

PROMOTION RECOMMENDATION
The University of Michigan
Law School

Edward Fox, assistant professor of law, Law School, is recommended for promotion to professor of law, with tenure, Law School.

Academic Degrees

Ph.D., Economics	2018	The University of Michigan, Ann Arbor, MI
J.D.	2015	Yale Law School, New Haven, CT
A.B., <i>magna cum laude</i>	2007	Columbia University, New York, NY

Professional Record

2017-18	Fellow, Center for Law, Economics, and Organization, New York University
2018-present	Assistant Professor, Law School, the University of Michigan

Summary of Evaluation

Teaching: Professor Fox has taught Taxation of Individual Income, which is the core introductory course in the taxation curriculum; Enterprise Organization, which is the core introductory course in the curriculum on corporate law; and a seminar on issues in tax policy. He is a beloved teacher. In the majority of classes that he has taught, his average rating on the CRLT evaluation question that asks students to rate the overall quality of the instructor has been 4.9 or 5.0 on a five-point scale. Students praise him highly. One volunteered that the class she took with Professor Fox was “the best class [I]’ve ever taken in law school, and that is because Professor Fox is one of the most brilliant, prepared, humble teachers I’ve ever had.” Another said that Professor Fox “is one of the best professors I have had at Michigan—probably top 3 (given that I am a 3L who has taken courses with some of the legends, that is saying something).” Many students especially praise Professor Fox’s interpersonal manner: One student wrote that “Ed Fox...treated each and every student with the utmost respect.” The students also report that the intellectual payoff of his teaching is high. One extremely successful student told a former teacher that he had taken Professor Fox’s introductory taxation course despite not being terribly interested in the material and, that having done so, he would now want to take any course that Fox offered on any topic, because he could be confident that he’d learn a great deal.

Research: Professor Fox’s scholarship is important and wide-ranging, having already made contributions to two distinct and important fields within legal scholarship: taxation and corporate law. Much of Professor Fox’s work deploys his skills as an empirical economist to discern the real-world effects of given legal regimes and then to make recommendations for improvement. Within the tax field, Professor Fox has written on the incidence of corporate taxation, the psychology and consequent politics of not taxing investment gains until assets are sold, the relationship between taxation and marriage, and, in a trans-substantive vein, the pervasive issue of when taxes should be assessed with “sliding scales” as opposed to bright-line rules. Within corporate law, Professor Fox has made important contributions to the literature on the regulation of actively-managed investment portfolios as well as the literature on the “Delaware effect,” i.e., the consequences for corporate value that follow from incorporating in the U.S. state where a vastly disproportionate number of U.S. firms are in fact incorporated. These are core topics in two important fields.

Recent and Significant Scholarship:

- Do Taxes Affect Marriage? Lessons from History, *American Law and Economics Review* (forthcoming)
- The Psychology of Taxing Capital Income: Evidence from a Survey Experiment on the Realization Rule (with Zachary Liscow) 213 *Journal of Public Economics* 104714 (2022)
- No New Tax Cuts? Examining the Rescue Plan's New State Tax Limits (with Conor Clarke) 103 *Tax Notes State* 1361 (2022)
- Does Capital Bear the U.S. Corporate Tax After All? New Evidence from Corporate Tax Returns, 17 *Journal of Empirical Legal Studies* 71 (2020)
- A Case for Higher Corporate Tax Rates (with Zachary Liscow) 167 *Tax Notes* 2021 (2020)
- Sharp Lines and Sliding Scales in Tax Law (with Jacob Goldin), 73 *Tax Law Review* 237 (2020)
- Is There a Delaware Effect for Controlled Firms?, 23 *University of Pennsylvania Business Law Journal* 1 (2020)
- Alpha Duties: Excess Returns and the Evolution of Fiduciary Duties, (with Ian Ayres) 97 *Texas Law Review* 445 (2019)
- Strengthening the Passivity Default, 44 *American College of Trust and Estate Counsel Law Journal* 289 (2019) (with Ian Ayres)

