

# Teaching Tax and Other Tedious Topics

“The easiest way to keep students engaged is to let them see your passion for the subject matter.”

By **John A. Bogdanski and Samuel A. Donaldson**

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In July 2008, Professors Bogdanski and Donaldson spoke about teaching tax and other tedious topics at the annual meeting of the American Association of Law Libraries.<sup>1</sup> Their suggestions and observations about how to improve classroom presentations and discussions have value for legal research and legal writing faculty.

## 1. Let Them See You Care

The easiest way to keep students engaged is to let them see your passion for the subject matter.

We tax professors get credit for “making this stuff interesting,” when the truth is that tax law is already a compelling saga. In our view, there is nothing we need to do to make the subject come alive. But probably not everyone feels that way about tax law, and that’s the point. We often get openly excited—in a decent manner, of course—about the subject and we don’t hide it when we teach.

You might resist the urge to “geek out” on a particular topic for fear of looking like a nerd before your students. Nonsense! Your passion will convey that the topic has importance and relevance. Your energy will suggest that the very topic at hand might be the beacon that calls to them like no other topic in their studies has done to this point. Students are eager to care about something in the law. When they see an instructor who cares about the subject, they see how they themselves might catch the same enthusiasm for their professional pursuits.

This may seem odd, but by showing your zeal for the subject matter you also convey respect and care for your students. When you share your enthusiasm, you open yourself up to the students. They see you not only as an authority but also as a human being. You care enough about them and respect them enough to open up to them and share your interests.

A sad story illustrates this point. Several years ago, one of us attended a memorial service at the law school for a nationally renowned colleague who died unexpectedly. The school’s largest classroom was packed with students, staff, and faculty all in deep mourning. A grief counselor encouraged anyone who wanted to say a few words. One of the students near the front of the room began speaking from his seat, and part of what he said has had lasting relevance. “We just lost someone who cared about the world and who cared about her students,” he said. “She just had so much passion for human rights around the world and for teaching it to her students.”

Think of the teachers that inspired you and what it was about their approach that sparked something within you. Very likely, you sensed that these people cared both about what they were teaching and about you.

When the topic at hand is tedious or technical, a key component of caring is knowing the audience, and striving to put oneself in the position of a student approaching the material for the first time. The more expert the presenter, the greater the temptation to race through the basics and dive into the more challenging and interesting points. Bad move! As a wise old colleague once told one of us, “By the time you say anything that’s interesting to you, you’ve said too much.” He may have overstated the point, but the need to assess what’s “do-able” in any given class period is beyond dispute.

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<sup>1</sup> F-2 Teaching Tax and Other Tedious Topics: Top Tax Profs Trade Tips, American Association of Law Libraries, 101st Annual Meeting, July 14, 2008, Portland, Ore.

Although there is no need to mollycoddle students at the graduate level, professors who fail to empathize with them often fail to convey the subject matter to them effectively. Put yourself in the shoes of a reasonably competent, reasonably diligent, but not star student. Is your presentation going to reach that person, and bring the subject to life with accuracy and clarity?

When the subject matter hits a dry or difficult patch, don't be afraid to acknowledge that fact. Warn the crowd in advance when special concentration is going to be necessary or useful. After tackling a particularly tough area, reassure students that with additional study, reflection, and discussion, they can retain the most difficult concepts and details. You can and should refer students to, or even create yourself, review tools that help make this possible.

We are not advocating “dumbing down” technical subjects. Quite the contrary—the best teachers of what might otherwise be dull or difficult subjects are often quite demanding. They take the students to the very brink of overload, but never push them over. Empathy provides good instincts for knowing where the ledge is.

## 2. Know the Material Cold

In addition to knowing the audience well, the teacher of a complex or dry subject needs to know the material cold. When the professor stumbles over a technical point, students become confused, or lose confidence, or both. Perfection isn't possible—one bumps up against the limit of one's knowledge all the time—but the fewer the missteps, the better.

When the mistakes come, fix them. In this era of e-mail, something that was not entirely clear, or flat-out wrong, in class need not fester for days on end before being remedied. A prompt clarifying e-mail can set the stage for a quick tying-up of loose ends in the next class meeting. (It also reinforces the attribute of caring, just discussed.)

Part of maintaining mastery over technical material is keeping a keen focus on which topics are going to be covered in detail, and which are going to be given a survey gloss. It is better to be prepared to

delve deeper into any given topic in response to student questions than to prepare for what to say if questions are not forthcoming. Be ready to answer the questions when they come. Do not court disaster by wandering into technical areas in which students will have obvious questions that you are not prepared to answer.

When you *don't* know the answer, be frank about it. Don't fake it, and don't be afraid to take a moment to think about your answer before you give it. It's your class.

