

**THE DONALD G. H. BOWMAN NATIONAL TAX
MOOT RULES**

(2018 – 2019 ACADEMIC YEAR)

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Preamble

The Donald G. H. Bowman National Tax Moot was founded by Professor John Weir of the University of Windsor, Faculty of Law, Dr. Emir Crowne of the University of the West Indies, Mona Campus, Faculty of Law and Timothy Fitzsimmons, former partner at Dentons Canada LLP. It is named in honour of the Honourable Donald G. H. Bowman, former Chief Justice of the Tax Court of Canada.

The Donald G. H. Bowman National Tax Moot is administered by the Tax Moot Committee – a committee of jurists, practitioners and academics. Members of the 2018 – 2019 Tax Moot Committee are:

The Honourable Donald G. H. Bowman, former Chief Justice of the Tax Court of Canada, and former Counsel to Dentons Canada LLP;

The Honourable Chief Justice Eugene Rossiter, Chief Justice of the Tax Court of Canada;

The Honourable Justice David Stratas, Federal Court of Appeal;

Yves St-Cyr, Partner, Dentons Canada LLP & Chair of the Bowman Moot; and

Luc Grenon, Université de Sherbrooke, Faculty of Law.

The Donald G. H. Bowman National Tax Moot is designed to promote advocacy and excellence in the fields of tax law and policy, and to provide participants with the opportunity to interact with jurists of the Ontario, Federal and Supreme Courts and with experienced practitioners of tax law.

The Donald G.H. Bowman National Tax Moot Rules (“**Rules**”) are designed to provide for fair and proper conduct during the competition. Any questions regarding these rules should be directed to the Tax Moot Committee at bowman.moot@dentons.com.

1. **Organization of the Competition**

1.1 **Administration**

- (a) The Donald G. H. Bowman National Tax Moot Competition (“**Competition**”) is presented by the Tax Moot Committee.
- (b) The Preamble shall form part of, and is integral to, a proper interpretation of these Rules.
- (c) Subject to clause (d), the Competition shall take place in the English and/or French languages.
- (d) One or both students (“**Participant**” or “**Participants**”) paired together on an Appellant team or a Respondent team (“**Team**”) may elect to plead orally in English or French. Such election must be indicated on the registration form and submitted by Monday, December 3, 2018. The corresponding section of the Participant’s factum shall be written in the language in which they have elected to plead.

1.2 **Competition Procedures**

1.2.1 The Competition shall consist of three (3) general levels: a Preliminary Round or Rounds, a Semi-Final Round, and a Final Round.

- (a) The Preliminary Round shall be open to all Participants pursuing an LL.B., J.D., B.C.L., or LL.L. degree in Canada, or elsewhere;
- (b) Advancement through the Competition shall be, subject to sub-section 8.6, to the two (2) Appellant Teams and the two (2) Respondent Teams with the highest Total Team Score(s) in the Preliminary Round. These four (4) Teams shall advance to the Semi-Final Round. To the Appellant Team and the Respondent Team with the highest Raw Score – Oral and the highest Total Team Score(s) in the Preliminary Round. These two (2) Teams shall advance to the Final Round; and
- (c) In the event of a tie pursuant to clause (b) (“**Tied Teams**”), then the Team with the highest Raw Score – Factum (among those Tied Teams) shall advance, and be deemed to have broken said tie.

1.2.2 The Competition shall consist of a written problem in the area of Tax Law (the “**Moot Problem**”).

1.2.3 Each Team shall draft a written factum (pursuant to section 6).

1.2.4 Each Team shall make one (or a series) of oral arguments during the Competition.

1.2.5 Each Team shall act as either the Appellant or the Respondent.

1.3 **Implementation and Interpretation of Rules**

The Tax Moot Committee shall serve as the final arbiter for the implementation and interpretation of these Rules.

