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Pamela B. Gann Professor of Law
Duke Law School
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EDUCATION

Harvard Law School, Cambridge, MA
J. D., magna cum laude, 1979

University of Santa Clara, Santa Clara, CA
B.A. (English), summa cum laude, 1976

EMPLOYMENT

Duke Law School,
Durham, NC
Professor, 2003 - 2004; Pamela B. Gann Professor, 2004 -

Columbia Law School,
New York, NY
Professor, 2001 - 2003

University of North Carolina School of Law,
Chapel Hill, NC
Professor, 1990 - 2001; Associate Professor, 1986-1990

Columbia Law School
New York, NY
Visiting Professor, 1998-99

University of Utah School of Law,
Salt Lake City, UT
Visiting Professor, 1993-1994

Office of the Chief Counsel, Internal Revenue Service,
Washington, DC
Professor in Residence, 1990-1991

Lewis and Clark Law School, Portland, OR
Assistant Professor, 1983-1986

LeSourd and Patten, Seattle, WA
Associate, 1979-1983

TEACHING

classes taught: income tax, corporate tax, international tax, estate and gift tax, ethics in tax practice, tax policy seminar, torts

recipient of 1986 Leo Levenson Award for Teaching Excellence (Lewis and Clark Law School)

ARTICLES

The Federal Retail Sales Tax that Wasn't: An Actual History and an Alternative History, forthcoming in Law & Contemp. Prob. (2010)

Does Intergenerational Justice Require Rising Standards of Living?, forthcoming in Geo. Wash. L. Rev. (2009) (symposium issue)

Debt-Financed Consumption and a Hybrid Income-Consumption Tax, forthcoming in Tax L. Rev. (2009)

Tax Policy and Personal Identity Over Time, forthcoming in Tax L. Rev. (2009)

Tax Enforcement for Gamers: High Penalties or Strict Disclosure Rules?, forthcoming in Colum. L. Rev. Sidebar (2009)

The Court and the Code: A Response to *The Warp and Woof of Statutory Interpretation*, 58 Duke L. J. 1783-89 (2009)

Codification of General Disallowance of Artificial Losses, 122 Tax Notes 1389-1392 (2009) (with Calvin H. Johnson)

Tax Expenditures and the Carbon Audit, 122 Tax Notes 1367-76 (2009)

Can Obama's IRS Retroactively Revoke Massive Bank Giveaway?, 122 Tax Notes 889-93 (2009)

The Conscientious Legislator and Public Opinion on Taxes, 40 Loy. Chi. L. Rev. 369-83 (2009) (symposium issue)

Justice Holmes, Ralph Kramden, and the Civic Virtues of a Tax Return Filing Requirement, 61 Tax L. Rev. 53-88 (2007)

From the Great Gildersleeve to Homer Simpson: Six Decades of the Federal Income Tax in Sitcoms, 117 Tax Notes 1265-88 (2007)

The Theory and Practice of Tax Reform (book review), 105 Mich. L. Rev. 1133-49 (2007)

Of Head Taxes, Income Taxes, and Distributive Justice in American Health Care, 69 Law and Contemporary Problems 103-20 (2006)

The Sometimes-Taxation of the Returns to Risk-Bearing Under a Progressive Income Tax, 59 SMU L. Rev. 879-915 (2006) (symposium issue)

Taxing Endowment, 55 Duke L.J. 1145-1181 (2006)

Of Prius Buyers, Blue States, Consumer Energy Credits, and the Alternative Minimum Tax, 109 Tax Notes 657-662 (2005)

Tax Shelters and the Search for a Silver Bullet, 105 Colum. L. Rev. 1939-1966 (2005) (with Marvin Chirelstein)

Tax or Welfare? The Administration of the Earned Income Tax Credit, 52 UCLA L. Rev. 1867-1916 (2005) (symposium issue)

Framing the Distributional Effects of the Bush Tax Cuts, 105 Tax Notes 83-95 (2004)

Redesigning the Earned Income Tax Credit as a Family-Size Adjustment to the Minimum Wage, 57 Tax Law. Rev. 301-53 (2004)

The Myth of Pretax Income (book review), 101 Mich. L. Rev. 2261-2274 (2003)

The Income Tax and the Costs of Earning a Living, 56 Tax Law Rev. 29 -79 (2002)

A Whirlwind Tour of the Internal Revenue Code's At-Risk and Passive Activity Loss Rules, 36 Real Property, Prob. & Trust J. 673 - 730 (2002) (with Boris I. Bittker and Martin J. McMahon, Jr.)

