited participant, 2011 National Center on Philanthropy and the Law Annual Conference, New York University School of Law, October 2011

*Utilitarianism and the Charitable Tax Subsidies: Preliminary Thoughts*, Critical Tax Conference, Santa Clara University Law School, April 2011

*Equality of Opportunity and the Charitable Tax Subsidies*, Indiana University School of Law Tax Policy Colloquium, January 2011

*Equality of Opportunity and the Charitable Tax Subsidies*, Notre Dame Law School Faculty Colloquium, October 2010

*Equality of Opportunity and the Charitable Tax Subsidies*, Boston College Law School Tax Policy Colloquium, September 2010

*Equality of Opportunity and the Charitable Tax Subsidies*, Junior Tax Scholars Conference, Notre Dame Law School, June 2010

*Equality of Opportunity and the Charitable Tax Subsidies*, University of Michigan Law School Tax Policy Colloquium, April 2010

*Equality of Opportunity and the Charitable Tax Subsidies*, University of Colorado Law School Faculty Workshop, March 2010

*Theorizing the Charitable Tax Subsidies*, Loyola-LA School of Law Tax Policy Colloquium, September 2009

*Theorizing the Charitable Tax Subsidies*, Law and Society Panel on Distributive Justice, Tax Policy and Society, May 2009

*Theorizing the Charitable Tax Subsidies*, Washington University School of Law Faculty Colloquium Series, April 2009

*Theorizing the Charitable Tax Subsidies*, University of San Diego School of Law Faculty Colloquium Series, December 2008

*Taxation, Charity, and the Burdens of Social Cooperation: Preliminary Thoughts*, Junior Tax Scholars Conference, New York University School of Law, June 2008

*Theorizing the Charitable Tax Subsidies*, Chicago-Kent College of Law Faculty Colloquium Series, February 2008

*Theorizing the Charitable Tax Subsidies*, AALS Section on Philanthropy, January 2008

Invited Participant, University of Illinois College of Law Program for Law and Philosophy Roundtable on The Morality of Debt Relief, September 2007

*Theorizing the Charitable Tax Subsidies: Preliminary Thoughts*, Junior Tax Scholars Conference, Boston University School of Law, June 2007

Invited Participant, University of Illinois College of Law Program for Law and Philosophy Roundtable on Rationality, Distributive Justice and Happiness, March 2007

*Generous to a Fault? Fair Shares and Charitable Giving*, UCLA Law School Tax Policy Colloquium, February 2007

*Generous to a Fault? Fair Shares and Charitable Giving*, University of Colorado Law School Faculty Workshop, January 2007

*Generous to a Fault? Fair Shares and Charitable Giving: Preliminary Thoughts*, Junior Tax Scholars Conference, University of Colorado Law School, June 2006

*Charitable Contributions in an Ideal Estate Tax*, University of Colorado Law School Faculty Workshop, January 2006

Invited Participant, University of California-Berkeley Workshop on Tax Policy and Public Finance, June 2004

## SERVICE

### SERVICE TO THE LEGAL PROFESSION AND LEGAL ACADEMY

AALS Taxation Section Executive Committee, January 2012 to present

AALS Nonprofit Law Section Executive Committee, January 2012 to present

Co-founder, Junior Tax Scholars Conference (held annually since 2006); co-organizer, 2006-2011

Co-organizer, University of Colorado Roundtable on Tax Policy and Distributive Justice, July 2010

Co-organizer, University of Illinois College of Law Program for Law and Philosophy Roundtable on Philanthropy, Morality and Distributive Justice, May 2008

Co-organizer, AALS Section on Philanthropy Panel on Non-Profits and Democracy, January 2008

Assistant Editor, Tax Law Review, 2003-2005

### LAW SCHOOL SERVICE

Academic and Student Affairs Committee, University of Colorado Law School, 2006-2007 and 2011-present

Technology Committee, University of Colorado Law School, 2009-2011

Legal Writing Faculty Search Committee, University of Colorado Law School, Spring 2011

Subcommittee on Teaching Legislation and Regulation, University of Colorado Law School, Spring 2010

Admission and Scholarship Committee, The University of Illinois College of Law, Spring 2009

Law Review Advisor, The University of Illinois College of Law, 2007-2008

Lectures Committee, The University of Illinois College of Law, 2007-2008

Building Committee, University of Colorado Law School, 2005-2006

Faculty Secretary, University of Colorado Law School, 2005-2006