2. Participation and Eligibility

2.1 Team Eligibility

All students registered in an LL.B., J.D., B.C.L., or LL.L. program in Canada, or elsewhere, are eligible to participate in the Competition (hereinafter, for convenience, the “**Law School**”).

A team shall consist of four (4) students from one Law School - two (2) students paired together as the Appellant Team and two (2) students paired together as the Respondent Team (“**Law School Contingent**”).

Each Law School participating in the Competition shall enter at least one Law School Contingent and may enter up to two (2) Law School Contingents.

Except as provided for in sub-section 2.5:

- (a) Each Participant shall either represent the Appellant Team, or a Respondent Team; and
- (b) No Participant shall be allowed to argue, or switch between, Appellant and Respondent Teams; or among Law School Contingents.

2.2 Team Composition and Selection

2.2.1 Each Team shall be composed of two (2) Participants. Participants must form their own Teams and be from the same Law School in accordance with sub-section 2.1.

2.2.2 At the discretion of the Tax Moot Committee, each Team shall be assigned a number (the “**Team Number**”) by the Tax Moot Committee. Subject to 2.2.4, Teams shall use only their Team Numbers for identification purposes during the Competition.

2.2.3 Subject to 2.2.4, no Team should reveal their Law School affiliation, at any time during the Competition. For greater clarity, Teams that directly, or indirectly, reveal their Law School affiliation by stating their geographic origin during the Competition may be deemed to be in violation of this rule. In the interests of fairness to other Teams or Participants, any Team or Participant who violates this rule may face immediate expulsion from the Competition.

2.2.4 For the purposes of this sub-section, the phrase “during the Competition” shall mean the competitive aspects of the Competition (including preparation time and oral arguments). Social events, dinners, receptions and like venues are thereby excluded from its ambit.

2.3 Outside Assistance to Teams

Subject to sub-sections 2.4, 2.5 and 2.6, all research, writing and editing must be the work product of the Team and no one else.

2.4 Assistance from Faculty Members, Coaches and Advisors

Outside assistance rendered to a Team in the preparation of its case by faculty members, sessional lecturers, practitioners, or other members of legal community, shall be limited to a general discussion of the issues, suggestions as to research sources, and consultations regarding oral advocacy technique. Assistance shall be limited to general commentary on argument organization and structure, the flow of arguments, and format.

2.5 Assistance from Other Students

Notwithstanding sub-section 2.4, each Law School Contingent may also utilize an additional student Participant (the "**Additional Participant**") from its Law School. Except for oral arguments on the day(s) of the Competition, the Additional Participant is permitted to perform any of the other activities that other Participants on the Team may be engaged in, including research, peer coaching, and/or factum writing.

The Additional Participant may only engage in oral arguments on the day(s) of the Competition where a Participant on the Law School Contingent, acting in good faith, is unavailable due to some force majeure. Upon the occurrence of said force majeure, the name of the Additional Participant must be revealed to the Tax Moot Committee, in writing, as soon as reasonably possible, having regard to the circumstances. The nature of the force majeure must also be documented, if reasonably possible, having regard to the circumstances.

2.6 Assistance from Librarians and Other Research Professionals

Assistance from librarians, computer research advisors, and other legal resource specialists in preparing the Factum, and any other materials, shall be limited to answering specific questions regarding the location of legal sources or general legal research methods.

2.7 Use of Opposing Team's Facta

Subject to sub-sections 2.8, 7.11 and 7.12, no Team shall be allowed to view or otherwise become privy to any factum other than the respective Appellant and Respondent facta of scheduled opposing Team(s).

2.8 Use of own Law School Contingent's Facta

Each Law School Contingent is permitted to view or otherwise become privy to the factum of that particular Law School Contingent's Appellant and/or Respondent factum in its preparation for the Competition.

Where a Law School is sending two (2) Law School Contingents, then each Law School Contingent from that particular Law School is permitted to view or otherwise become privy to the Appellant and/or Respondent factum of its other Law School Contingent in its preparation for the Competition.

