

SETON HALL UNIVERSITY SCHOOL OF LAW

FEDERAL INCOME TAXATION

Fall 2007

Professor Coleman

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Office Hours: Thursdays 4:00-6:00 or by appointment

Course Objectives

This course is a basic survey of federal income taxation. It is designed to be useful to both students who intend to practice tax law and students who want to stay as far away from the practice of tax law as possible. (Ideally, the course will also shift at least some of you from the latter group to the former.)

By the end of this course, you should be able to

- Understand and apply basic tax law concepts
- See how specific doctrinal questions fit into the “big picture” of tax law and policy
- Critically evaluate proposed changes to the tax system
- Work with a lengthy and complex statute and understand the relationship between statutes, regulations, other pronouncements by administrative agencies, and court decisions
- Recognize the tax implications of decisions in other areas of law, such as employment law or family law, as well as decisions that affect your personal life, such as buying a house or purchasing health insurance

Required Readings

- RICHARD SCHMALBECK & LAWRENCE ZELENAK, FEDERAL INCOME TAXATION (2d ed. 2007). It is important that you get the 2007 edition.
- DANIEL J. LATHROPE ED., SELECTED FEDERAL TAXATION: STATUTES AND REGULATIONS (2008). If you don't want to carry your Code around with you, you can look up Code provisions on Lexis or Westlaw. Another useful online source for finding Code provisions is <http://fourmilab.ch/uscode/26usc/>. One drawback to using online sources is that it can be harder to see where specific provisions fit into the overall structure of the Code. When you read Code provisions online, it is therefore a good idea to look up where the provision fits into the table of contents. In Lexis, you can do this by clicking on the “TOC” link, which appears on the upper left of all the statutory materials. Looking at the table of contents will

also alert you to other sections of the Code that may be relevant to your research (often, the sections immediately preceding or following the section you are reading).

- Occasional handouts
- This syllabus – *please read it!*

Optional Readings

MARVIN A. CHIRELSTEIN, FEDERAL INCOME TAXATION (9TH ED. 2002). This book provides a very clear and readable explanation of the main concepts we will be studying this semester. It is entirely optional, but highly recommended. It is a few years old, so some of the details are out of date, but all the major concepts are still relevant.

Questions to Consider

For each set of readings, I will give you a list of “questions to consider.” These questions are designed to focus your attention on important aspects of the readings and to give you a means of testing your own knowledge of what you have read. Some students find it helpful to write out answers to the questions or to discuss the questions in a study group. How you use the questions is entirely up to you.

You do not need to hand in answers to the questions, and we will not necessarily discuss each question in class.

If you are confused about any of the questions *after* we have discussed the assigned readings in class, please e-mail me or stop in to see me.

Attendance

The school’s general attendance policy applies in this class. Under this policy, if you miss more than 25% of the class sessions you will be administratively withdrawn from the course. For purposes of this policy, arriving more than a few minutes late or leaving early will be treated as an absence, regardless of whether you sign the attendance sheet.

If you are absent from class, be sure to ask a classmate for the notes and any handouts distributed. You can also download the handouts from Blackboard.

Class Participation

Speaking in class is an essential part of your educational experience. In order to ensure broad class participation, I will call on students who do not raise their hands. *If exceptional circumstances make it impossible for you to prepare for a particular class, let me know before class and I will not call on you that day. You do not need to give me a reason, as I trust that you will use this option only in exceptional situations.*

Please remember to bring your casebook and the Code to class.

Blackboard

All course materials and handouts will be posted on Blackboard.

E-mails

When students e-mail me questions, I sometimes forward the question (without the student's name) and my answer to the entire class, if I think that other students are likely to find it helpful. If you e-mail me a question but do not want me to share it with the rest of the class, please let me know this in your e-mail.

Office Hours

My office hours are posted at the top of this syllabus. If my office hours are not convenient for you, please email me to set up an appointment for a different time, or just stop by whenever you see my office door open.

Grading

Your grade will be based solely on a final *open book* examination. I do not give “discretion” grades, either positive or negative.

Syllabus

All page references refer to the Schmalbeck and Zelenak text. Please note that you are responsible for all of the pages assigned, whether or not we discuss them in class.

Week 1

Class 1: M. 8/20

Goals and introductory problem: pp. 1-15, 17-18

Class 2: Tu. 8/21

Finish introductory problem

Start basic concepts and issues: pp. 15-16, 19-34

Class 3: Th. 8/23

Finish basic concepts and issues: pp. 15-16, 19-34

Week 2

Class 4: M. 8/27

Understanding tax rates; inflation and the income tax: pp. 35-44 (through end of section A)

Class 5: T. 8/28

Finish assignment from Monday

Cash receipts: does source matter? pp. 77-83

§ 61

Class 6: Th. 8/30

Cash receipts: does source matter? pp. 83-87

Week 3

M. 9/3: Labor Day, no class

Class 7: T. 9/4

Cash receipts: does source matter? pp. 87-109

§ 102

§ 274(b)

§ 104(a)(2) (and also read the last sentence of the paragraph at the end of (a), beginning with “For purposes of paragraph (2),...”)