## 3. Give Context to the Unfamiliar

This just in: Students will struggle with a topic about which they have no familiarity. In the basic income tax course, for instance, there are two related cases that often vex students. (The cases, by the way, are *Crane v. Commissioner* and *Commissioner v. Tufts*. At the risk of academic damnation we are not providing their citations because, well, it misses the point.) The cases concern what happens when a taxpayer sells property subject to a nonrecourse mortgage. One problem with these cases is that they involve complex facts. One of them requires some understanding of partnership law and partnership tax to understand it fully. Another problem is that most of the students in the class have yet to become landowners so they have only superficial familiarity with mortgages. But both cases are the foundation for a pivotal doctrine in federal income tax law, so we have no choice but to cover them.

How do we do so without losing students to instant messaging, solitaire, or the crossword? One of us begins very innocuously by asking whether anyone in the room has become a homeowner recently. If someone volunteers, we ask him or her to explain generally how the purchase was financed and about the basic operation of their mortgage. (“If I don't make the monthly payment, the bank can take possession of my house” is easily enough here—it need not get more technical.) We then ask what happens if the bank repossesses the home and then sells it for less than the amount owed to it. Usually the student knows that the bank may be able to come after him or her for the extra amount owed.

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We explain that this is because the loan transaction is very likely a *recourse* debt.

We then explain that there is such a thing as a *nonrecourse* debt, one where the borrower would not be on the hook if the collateral securing the loan sold for less than the amount owed to the creditor. We ask students if they can think of situations where a bank might be willing to make a loan on a nonrecourse basis, given that the bank by definition will be assuming more risk in the event of default. Very often a few students will figure out that a bank may do so if they are confident that the original collateral will sell for more than the amount loaned, especially if offering a nonrecourse loan permits the bank to charge more interest.

We have now reached the point where students can understand the issue of the *Crane* and *Tufts* cases: If a taxpayer is freed of a nonrecourse obligation by transferring the property that secures the loan, must the taxpayer treat that benefit as part of the consideration received in the transaction? Had we started at this point without any context, many students likely would be lost from the beginning. By finding a way to connect this rather abstract notion to something with which a student has experience, we permit students to enter into the discussion with some confidence and an understanding of the stakes.

#### 4. Convert Potential Energy into Kinetic Energy

Even though we have been teaching for many years, we still get nervous. It is, we believe, human nature for someone about to address a group of any size to get a little stage fright. Perhaps the specific fears have changed (early in our careers we wondered whether students would respect us or whether we would be exposed as a fraud by a student who knew more than we did; now as established teachers we fear whether a class will think we are overrated), but what stays the same is that mild panic in the hours or minutes before we “take the stage.” In a strange way, nerves bring a sense of assurance: if we reach a point where we don’t get nervous we may start to worry whether we still have what it takes.

The good part about all these nerves is that they are unleashed in the form of kinetic energy. We both tend to move a lot around the classroom, use varying volumes and tones in our voices, and use lots of dramatic hand gestures. These actions help soothe our nerves but they also provide some variation or entertainment for students. Obviously most of us would prefer an active performance over someone fixed behind the lectern droning in monotone. If your tendency is to freeze when you are nervous, try to let yourself go. Motion and variance will give your nerves something to do, easing your panic.

As with everything in life, too much is no good. Constant pacing, nonstop gestures, and random voice fluctuations are distracting. You want to appear enthusiastic, not maniacal. If you get a chance, have one of your class sessions recorded and watch yourself. It’s perhaps the most painful thing you can do, but the camera doesn’t lie (except that it adds 10 pounds).

#### 5. PowerPoint Is Your Tool, Not Your Master

This PowerPoint thing has spun out of control. PowerPoint is just one of many arrows in your teaching quiver. Like any tool it has its pros and cons. We tend to think most teachers misuse PowerPoint. Before explaining why, however, we should give credit where it is due. We have used PowerPoint in the classroom and like it very much for its benefits. PowerPoint slides offer what we often cannot—clear writing that can be seen clearly by all students. It permits us to diagram transactions in advance, saving us time that we would otherwise use in class playing Pictionary on the white board. (Is it a person? A dog? Oh, a corporation!) For these purposes, PowerPoint is wonderfully useful.

But PowerPoint is not flexible. Class discussions have a way of meandering in paths we do not anticipate but very much enjoy. If, while slide 4 is on the screen, a student appropriately raises an issue that is addressed on slide 10, the teacher must either flip rapidly through five slides to get there or take another cumbersome path (right-click the mouse and use the pop-up menu to advance to the desired slide). Then the instructor has to follow the same

process to return back to slide 4 or slide 5. There are worse sins, but this inelegance is awkward and, for those less technically proficient, time-consuming.