2.9 Withdrawal from the Competition

Given that each Appellant Team in the Competition is reliant upon the production of a factum and presentation of oral arguments by its opposing Respondent Team and vice-versa, and but for extenuating circumstances, it is essential that Participants be unable to withdraw from the Competition following the final date of registration.

Any requests for withdrawal from the Competition after the final registration date shall be subject to the discretion of the Tax Moot Committee and may result in an ethical violation.

2.10 Ethical Violations

An ethical violation may result where any Team or Participant acts contrary to the spirit and content of the Rules. Any incidents or allegations of ethical violations shall be referred to the Tax Moot Committee. Such violations may result in elimination from the Competition in the current year or in future years, or any other penalty the Tax Moot Committee deems appropriate.

3. Factum Markers

3.1 Selection of Factum Markers and Marking of Facta

- (a) Factum markers shall consist solely of Tax Moot Committee members or delegated non-members of the Tax Moot Committee who are not students ("**Factum Markers**").
- (b) A Factum Marker shall not act as a Judge.
- (c) Each factum shall be reviewed and graded by two (2) Factum Markers.
- (d) In urgent or unusual circumstances, a factum may be reviewed and graded by one (1) Factum Marker at the discretion of the Chair.
- (e) All Factum Markers shall act objectively and fairly, and shall maintain the integrity of the Competition at all times.

3.2 Factum Markers Affiliated with Mooters

- (a) Factum Markers must disqualify themselves from judging a Team:
 - (i) if they have a personal or professional relationship with someone affiliated with that Team; and
 - (ii) if that relationship might jeopardize their impartiality, or has a reasonable potential to create bias or impropriety.
- (b) Factum Markers should not disqualify themselves from judging a Team merely because they have an acquaintance with a Team member.

3.3 Commentary by Factum Markers

- (a) Factum Markers shall not provide any Participant with direct feedback. Factum Markers shall not reveal to any Participant the results of their individual determinations or the Participant's scoring. All Factum Markers are under a strict obligation of confidence to Participants, and others.
- (b) All written comments of Factum Markers must be made in good faith, in a professional and constructive manner.
- (c) Where available, the comments described in 3.3(b) will be released at the conclusion of the Competition or a reasonable time thereafter.

4. Judges

4.1 Judging Panels and Selection of Judges

- (a) The Judging panels shall consist of a mix of practitioners, tax professionals, professors and judicial judges (altogether, “**Judges**”). A panel of at least three (3) judges shall be utilized whenever possible for the Preliminary Rounds. Panels of three (3) judges shall be used to judge the Semi-Final Round and Final Round of the Competition. Deviations from the three (3) judge panel for the Preliminary Rounds shall be approved by the Tax Moot Committee, or the Chair in urgent or unusual circumstances.
- (b) In constituting the Judging panels, priority will be given to judicial judges. As such, some Judging panels may be constituted with more than one judicial judge, even where there are professors or practitioners available.

4.2 Judges Affiliated with Mooters

- (a) Judges shall disqualify themselves from judging a Team:
 - (i) if they have a personal or professional relationship with someone affiliated with that Team; and
 - (ii) if that relationship might jeopardize their impartiality, or has a reasonable potential to create bias or impropriety.
- (b) Judges should not disqualify themselves from judging a round merely because they have an acquaintance with a Team member.

4.3 Commentary by Judges

Judges in either the Preliminary Round, the Semi-Final Round or Final Round of the Competition may provide direct feedback (whether written or verbal) to Participants regarding their performance at the completion of the Moot or at a time shortly thereafter.

(4.3 bis) Time

Having regard to the timely and efficient running of the Competition, the total amount of time that may be devoted to verbal feedback from all Judges on any given panel during the Competition shall be five (5) minutes per Team.

During the Competition Judging panels should refrain from giving feedback about the merits of the Moot Problem, as this may create an inequity among Participants.