Capitalization of Benefits Beyond the Tax Year, 97 Tax Notes 257 -264 (2002) (with Boris I. Bittker and Martin J. McMahon, Jr.)

A Health Insurance Tax Credit for Uninsured Workers, 38 *Inquiry* 106-120 (2001)
Codifying Anti-Avoidance Doctrines and Controlling Corporate Tax Shelters, 54 *SMU L. Rev.* 177-193 (2001) (symposium issue)

Doing Something About Marriage Penalties: A Guide for the Perplexed, 54 *Tax L. Rev.* 1-76 (2000)

The Puzzling Case of the Revenue-Maximizing Lottery, 79 *N.C. L. Rev.* 1-43 (2000)

Taxing Baseballs and Other Found Property, 84 *Tax Notes* 1299-1308 (1999) (with Martin J. McMahon, Jr.)

Can the Graduated Income Tax Survive Optimal Tax Analysis? 53 *Tax L. Rev.* 51-93 (1999) (with Kemper Moreland)

The Selling of the Flat Tax: The Dubious Link Between Rate and Base, 2 *Chapman L. Rev.* 197-232 (1999) (symposium issue), reprinted in 85 *Tax Notes* 1177-1195 (1999)

Radical Tax Reform, the Constitution, and the Conscientious Legislator, 99 *Colum. L. Rev.* 833-55 (1999)

Taking Critical Tax Theory Seriously, 76 *N.C. L. Rev.* 1521-80 (1998)

Feminism and “Safe Subjects Like the Tax Code,” 6 *S. Cal. Rev. L. & Women’s Studies* 323-27 (1998)

Tax and the Married Woman (book review), 70 *S. Cal. L. Rev.* 1021-48 (1997)

The Reasons for a Consumption Tax and the Tax Treatment of Gifts and Bequests, 51 *Tax L. Rev.* 601-13 (1996)

I Can Sit on It, But Is It Art? 70 *Tax Notes* 99-103 (1996)

The Reification of Metaphor: Income Taxes, Consumption Taxes, and Human Capital, 51 *Tax L. Rev.* 1-34 (1995)

Flat Tax vs. VAT: Progressivity and Family Allowances, 69 *Tax Notes* 1129-34 (1995)

Children and the Income Tax, 49 *Tax L. Rev.* 349-418 (1994), excerpted in Philip D. Oliver & Fred W. Peel, Jr., eds., Tax Policy Readings and Materials 188-90 (1996), and in Paul L. Caron, Karen C. Burke & Grayson M.P. McCouch, eds., Federal Income Tax Anthology 511-16 (1997)

Marriage and the Income Tax, 67 *S. Cal. L. Rev.* 339-405 (1994), excerpted in Philip D. Oliver

& Fred W. Peel, Jr., eds., Tax Policy Readings and Materials 170-180 (1996)

Taxing Gains at Death, 46 Vand. L. Rev. 361-441 (1993), excerpted in Philip D. Oliver & Fred W. Peel, Jr., Tax Policy Readings and Materials 411-20 (1996), and in Paul L. Caron, Karen C. Burke & Grayson M.P. McCouch, eds., Federal Income Tax Anthology 152-56 (1997)

Taxing Gains at Death, 59 Tax Notes 287-289 (1993) (reprint of written testimony presented to the House Ways and Means Committee)

Does Treasury Have Authority to Index Basis for Inflation? 55 Tax Notes 841-845 (1992), reprinted in J. Andrew Hoerner, ed., The Capital Gains Controversy: A Tax Analysts Reader 521-525 (1992), and in Charles Davenport, ed., Selected Reading on Tax Policy: 25 Years of Tax Notes 246-50 (1997)

The Taxation of Tax Indemnity Payments: Recovery of Capital and the Contours of Gross Income, 46 Tax L. Rev. 381-403 (1991)

Reforming Penalty Reform: Congress Should Eliminate the Profusion of Accuracy Standards, 52 Tax Notes 471-477 (1991)

Are Rifle Shot Transition Rules and Other Ad Hoc Tax Legislation Constitutional?, 44 Tax L. Rev. 563-625 (1989)

Do Anti-Tax Shelter Rules Make Sense? A Reply to Professor Johnson, 68 Texas L. Rev. 491-507 (1989), excerpted in Paul L. Caron, Karen C. Burke & Grayson M.P. McCouch, eds., Federal Income Tax Anthology 405-09 (1997)

