

Federal Income Taxation
Fall 2011
Professor Miranda Perry Fleischer

Description:

This course provides an introduction to basic principles of tax policy generally as well as an in-depth analysis of the major structural components of the current federal individual income tax system. The course primarily emphasizes how the current tax rules actually work, but will also cover policy issues such as whether the current rules are fair and how we as a class think they *should* work. Some attention may also be paid to basic tax planning techniques (that is, how tax advisors may use particular rules to their clients' advantage).

The course is taught largely using a problem-based method; the problems assigned for each unit provide a framework for us to discuss the applicable rules and policies. The problems and readings for each Unit will be available on the class TWEN page. Please be sure to log on to Westlaw and add our class's TWEN page to your course list.

Class meets from **1:00 to 2:15** on Monday, Wednesday and Thursday afternoons in Room 301.

Required Materials:

Michael J. Graetz and Deborah H. Schenk, *Federal Income Taxation: Principles and Policies* (6th edition, 2009).

Daniel J. Lathrope, *Selected Federal Taxation Statutes and Regulations*, 2012 version. (You need the most recent edition, published in July 2011. It reads "2012" on the spine.)

A word about the required statutory supplement. Congress passed substantial changes to the tax code in December of 2010, after the June 2010 version of the statutory supplement was published (which last year's class used). Although you may be tempted to borrow an older version from a friend, do so only at your own peril. The tax code is enough of a maze already without you looking at an outdated version.

Optional Materials:

Marvin A. Chirelstein, *Federal Income Taxation* (11th edition, 2009).

Larry D. Ward, *Problems and Solutions for Basic Federal Income Taxation* (2007).

Grading, Attendance, and Class Participation:

Ninety percent of your final grade will be based on a three-hour written final examination. The exam will be limited open book. You may refer to the statutory compilation, the casebook, any supplemental materials that I hand out or post on TWEN, your class notes, and any outline you have prepared in whole or in part. You may not refer to commercial outlines or treatises. You may use a calculator.

You are responsible for all the Code sections, regulations, and readings assigned, whether or not discussed in class, unless I specifically state otherwise. From time to time, in class

I will assign additional Code provisions and regulations that were not initially assigned. Those are fair game also. In other words, everything we cover is potentially on the exam unless I specifically state otherwise.

Ten percent of your final grade will be based on meaningful class preparation and participation. For each class, you are expected to have done the assigned readings carefully and to have attempted to work through the assigned problems in advance. When I call on you, I expect you to be able to explain how you approached each of the assigned problems. I also expect you to be able to discuss the assigned readings and any policy issues raised by the readings and the problems. Our schedule is tentative. If you miss class, it is your responsibility to ask a classmate how much material we covered and to prepare the appropriate material for the next class.

I will call on students randomly throughout the semester. This is not to embarrass you, but rather for your benefit. Over the years, I have found that cold-calling results in higher levels of class preparation and participation, which benefits not only the student “on call” but the rest of the class as well by ensuring a higher level of discussion. I understand, however, that sometimes life gets in the way and not everyone can be prepared every day. To that end, if you see me **before** class and request that I not call on you on a given day, I will honor that request. It is far better for you to come to class and ask me not to call on you than to miss class.

Attendance is mandatory. Due to the large amount of class discussion and the use of the problem method, in which we collaborate to work through the problems together, you are all learning from each other as well as from me. Failing to attend class and/or repeatedly failing to prepare for class harms not only yourself but the class’s overall experience. The fact that ten percent of your grade is based on preparation and participation does not render attendance optional or waive any of the law school’s attendance rules.

Schedule Change and Make-Up Assignment:

We will not have class on Thursday, October 27th. To “make-up” the class time, I will assign a homework problem later in the semester for which a written answer, handed in to me, is required. You may work in groups to complete it. Although the homework problem will not count toward your grade per se (meaning whether you get the answer right or wrong will not affect your final grade), it is mandatory. I will provide you with detailed feedback on your answer; such feedback during the semester provides you with more concrete guidance as to how well you are mastering the task of reading and applying the complicated statutes we study this semester.

Contact Information and Office Hours:

Office 432
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When not teaching, I generally work in my office and welcome you to stop by or to make appointments to do so. In addition, I will have set office hours on Mondays from 2:30 to

4:00 so that there is a time when I am “guaranteed” to be there. In other words, Monday office hours are a “floor” and not a “ceiling.”

Tentative Schedule:

A list of the topics we will cover this semester and the order in which we will cover them follows. The readings and problems for each Unit will be posted on the class website as the semester unfolds, with ample time for you to prepare for each class. The assignments for roughly the first half of the course have already been posted. (Because the assignment for each Unit includes not only an excerpt from the casebook but also statutes, regulations, a problem set, and occasional supplemental materials, it is impractical to list the assigned readings in this syllabus).

Please note that the following schedule is *extremely* tentative and will almost certainly change depending upon our pace. Depending on what interests us as a class this semester, we will spend more or less time on certain units than predicted below. Every class moves at a different pace. To that end, beyond the first few class meetings, I have not indicated the exact date on which we will cover a given topic.

With that in mind, unless I state otherwise at the end of class, for the next class, you should go ahead and prepare the reading and problems for the next Unit. For Units projected to take more than one class, I will indicate to you how much to prepare for each class. If class ends and you are not sure what we are going to cover the next day, please ask me to clarify.

Unit I: Introduction

- A. Tax Policy Basics (1 ½ days; August 22 and 24)
- B. Structural Overview (1 ½ days; August 24 and 25)

Unit II: What is Income?

- A. Form of Receipt (2 days, starting August 29)
- B. Fringe Benefits (3 days)
- C. Gifts, Bequests and Prizes (2 days)
- D. Basis Recovery (3 days)
- E. Realization (3 days)
- F. Borrowed Funds (3 days)
- G. Debt, Basis, and Amount Realized (3 days)
- H. Misc. Exclusions from Income, Tax Expenditures, and Tax Capitalization (1 ½ days)

Unit III: Deductions and Credits

- A. The “Mixed” Expenses of Working (2 ½ days)
- B. Business Expenses (1 day)
- C. Capitalized Expenses (2 days)
- D. Depreciation (3 days)
- E. Losses (2 days)

Unit IV: Characterization (3 days)

Unit V: Non-recognition (1day)

Unit VI: Personal Deductions and Credits (2 days)

Review: 1 day