5. The Moot Problem

5.1 Drafting of Moot Problem

The Moot Problem will be drafted by a non-student member of the Tax Moot Committee. The Tax Moot Committee may invite persons outside of the Tax Moot Committee to help draft the Moot Problem, as needed.

5.2 Questions of Clarification

- (a) Questions of clarification regarding the Moot Problem must be submitted to the Tax Moot Committee in writing by Monday, December 3, 2018.
- (b) Questions cannot relate to the substantive legal issues (or sub-issues), raised by the Moot Problem.
- (c) In the Tax Moot Committee's sole discretion, any question which violates clause (b) may not be answered.

6. Facta

6.1 General Requirements and Submission of Facta

- (a) All facta must conform to the requirements set out in this section. Teams will be penalized for failure to abide by these requirements.
- (b) Once submitted to the Competition, facta may not be altered in any way.
- (c) Once submitted, all rights in and to the facta will become the property of the Tax Moot Committee. The Tax Moot Committee may seek to have the winning facta published in a legal journal or published on the Competition website or distributed electronically or in print for future Competition years. Subject to any other editorial and publication requirements of the journal in question, authors of the winning facta may be allowed a short period of time to correct mistakes and make revisions prior to any publication.

6.2 Format of Factum

- (a) The factum must be typed and submitted on white, standard letter size paper (8.5 by 11 inches).
- (b) The font and size of the text of all parts of the factum excluding the footnotes, must be the same and must be Times New Roman, 12-point.
- (c) The font and the size of the text of all parts of the footnote must be Times New Roman, 10-point.
- (d) The text of all parts of each factum must be double-spaced, except for the text of footnotes and headings which may be single-spaced, but there must be double-spacing between each heading and the body-text of the factum.
- (e) Quotations to sources of fifty (50) words or more in any part of the factum shall be block quoted (i.e. right and left indented 0.5 inch from preceding text) and must be single-spaced.
- (f) Each page of the factum shall have margins of at least one (1) inch, or two point five four (2.54) centimetres, on all sides, excluding page numbers.
- (g) The paper copy of a factum shall be bound and shall have
 - (i) in the case of the Appellant Team's factum, a **beige** cover; and
 - (ii) in the case of the Respondent Team's factum, a **green** cover.

6.3 Parts of the Factum

The factum shall consist of the following parts:

Overview;
Statement of Facts;
Points in Issue;
Arguments in Brief;
Order Requested;
Table of Authorities; and
Appendices (if any).

6.4 Citation

Each factum shall adhere to the most current edition of the *Canadian Guide to Uniform Legal Citation*.

6.5 Length

The entire factum (excluding the cover page, table of authorities, and appendices) shall not exceed twenty (20) pages.

6.6 Cover

Each factum should bear on its cover the following, and only the following:

- (a) the Team Number;
- (b) the name of the court (i.e. the Supreme Moot Court for Tax Appeals);
- (c) the appropriate style of cause;
- (d) the year of the Competition;
- (e) a one sentence summary of the Moot Problem (e.g. "Appeal concerning the General Anti-Avoidance Rule"); and
- (f) the title of the document (i.e. "Factum for Respondent" or "Factum for Appellant").

6.7 Number of Facta

- (a) One (1) electronic copy of each Team's factum must also be submitted to the Tax Moot Committee, in a Word document, at bowman.moot@dentons.com; and
- (b) In accordance with clause 6.2(g), within two (2) business days of electronic submission, each Team must submit ten (10) copies of their factum to the Tax Moot Committee at the following postal address, during business hours (9 am to 5 pm):

Yves St-Cyr
Chair of the Donald G. H. Bowman Moot
Dentons Canada LLP
Suite 400, 77 King Street West
Toronto, ON M5K 0A1