Another significant drawback to PowerPoint is its temptation. PowerPoint offers so many bells and whistles—noises, exciting transitions, tons of fonts, loud backgrounds, and more—that new users often feel compelled to test-drive everything in a single presentation. The result is a cacophony of images and text that distracts the viewer. The other temptation is to paste all of the lecture notes onto slides. This results in the speaker simply reading the slides to the class.

A final drawback relates to lighting. PowerPoint often requires dimming lights in the classroom to enhance visibility of the slides. This presents obvious risks for napping or laptop distraction. For this reason, we suggest that when you use PowerPoint you do so only for selected intervals and not for an entire 50- or 90-minute class session.

A recent article by Deborah J. Merritt offers several helpful tips for using PowerPoint, all based on scientific learning theory.<sup>2</sup> Among the better suggestions:

- Use more images and fewer words. Graphics engage the right brain and permit students to see relationships between concepts. Words are already before the students in their casebooks and any handout you may have distributed.
- Use PowerPoint for big pictures and not for details. PowerPoint is great for road maps and checklists. If you want to use PowerPoint for tables, keep the cells blank and have students fill them in through discussion.
- Avoid the sound effects and animations if they are only gimmicks. As Merritt states, “Research suggests that distractions in presentation style

can substantially impair learning. Irrelevant sounds and music, for example, significantly reduce students’ retention of relevant material. Equally important, these embellishments also reduce students’ ability to apply accompanying concepts to new situations. Animations can also reduce learning; several studies find that static diagrams teach more effectively than animations.”<sup>3</sup>

- Stick to plain backgrounds and use text colors with high contrast. Pair white text with dark backgrounds and black text with light backgrounds.

We have some additional tips. First, resist the demand to distribute slides before or after class. Remember, PowerPoint is most effective as a supplement to class discussion, not as another avenue for content. Students would not ask you to make your drawings on the whiteboard available online, so they should not have the need to ask for copies of your slides. There is nothing wrong with converting slides into class handouts that can be distributed in class or online, but students should not be accustomed to getting lecture notes through PowerPoint slides. Second, consider the use of TurningPoint or other “clicker” software that permits students to participate through polling. When students can participate anonymously they will be more willing to do so (and honestly). Finally, never use more than two fonts on one slide. In fact, it is better to use only one font per slide, but occasionally you can get away with one font for the title and another font for any supporting text.

## 6. On Humor

It is critical to be yourself so that students can relate to the real you. We are lucky in that we see the funny side of things and have a knack for making jokes. Used at the right moment, humor can make an effective and memorable point. But if

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<sup>2</sup> See Deborah J. Merritt, *Legal Education in the Age of Cognitive Science and Advanced Classroom Technology*, 14 B.U. J. Sci. & Tech. L. 39 (2008).

<sup>3</sup> *Id.* at 56.

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you are not naturally funny, don't try to be funny in the classroom.

We find that improvisational humor is usually much more successful than scripted humor. The key is to keep your eyes and ears open for moments when a joke might be unfolding before you. When a cell phone starts ringing in class, for example, say something like “if it's for me, tell them I'm in the shower.” You not only add some levity but you also make the point that the distraction should be silenced without coming across like a meanie.

Speaking of being a meanie, humor has this nasty tendency to become cruel and demeaning if used without temperance. There might be humorous moments in class that, if brought to everyone's attention, would embarrass a student. That is the Forbidden Forest. Also taboo are jokes that would take your classroom beyond the PG or PG-13 environment.

Your humor will get you in enough hot water just observing these basic rules—every once in a while someone will take offense at a joke or remark that you felt sure was innocent. One of us was confronted after class by a student for using the phrase “gold digger” to describe one of the actors in a particular case. The student found the term sexist (and this was before the 2005 Kanye West song that may have added more fuel to the term's apparent fire). So you can expect the occasional objection to your humor, but on balance it is worth finding moments of levity in what may otherwise be a time of high anxiety for students.

Striving for spontaneity in humor is a subset of a more general goal: being present in the moment. Showing an awareness of the goings-on in students' lives—be they the temperature of the room, the events of the day, or the latest news on campus—can relieve some of the tedium and angst that tend to lurk in technical courses. Getting one's nose out of the lecture notes and into the classroom aisles and hallways puts a human face on the subject matter, once again exhibiting the care for students that often makes them more susceptible to grasping tough subjects.

#### **Moral**

The high-wire act between too much detail and not enough can be daunting. But stepping back from one's course descriptions, and reimagining them, can be a valuable exercise that ultimately improves one's performance up there. Teaching is a highly creative enterprise; sometimes the best creativity takes place long before day-to-day class preparation begins in earnest.

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