Service: Professor Fox has an admirable record of service. During his time on the law faculty, he has served on the Alumni Academic Placement Committee, the Technology Committee, the Academic Standards Committee, and the Intellectual Community Committee. The senior faculty members who chaired these committees have high praise for Fox's contribution. One describes Professor Fox as "an ideal committee service member." Another describes him as "extremely helpful, really essential, in the work of the committee." Professor Fox has also served on the program committees of the Conference on Empirical Legal Studies and the annual meeting of the National Tax Association. Although not a member of the University of Michigan's Department of Economics, Professor Fox has also made contributions to that unit, including by serving on a Ph.D. committee.

External Reviewers

Reviewer A: "Professor Fox is a leading figure among emerging scholars at the intersection of tax law, public finance, and the economic analysis of law. In my view, his work clearly warrants promotion and tenure at any leading law school, including [my institution]."

Reviewer B: "Professor Fox has gained recognition as an innovative and insightful scholar.... [His] articles meaningfully enhance the scholarly and regulatory discourse around investment law, corporate law, fiduciary duty law, and the enduring question related to the impact of...law."

Reviewer C: "I strongly support the promotion of Professor Fox.... He is a superb scholar! ... I do not doubt that Professor Fox would have gotten a tenure appointment at [my institution]."

Reviewer D: "I consider Professor Fox one of the leading young scholars of academic tax law in his generation and would support him for promotion with tenure were he an internal candidate at [my institution]. Professor Fox combines highly impressive empirical skills with the ability to take on theoretical work as well.... I do very much look forward to reading Professor Fox's future scholarship."

Reviewer E: "Professor Fox's article entitled *Alpha Duties: The Search for Excess Returns and Appropriate Fiduciary Duties* is interesting, useful, and very well executed. I think it is an excellent

piece of work.... From legal and economic perspectives, in my view, this is an excellent piece of work and should have a tangible impact on the regulation of investment advisors.”

Reviewer F: “The three pieces I read were uniformly excellent, as well as varied in approach and subject matter. Professor Fox has an impressive command of economic modelling, survey methodology, legal analysis, and basic communication. In short, he has a range of skills that few academics have. Moreover, he has a good eye for interesting and relevant topics.... All in all, I can only conclude that the University of Michigan is lucky to have him. He would meet the standard for tenure at any law school in the country.”

Reviewer G: “[Professor Fox] easily meets the tenure standard for scholarship that one would expect a school of Michigan’s quality to apply (and that [my institution] would apply). He is doing important and valuable work that is rightly gathering positive critical attention, and that places him among the national leaders in his generational cohort.”

Reviewer H: “My bottom line is that these papers show great promise, even if the execution still shows limitations. Importantly, the limitations are of a kind that Fox will likely overcome as he matures. Assuming he has three or four more papers of similar quality in his portfolio, I believe he merits tenure at a top law school.”

Reviewer I: “[T]hese articles show unmistakable evidence of scholarly achievement well above the level required for tenure at any of the nation’s best law schools.... If Fox continues producing work like this, the tax field will benefit greatly from his research. The University of Michigan should be proud to have him as a member of its faculty.”

Reviewer J: “Edward Fox has produced very high-quality tax scholarship, and in impressive quantity. In my mind, he has more than satisfied the standard for tenure at even the most demanding American law schools.”

Summary of Recommendation

Professor Fox is a deeply valuable member of our faculty. He has written excellent scholarship in multiple areas of the law. He is a beloved teacher who teaches courses of central importance to the curriculum. He admirably discharges his service responsibilities as a citizen of the institution and of the wider profession. With the enthusiastic support of the Law School faculty, I am pleased to recommend Edward Fox for promotion to professor of law, with tenure, Law School.



Mark D. West
David A. Breach Dean of Law
Nippon Life Professor of Law
Law School

May 2023