6.8 Submission of Facta

- (a) In accordance with 2.2.2, Team Numbers shall be assigned by Monday, January 21, 2019.
- (b) Pursuant to sub-section 6.7, all Appellant facta must be received at that e-mail address by 5:00 pm on Monday, January 28, 2019 and at that postal address within two (2) business days of that date. Appellant Teams should request a 'delivery receipt' or similar delivery confirmation for their facta – both electronic, and hard-copy – as proof of successful delivery. In the event of a dispute or query, the facta will be deemed 'received' upon such proof of successful delivery.
- (c) The Tax Moot Committee will determine Team pairings (i.e. Appellant Team versus Respondent Team) for the initial oral argument(s) during the Preliminary Round, on a random basis, except that the selection process will be conducted with a view to excluding Team pairings from the same Law School Contingent.
- (d) Following the draw, and as soon as reasonably possible after the Appellant facta are received (but before the Respondent facta is due), the Tax Moot Committee will forward the Appellant's factum to that particular Respondent they will be opposing in the initial oral argument(s) during the Preliminary Round.
- (e) Pursuant to sub-section 6.7, the Respondent's facta must be received at that e-mail address by 5:00 pm on Monday, February 11, 2019 and at that postal address within two (2) business days of that date. Respondent Teams should request a 'delivery receipt' or similar delivery confirmation for their facta – both electronic, and hard-copy – as proof of successful delivery. In the event of a dispute or query, the facta will be deemed 'received' upon such proof of successful delivery.

6.9 Translation of Facta

The Competition does not provide translations for facta. It is the Participant's responsibility to arrange for translation of their opposing Team's factum.

7. Oral Argument - Procedures

7.1 General Procedures

- (a) Each Team's oral argument shall last for thirty (30) minutes.
- (b) Subject to clause (c), each Participant shall be expected to prepare fifteen (15) minute oral presentation.
- (c) The Appellant shall be permitted an optional three (3) minute reply submission following the conclusion of the Respondent Team's (i.e. both Participants) submissions (the "**Reply Submission**").

7.2 Extension of Time at Judges' Discretion

- (a) Judges may, at their discretion, extend individual oral argument beyond the fifteen (15) minute allocation, up to an additional two (2) minutes per Participant ("**Additional Time**").
- (b) Participants who are permitted this Additional Time are expected to utilize such time to either answer a Judge's question(s) or conclude their submissions.

- (c) In the spirit of the Competition, and in the interest of allowing each Participant an equal amount of time to present their argument, Judges are strongly encouraged to allow each Participant a similar amount of time for oral argument, consistent with these Rules.
- (d) No Additional Time is permitted for the Reply Submission.

7.3 Oral Argument

The order of the oral argument for the Preliminary Round, the Semi-Final Round and Final Round of the Competition shall be:

Appellant 1 > Appellant 2 > Respondent 1 > Respondent 2 > Optional Reply Submission from either Appellant 1 or Appellant 2.

7.4 Scope of Oral Argument

A Team's oral argument must be limited to the scope of that Team's factum. A Team may expand upon issues raised in their factum, but the oral arguments must still relate to the written submissions found in the factum.

7.5 Ex Parte Procedure

- (a) In extreme circumstances, such as when a Team fails to appear for a scheduled oral argument, the Chair for the Moot, after waiting ten (10) minutes, may allow the oral argument to proceed ex parte.
- (b) In an ex parte proceeding, the attending Team presents its oral pleading, which is scored by the Judge(s) to the extent possible as if the absent Team had been present and arguing.
- (c) At the discretion of the Chair or the Tax Moot Committee they may schedule an additional ex parte proceeding for the absent Team later in the Competition, if time, administrative concerns, and fairness to other Teams permit, otherwise the absent Team forfeits the Competition.

7.6 Oral Courtroom Communication and Activity at Counsel Table

- (a) Every courtesy shall be given to oralists during oral argument. Subject to sub-section 7.7, communication at the counsel table shall be in writing as to prevent disruption, and Teams shall avoid all unnecessary noise, outbursts, or other inappropriate behaviour which distracts from the argument in progress.
- (b) Any violation of clause (a) may be taken into account by the Judge(s) in determining their final score(s).

