

# 東吳大學 112 學年度碩士班研究生招生考試試題

第1頁，共2頁

系級	法律學系碩士班 F 組(財稅法)	考試時間	100 分鐘
科目	法學英文	本科總分	100 分

※一律作答於答案卷上(題上作答不予計分)；並務必標明題號，依序作答。

## I. Translation (English to Chinese) (30%)

1. Writs of Mandamus
2. Appellate Jurisdiction
3. Non-Delegation Doctrine
4. Affirmative Action
5. The Counter-Majoritarian Difficulty
6. Justiciability
7. Ripeness
8. Mootness
9. Viewpoint Discrimination
10. Gerrymandering
11. Racial Animus
12. Preemption Doctrine
13. Federalism
14. The Articles of Confederation
15. Per Se Unconstitutional

## II. Translation (Chinese to English) (20%)

1. 實質性正當程序
2. 寒蟬效應
3. 商業條款
4. 課責性
5. 公共論壇
6. 明確性原則
7. 嚴格審查
8. 象徵性言論
9. 迫切性政府利益
10. 不同意見書

# 東吳大學 112 學年度碩士班研究生招生考試試題

第2頁，共2頁

系級	法律學系碩士班 F 組(財稅法)	考試時間	100 分鐘
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### III. World Choice: Pick from the following words to fill the blanks (20%)

{judgment, what the law is, orientation, conscience, what it should be, substantive, culture, traditions, celebrate, commitment }

Under the Constitution, judges have power to say \_\_\_ 1 \_\_\_, not \_\_\_ 2 \_\_\_. The people who ratified the Constitution authorized courts to exercise “neither Force nor Will, but merely \_\_\_ 3 \_\_\_”. This Court has interpreted the Due Process Clause to include a “ \_\_\_ 4 \_\_\_” component that protects certain liberty interests against state deprivation “no matter what process is provided.” The theory is that some liberties are “so rooted in the \_\_\_ 5 \_\_\_ and \_\_\_ 6 \_\_\_ of our people as to be ranked as fundamental,” and therefore cannot be deprived without compelling justification.

And a State’s decision to maintain the meaning of marriage that has persisted in every \_\_\_ 7 \_\_\_ throughout human history can hardly be called irrational.

If you are among the many Americans – of whatever sexual \_\_\_ 8 \_\_\_ – who favor expanding same-sex marriage, by all means celebrate today's decision. Celebrate the achievement of a desired goal. Celebrate the opportunity for a new expression of \_\_\_ 9 \_\_\_ to a partner. Celebrate the availability of new benefits. But do not \_\_\_ 10 \_\_\_ the Constitution. It had nothing to do with it.

### IV. Translation (English to Chinese) (30%)

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall... hold unlawful and set aside agency action, findings, and conclusions found to be

- (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (B) contrary to constitutional right, power, privilege, or immunity;
- (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
- (D) without observance of procedure required by law;
- (E) unsupported by substantial evidence in a case...

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.