Class 8: Th. 9/6

Is it taxable if it isn't cash? pp. 116-129

Week 4

Class 9: M. 9/10

Is it taxable if it isn't cash? pp. 129-143

§ 106(a)

§ 105(b)

§ 117

§ 127 (skim)

§ 25A(a), (b), (c)

Class 10: T. 9/11

Loans and cancellation of indebtedness; proceeds of embezzlement and other illegal income: pp. 143-160

§ 172(a), (b), (d)(4) (just read the first sentence of (d)(4))

§ 61(a)(12)

§ 108(a)

Th. 9/13: Rosh Hashanah, no class

Week 5

Class 11: M. 9/17

Debt relief associated with the disposition of property: pp. 160-177

Class 12: Tu. 9/18

The inclusionary tax benefit rule; the limits of tax-free recovery of capital: pp. 177-195

Class 13: Th. 9/20

The extremely valuable baseball; fringe benefits; frequent flier miles: pp. 203-205, 210-222

§ 132(a), (b), (c), (d), (e), (g), (h)(2), (h)(3), (i), (j)(1)

Week 6

Class 14: M. 9/24

Manipulation of the realization rules: pp. 262-276

§ 1001(a)

§ 1091(a)-(d)

§ 267(a)(1), (b)(1), (c)(4), and (d)

§ 1211

Class 15: Tu. 9/25

Nonrecognition: pp. 277-291, 339-340 (just read section A of the chapter)

§ 1031(a) through (d)

§ 1033(a) and (b)

§ 121(a) through (c) and (d)(10)

Class 16: Th. 9/27

Basis rules for property transferred by gift or bequest: pp. 298-307

§ 1015(a)

§ 1014(a), (e)

Week 7

Class 17: M. 10/1

Intro to personal deductions; charitable contributions under § 170: pp. 367-376

§ 62(a)

§ 63

§ 170(a)(1), (b)(1), (d)(1), (e)(1)

Treas. Reg. § 1.170A-1(g)

Treas. Reg. § 1.170A-1(c)(1)

Class 18: Tu. 10/2

Deduction of interest expenses; deduction of state and local taxes: pp. 377-395

§ 163(a), (h)

Treas. Reg. § 1.163-9T(b)(2)(i)(A)

§ 221

§ 164(a), (c)

Class 19: Th. 10/4

Casualty losses; medical expenses; miscellaneous itemized deductions; reduction of itemized deductions for high-income taxpayers: p. 395-410

§ 165(a), (b), (c), (h)

§ 213(a), (b), (d)(1), (d)(2)

§ 67(a)-(b)

Week 8

M. 10/8: Columbus Day, no class

Class 20: Tu. 10/9

Business expense deductions: what is an “ordinary and necessary” expense? pp. 495-509

§ 162(a)

§ 212

Class 21: Th. 10/11

What is an “ordinary and necessary” expense (cont.): pp. 510-529

§ 162(c), (e), (m)

§ 280E

Week 9

Class 22: M. 10/15

What is an “ordinary and necessary” expense (cont.): pp. 529-545

§ 274(a)-(e), (n)

Class 23: Tu. 10/16

Patrolling the business-personal borders: pp. 546-569

§ 183(a)-(c)

Treas. Reg. § 1.162-5

Class 24: Th. 10/18

Vacation homes: pp. 570-581

§ 280A

Week 10

Class 25: M. 10/22

Capitalization and cost recovery: pp. 583-598

§ 167(a), (c)(1)

§ 168 (skim)

§ 1016(a)(2)

§ 1245(a)

§ 1231(a)

§ 179(a), (b)(1), (b)(2), (b)(3), (d)(1)

§ 197(a), (b), (c)(1), (c)(2)

§ 263(a)(1)

§ 263A(a), (b), (h)

Class 26: Tu. 10/23

Capitalization and cost recovery (cont.): pp. 598-612

Class 27: Th. 10/25

Capitalization and cost recovery (cont.): pp. 612-622, 627-629

Week 11

Class 28: M 10/29

Tax accounting: pp. 631-644

§ 446

§ 471

§ 472

Class 29: Tu. 10/30

Tax accounting (cont.): pp. 644-656

Municipal bonds: pp. 667-670

§ 103(a), (c)

§ 265(a)(2)

Class 30: Th. 11/1

Mid-semester review (1)

Week 12

Class 31: M. 11/5

Mid-semester review (2)

Class 32: Tu. 11/6

Municipal bonds (cont.): pp. 670-678

Passive loss rules: 678-688

§ 469 (skim)

Class 33: Th. 11/8

The alternative minimum tax: pp. 700-704, 719-723

§§ 55-58 (skim)

Child care expenses and the child credit: pp. 725-735

§ 21(a)

§ 24(a), (b)

§ 129(a), (b)

§ 151(a), (b), (c)

§ 152(a), (b), (c), (d) (skim)

§ 2(b)

Week 13

Class 34: M. 11/12

Marriage: pp. 735-746, 778-785

Class 35: Tu. 11/13

Divorce: pp. 746-752

§ 71(a), (b), (c)

§ 215(a)

§ 62(a)(10)

§ 152(e)(1), (e)(2)

Class 36: Th. 11/15

Unmarried couples; the earned income tax credit: pp. 753-761, 792-800

§ 32(a), (b), (c)(1)(A), (c)(1)(B), (i) (this is the letter “i,” not the numeral)

Week 14

Class 37: M. 11/19

Identifying the proper taxpayer: pp. 801-824

§ 1(g)

§ 7872(a), (c)(1)

Class 38: Tu. 11/20

Retirement savings and consumption taxation: pp. 833-849

§ 219

§ 408(a), (d)(1)

§ 408A(a), (b), (c)(1), (c)(2), (d)(1), (d)(2)(A)

§ 401(k) (skim)

Th. 11/22: Thanksgiving, no class

Week 15

Class 39: M. 11/26

Capital gains and losses: pp. 851-862

§ 1222

§ 1211

Class 40: Tu. 11/27

Definition of a capital asset: pp. 862-880

§ 1221(a) (skim)

Class 41: Th. 11/29

Review (1)

Class 42: F. 11/30

Review (2)