7.7 Written Courtroom Communication

- (a) Written communication during oral arguments shall be limited to
 - (i) written communication between a Team's members seated at the counsel table; and

- (ii) a Team member at counsel table handing an unmarked document to an oralist when that oralist has been questioned about such document during the course of his or her argument.
- (b) No other written communication may take place among the oralists, Team members seated at counsel table, or spectators.

7.8 Use of Electronic Devices

- (a) Subject to clause (b), a Participant may, during oral argument, refer to notes contained on a portable electronic device (such as a tablet or laptop), or use such portable electronic device to take notes.
- (b) The use of portable electronic devices (such as phones, tablets and laptops) in a courtroom for the purposes of any form of wireless electronic communication, by a spectator or Participant, is strictly prohibited.

7.9 Spectators

Subject to sub-section 7.10, and the availability of space, the Competition is open to the public.

7.10 Scouting

No Participant, including an Additional Participant, may attend any oral argument other than those in which their Team is competing until completion of the Team's oral argument, or series of oral arguments.

7.11 Audio and Videotaping

The Tax Moot Committee reserves all rights to the audio and videotaping, or any other form of aural or visual reproduction, of any oral argument, or part thereof.

Pursuant to the registration details of the Competition, all Participants have consented to the taping and broadcasting of their oral argument(s), and waived any moral rights in that regard.

7.12 Written Materials

Pursuant to the registration details of the Competition, all Teams participating have consented to the publication of their facta on the Competition website, or distribution of such facta in print or electronically. Pursuant to the registration details of the Competition, all moral rights in such facta have been waived.

8. Competition Scoring

8.1 Preliminary Round(s)

- 8.1.1 Subject to 1.2.1(b), scoring shall consist of two parts: (1) the scoring of the written facta (the "**Raw Score – Factum**"), and (2) the scoring of the oral arguments (the "**Raw Score – Oral**").
- 8.1.2 All facta shall be reviewed and assigned a score by each Factum Marker on a total of 20 points in accordance with the "Marking Guide – Factum" attached as appendix "A".

- 8.1.3 Each Judge shall assign each oralist a score on a total of 40 points in accordance with the "Marking Guide – Oral Presentation" attached as appendix "B".

8.2 Raw Scores

Subject to section 9, the calculation of Raw Scores shall be subject to the deduction of Penalty Points.

8.3 Raw Score – Factum

- (a) The calculation of the Raw Score – Factum for each Team shall be determined:
- (i) by the Factum Marker's score for that factum, if a single person; or
 - (ii) by averaging the Factum Markers' scores (if there is more than one Factum Marker, pursuant to section 3 for that factum.
- (b) The top factum will be decided based on the Raw Score – Factum. In the event of a tie, then the Total Team Score (pursuant to sub-section 8.5) shall be used to break that tie.

8.4 Raw Score – Oral

- (a) The calculation of the Raw Score – Oral for each Participant shall be determined by averaging the Judges' Oral Presentation scores for that Participant.
- (b) The top oralist will be decided based on the Raw Score – Oral. In the event of a tie, then the Total Team Score (pursuant to sub-section 8.5) shall be used to break that tie.

8.5 Total Team Score

The Total Team Score shall be the "Raw Score – Factum" added to the "Raw Score – Oral" for each Participant of the Team during the Preliminary Rounds, and therefore expressed as a number out of 100.

8.6 Semi-Final Round

- (a) A determination of the Teams that will enter the Semi-Final Round shall be based on a determination of the top two (2) Appellant Teams and top two (2) Respondent Teams as determined by a calculation of the cumulative Total Team Score from the Preliminary Round.
- (b) Where a Law School has two (2) Law School Contingents only a maximum of one (1) Appellant Team and one (1) Respondent Team shall advance to the Semi-Final round – i.e., the Appellant Team with the highest cumulative Total Team Score and the Respondent Team with the highest cumulative Total Team Score.
- (c) The Appellant Team and the Respondent Team with the highest:
- (i) Raw Score – Oral in the Semi-Final Round; and
 - (ii) Total Team Score(s) in the Preliminary Round shall then advance to the Final Round.