When Good Preferences Go Bad: A Policy Analysis of the Anti-Tax Shelter Provisions of the Tax Reform Act of 1986, 67 Texas L. Rev. 499-589 (1989), excerpted in Paul L. Caron, Karen C. Burke & Grayson M.P. McCouch, Federal Income Tax Anthology 394-400 (1997)

Thinking About Nonliteral Interpretations of the Internal Revenue Code, 64 N.C. L. Rev. 623-676 (1986), excerpted in Paul L. Caron, Karen C. Burke & Grayson M.P. McCouch, eds., Federal Income Tax Anthology 29-35 (1997)

Should Courts Require the Internal Revenue Service to be Consistent? 40 Tax L. Rev. 411-448 (1985)

Serving Two Masters: Commercial Hues and Tax Exempt Organizations, 8 Univ. of Puget Sound L. Rev. 1-23 (1984)

The Tax Exempt Status of Communitarian Religious Organizations: An Unnecessary Controversy?, 50 Fordham L. Rev. 1085-1112 (1982) (with Meade Emory); reprinted in 36 AAR Studies in Religion 177-201 (1985)

BOOK CHAPTERS

The Declining Progressivity of the Federal Income Tax, in Paul D.Carrington & Trina Jones, eds, Law and Class in America: Trends Since the Cold War 163-190 (2006) (book chapter is a revised version of 2004 article in Tax Notes, listed above)

The Story of *Seagram*: The Step Transaction Doctrine on the Rocks, in Steven A. Bank & Kirk J. Stark, eds., Business Tax Stories 263-93 (2005)

BOOKS

Federal Income Taxation: Cases and Materials (2d ed., 2007) (with Richard Schmalbeck)

Federal Income Taxation: Cases and Materials (2004) (with Richard Schmalbeck)

Federal Income Taxation of Individuals (3d. ed., 2002) (with Boris I.Bittker and Martin J. McMahon, Jr.), 1919 pp., with semi-annual supplements

Federal Income Taxation of Individuals – Study Problems (2003 edition) (with Martin J. McMahon, Jr.), 190 pp. and 268 pp. Teacher’s Manual

Federal Income Taxation of Individuals -- Study Problems (1996 edition) (with Martin J. McMahon, Jr.), 157 pp. and 214 pp. Teacher’s Manual

Federal Income Taxation of Individuals -- Study Problems (1990 edition) (with Martin J. McMahon, Jr.), 137 pp. and 188 pp. Teacher’s Manual

SELECTED PRESENTATIONS AND CLE ACTIVITIES

Presented paper on “Tax Policy and Personal Identity over Time,” at University of Florida Law School, March 2009

Presented paper on “Tax Policy and Public Opinion,” at University of Montana Law School (CLE program), October 2008

Presented paper on “Intergenerational Justice and Rising Standards of Living,” at George Washington University Law School, October, 2008

Presented paper on “The Conscientious Legislator and Public Opinion on Taxes,” at Loyola (Chicago) Law School, March, 2008

Presented paper on “The Federal Retail Sales Tax that Wasn’t: An Actual History and an Alternative History,” at Northwestern University Law School, March, 2008

Presented paper on “The Federal Retail Sales Tax that Wasn’t: An Actual History and an Alternative History,” at Loyola (Los Angeles) Law School, October, 2007

Presented paper on “Tax Policy and Personal Identity over Time,” at Columbia Law School, September, 2007

Presented paper on “The Civic Virtues of a Tax Return Filing Requirement,” at Georgetown University Law Center, April, 2007

Presented paper on “The Civic Virtues of a Tax Return Filing Requirement,” at UCLA Law School, January, 2007

Presented paper on “The Civic Virtues of a Tax Return Filing Requirement,” at Harvard Law School, November, 2006

Presented paper on “The Civic Virtues of a Tax Return Filing Requirement,” at Arizona State University Law School, October, 2006

Presented paper on “The Civic Virtues of a Tax Return Filing Requirement,” at University of Toronto Faculty of Law, September, 2006

Presented paper on “Many Not-So-Unhappy Returns: On the Advisory Panel’s Rejection of a Return-Free Tax System,” at University of Washington Law School, May, 2006

Presented paper on “Tax Shelters and the Search for a Silver Bullet,” at Columbia Law School, October, 2005

Presented paper on “Tax or Welfare-Based Administration of the EITC,” at University of Michigan Law School, March, 2005

Presented paper on “Tax or Welfare-Based Administration of the EITC,” at NYU Law School, March, 2005