8.7 Final Round

The winning Team for the Competition shall be determined during the Final Round. The winning Team shall be determined solely on the basis of the Raw Score – Oral during the Final Round.

In the event of a tie among the Teams in the Final Round, then the Raw Score – Factum shall be used to break said tie.

8.8 Release of Scores

Total Team Scores shall be released and made available to the Participants as soon as practicable following the completion of the Competition.

9. Penalties

9.1 General Procedure

The following is a list of Penalties which may be imposed by the Tax Moot Committee upon Participants in the Competition.

9.2 Application of Penalties

All Penalties apply against each raw score, e.g. a Penalty of one (1) point shall be applied to the score that each Marker or each Judge (as applicable) would have given that particular factum or oral pleading.

9.3 Non-Discretionary Penalties

- (a) For the following violations, Penalties may be assessed as a matter of course, without discretion on the part of the Committee, except in rare or extenuating circumstances, or where the application of a non-discretionary penalty would lead to injustice or absurdity, the Chair or the Tax Moot Committee may waive or lessen the severity of a penalty.
- (b) **Non-Discretionary Factum Penalties** - the following Penalties may be imposed only by the Tax Moot Committee and may be deducted from each of the individual scores on a Team's factum. The Tax Moot Committee shall notify all affected Teams of imposed Penalties prior to the Preliminary Round.
 - (i) **Tardiness in Submitting Facta** – to ensure an equitable distribution of preparation time between Appellants and Respondents, it is essential that all facta be submitted on time. As such, any factum received by Tax Moot Committee following the designated submission time shall be subject to a three (3) point penalty per day.
 - (ii) **Other Non-Discretionary Factum Penalties** – penalties shall be assessed for violations of other Rules concerning the facta by reference to the following list:
 - (A) Violation of 2.2.2 (indication of Team identity in factum) – 3 points;
 - (B) Violation of sub-section 6.2 (Format of Factum) – 1 point per type of violation;

- (C) Violation of sub-section 6.5 (Length) – 2 points per page (or part thereof) over the specified limit;
- (D) Violation of sub-section 6.6 (Cover) – 1 point per type of violation; and
- (E) Violation of sub-section 6.7 (Number of Facta) – 2 points per facta not submitted.

9.4 Discretionary Penalties

- (a) Aside from sub-section 9.3, the Committee may assess up to three (3) point Penalties for violations of the following:
 - (i) revisions to the form and substance of the facta, other than as permitted under these Rules; and
 - (ii) inappropriate behaviour of Participants during the Competition.
- (b) The size of the Penalty shall correspond to the degree of the violation in the judgment of the Tax Moot Committee. Discretionary Penalties shall be imposed only by the Tax Moot Committee.
- (c) Participants may bring potential violations to the attention of the Tax Moot Committee, in writing.

9.5 Notice to Teams

The Tax Moot Committee may notify Teams of the imposition of such Penalties prior to the beginning of the Preliminary Round, if possible; or as soon as practicable if incurred after the beginning of the Preliminary Round or if discovered pursuant to clause 9.4(c).

10. Interpretation of Rules

10.1 General

Questions concerning the interpretation of these Rules must be submitted to the Tax Moot Committee in writing. Factum Markers, Judges and Competition volunteers are not authorized to interpret these Rules. Where time is of the essence, or if in the best interests of the Competition, the Chair shall make any decision that is ordinarily subject to referral or approval of the Tax Moot Committee.

10.2 *De Minimis* Rule

When the impact of an alleged violation of these Rules is so insignificant as to be determined by Tax Moot Committee, or the Chair, to be *de minimis*, the Tax Moot Committee, or the Chair, may waive the Penalty. Any *de minimis* exception shall be applied evenly to all Teams, to the extent that such an exception reasonably extends to all Teams.

10.3 Power to Promulgate Additional Measures

The Tax Moot Committee may promulgate such other measures as may be deemed advisable for the orderly conduct, quality, integrity and reputation of the Competition or to correct deficiencies

in the Competition. Modifications shall not violate the spirit of these Rules or the best interests of the Competition.

APPENDIX A
BOWMAN MOOT FACTUM MARKING GUIDE

Team Names: _____

Team #: _____

1. Stylistic Considerations

- Were proper sentence and paragraph structure and sequence used?
- Did the factum contain grammatical or spelling errors?
- Was the language clear and comprehensible (effective use of “plain language” principles)?

SCORE: /4 POINTS

COMMENTS (IF ANY)

2. Authorities and Citations

- Were sufficient and proper legal citations applied consistently throughout?
- Did Counsel rely on appropriate and strong authorities?
- Was a sufficiently broad range of authorities cited?

SCORE: /4 POINTS

COMMENTS (IF ANY)

3. Organization of Issues

- Was there a clear and correct statement of the facts and issues?
- Were the issues organized and did they flow in a logical order?
- Were the issues discretely divided or were they convoluted?
- Was there appropriate use of sub-headings, etc.?

SCORE: /4 POINTS

COMMENTS (IF ANY)

4. Development of Arguments

- Were the arguments presented in a persuasive and compelling manner?
- Did Counsel apply the correct substantive law in crafting legal arguments?
- Was appropriate weight given to each issue with a focus on Counsel's strongest arguments or were there unnecessary arguments?
- Did Counsel effectively apply the law to the facts?
- Were the arguments creative and/or original or was it merely a restatement of the lower court decisions?

SCORE: /8 POINTS

COMMENTS (IF ANY)

TOTAL – FACTUM: ____/20

APPENDIX B
BOWMAN MOOT MARKING GUIDE – ORAL PRESENTATION

Presenter: _____

Date/Time/Room: _____

Team #: _____

1. Speaking Ability and Delivery:

- Did Counsel address the bench and opposing Counsel appropriately?
- Did Counsel interrupt the bench?
- Did Counsel display appropriate court etiquette in general?
- Did Counsel make eye contact with the bench?
- Did Counsel maintain composure under stress?
- Did Counsel employ appropriate speed and tone in his or her submissions?
- Was Counsel able to speak from memory or a brief outline or was Counsel reading his or her submissions?

SCORE: /7 POINTS

COMMENTS (IF ANY)

2. Organization of Arguments:

- Did counsel provide an introduction or ‘road map’?
- Were the arguments organized in a logical sequence?
- Did Counsel sufficiently integrate oral arguments with written arguments?
- Did Counsel conclude with a concise and effective summary of the arguments?

SCORE: /7 POINTS

COMMENTS (IF ANY)

3. Questions from the Bench:

- Was Counsel adequately prepared to answer questions from the bench?
- Did Counsel address the issue or were answers evasive?
- Were questions handled properly and did Counsel re-direct the Court's attention back to the issues effectively?
- Did Counsel make concessions where appropriate and in an effective manner?

SCORE: /16 POINTS

COMMENTS (IF ANY)

4. Preparation & Development of the Arguments:

- Was Counsel sufficiently familiar with the issues?
- Were the arguments developed in a persuasive manner?
- Were concessions made only where necessary and in the proper manner?
- Did Counsel efficiently allocate time among the arguments with a focus on the strongest arguments?
- Was effective use made of the best authorities and the best policy arguments?
- Did Counsel sufficient integrate the facts into his or her arguments?
- Did Counsel address and appropriately dispose of opposing Counsel's arguments?

SCORE: /10 POINTS

COMMENTS (IF ANY)

TOTAL – ORAL PRESENTATION: _____/40