Presented paper on “Taxing (or not) the Returns to Risk-Bearing,” at Northwestern Law School, February, 2005

Presented paper on “Tax or Welfare-Based Administration of the EITC,” at UCLA Law Review symposium, January, 2005

Presented paper on “Taxing (or not) the Returns to Risk-Bearing,” at University of Pennsylvania Law School, November, 2004

Presented paper on “Framing the Bush Tax Cuts,” at Loyola (Los Angeles) Law School, October, 2004

Presented paper on “Framing the Bush Tax Cuts,” at University of Washington Law School, October, 2004

Presented paper on “Taxing (or not) the Returns to Risk-Bearing,” at UCLA Law School Tax Policy Seminar, January, 2004

Moderated panel on “The Uses of the Past: Doing Tax History,” at AALS Tax Section Panel, Atlanta, January, 2004

Presented paper on “Redesigning the Earned Income Tax Credit as a Family-Size Adjustment to the Minimum Wage,” Santa Clara Law School Faculty Workshop, October, 2003

Presented paper on “Redesigning the Earned Income Tax Credit as a Family-Size Adjustment to the Minimum Wage, Arizona State University Law School Faculty Workshop, October, 2003

Presented paper on “Redesigning the Earned Income Tax Credit as a Family-Size Adjustment to the Minimum Wage,” Harvard Law School Workshop on Current Research in Taxation, August, 2003

Panelist, discussion of codification of the economic substance doctrine, Federalist Society, Washington, DC, March, 2003

Presented paper on the income tax treatment of work-related expenses, University of Virginia Law School Faculty Workshop, February, 2002

Presented paper on the income tax treatment of work-related expenses, University of Michigan Law School Law and Economics Seminar, January, 2002

Panelist, discussion of income tax marriage penalties, University of Virginia Law School, March, 2001

Presented paper on revenue-maximizing lotteries, NYU Law School Tax Policy Seminar, January, 2001

Presented paper on “The Strange Case of the Revenue-Maximizing Lottery,” Arizona State University School of Law, December, 1999

Presented paper on “Doing Something about Marriage Penalties: A Guide for the Perplexed,” Georgetown Law School Tax Policy Seminar, October, 1998

Presented paper on “Optimal Tax Theory and the Future of the Progressive Income Tax,” NYU Law School Tax Policy Seminar, February, 1998

Panelist, discussion of the taxation of human capital, January, 1998, convention of the American Association of Law Schools, San Francisco, CA

Presented paper on “Taking Feminist Tax Policy Seriously,” Harvard Law School Workshop on Current Research in Taxation, August, 1996

Presented paper on “The Reasons for a Consumption Tax and the Tax Treatment of Gifts and Bequests,” New York University Tax Law Review Symposium, May, 1996

Presented paper on "The Flat Tax and the VAT," Seton Hall Law School Flat Tax Symposium, May, 1996

Presented papers on "Progressivity, Family Allowances, and the Choice between the Hall-Rabushka Flat Tax and a VAT," and "The Feminist Case for Caregiver Allowances," Lewis and Clark Law School Conference on Taxation and the Family, October, 1995

Speaker, May, 1993, convention of the American Bar Association Tax Section, on the topic of taxing gains at death, Washington, DC

Speaker, 1992 North Carolina Bar Association Tax Section, on the topic of tax return penalty regulations, Kiawah, South Carolina

Panelist, discussion of proposed tax return penalty regulations, May, 1991, convention of the American Bar Association Tax Section, Washington, DC

Panelist, discussion of passive loss rules, January, 1990, convention of the American Association of Law Schools, San Francisco, CA

Moderator of panel discussion on ethics in tax practice, 1989 J. Nelson Young Tax Institute, Chapel Hill, NC

Speaker, 1988 UNC Law School Program on Estate Planning, Ethics and Taxes, on the topic of tax return preparation standards, Chapel Hill, NC

Speaker, 1987 J. Nelson Young Tax Institute, on the topic of passive losses, Chapel Hill, NC

Director, J. Nelson Young Tax Institute, UNC Law School, 1988-2006

LEGISLATIVE TESTIMONY

Invited Witness, Senate Finance Committee Hearing on marriage penalties and on the alternative minimum tax, March, 2001

Invited Witness, House Ways and Means Committee Hearing on child tax credit proposal, January, 1995

MEMBERSHIPS

Washington State Bar Association

American Bar Association

American College of Tax Counsel

American Association of Law Schools Tax Section (chair, 2003)