SYLLABUS FOR FEDERAL INCOME TAXATION –SPRING 2011

Professor Ira B. Shepard -- Office: Room 116 BLB
Office hours: TTh 4:00-5:15 p.m. – drop in any time, or by appointment.
If my door is open or my light is on, please stop by.
Telephone: 713-743-2246 [or 713-664-7170 (home)]; e-mail: IShepard@uh.edu. Email or call to make appointment, to chat, etc. Weekend calls to home are particularly welcomed because we will have more time to chat and the football season is about over.

Objective
The objectives of this course are to teach the substantive law of the subject matter in a comprehensive manner, to consider ethical and professional questions related to the subject matter, and to integrate the subject matter with the analytical and practical skills necessary to the practice of law.

Materials
Required: CCH, “Federal Income Tax--Code & Regulations, Selected Sections,” 2010-2011 Edition (with an accompanying CD-ROM). This volume provides those provisions of the Internal Revenue Code of 1986 and the Treasury Regulations which will be most relevant for purposes of this course, and is up to date as of June 1, 2010.
Recommended: Students without a business background may find Klein & Coffee, “Business Organization and Finance” (Foundation Press), helpful for self-study.

Class attendance (evening)
The class will meet two times per week, from 5:30 to 7:10 p.m. on Tuesdays and Thursdays. A class roll will be circulated at the beginning of each class for you to sign personally. If you miss signing the roll, you are responsible for signing it immediately after class, or you will be counted absent. If you sign the roll, you may not leave class early without permission. You must attend 80 percent of the classes in order to be able to take the final exam, i.e., up to six classes may be missed without penalty. If you miss more than six classes you will generally be dropped from the course. Makeup classes, if needed, are planned for designated Friday evenings.
**Perspective of the course**

The most important objective of this course is to identify the applicability of the federal income taxation system to a wide variety of law practice (and non-law practice) situations. You will find that federal income taxation is pervasive in its application, and we will attempt to identify the wide variety of those situations where income tax exposure may exist.

This is a “Code” course--involving the reading and interpretation of one of the most complicated statutory systems. For this reason the regular reading of the Internal Revenue Code provisions can enhance the capability to read complicated code materials outside the tax area. The contemporary practice of law is significantly based on the applicability of statutory material, in addition to case law. Another objective of this course is to teach you how to read, understand, and apply the most common provisions of the Internal Revenue Code.

Each of the class sessions will consist of a discussion of the casebook materials and the pertinent provisions of the Internal Revenue Code. All items should be read in connection with each class session. **The relevant Internal Revenue Code provisions (to be carefully read) are identified in the casebook.** The focus of the classroom discussion will include the tax rules and the policies supporting these rules, as well as selected problems.

**Students with disabilities**

Students who are in need of help under the ADA should see the Law Center’s Student Services or the University office that provides assistance for students with disabilities.

**Examination**

Your grade will be based upon the final examination, with the possibility of an increase or decrease of one grade step, e.g., from B- to B or from B- to C+ for class participation. The only materials permitted in the exam room are: (1) the Code and Regulations volume, which may be underlined and tabbed [but not otherwise written in], and (2) a calculator. Questions about the examination will be answered only in open class or by e-mail to which I will reply using the class distribution list.

**Additional Basic Tax Source Materials**

Sources of Federal Income Tax Law
1) Constitution – Article 1, section 8, and 16th Amendment


3) Legislative history in committee reports.

4) U.S. Treasury--regulations (interpretable and legislative).

5) IRS administrative interpretations, including revenue rulings, revenue procedures, notices.

6) Opinions resulting from litigation in federal courts, including U.S. Tax Court.

7) Secondary sources.

Federal Income Tax Computational Structure: (income tax – has an “accession to wealth” occurred?)

Income Tax Computation

\[
\text{Gross receipts} - \text{Cost of goods sold} = \text{Gross income (§61)}
\]

\[
\text{Gross income (§61)} - \text{Business deductions (those listed in both §62 and §§151-249 and not limited by §§261-280H) – “above-the-line deductions”} = \text{Adjusted gross income (§62)}
\]

\[
\text{Adjusted gross income (§62)} - \text{Itemized deductions [those listed in §§151-249 (and not listed in §62) and not limited by §§261-280H] or standard deduction, as well as personal exemptions – “below-the-line deductions”} = \text{Taxable income (§63), to which the §1 rates are applied to arrive at The tentative income tax amount}
\]

\[
\text{Taxable income (§63), to which the §1 rates are applied to arrive at The tentative income tax amount} - \text{Income tax credits (incl. withholding and estimated tax payments) (§§21-53)} = \text{Final tax amount (or refund)}
\]

Other income tax system: Alternative minimum tax (AMT) (§§53-59)

Other considerations

Timing of income (including the capitalization of expenses)
Who is the taxpayer? (i.e., possible assignment or deflection of income)
Characterization of income (capital gains as preferred income)
Nonrecognition of realized gain
Category of taxpayer: individual, corporation, partnership, limited liability company, trust or estate

We will not consider tax return preparation and tax calculations/computations
## Anticipated Class Schedule

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Personal Expenses
3-3 Distinction Between Deductible Business or Investment Expense & Nondeductible Capital Expenditures

For the week of February 15th:

Chapter 3. Deductions and Credits (continued) 336-463
3-4 Recovery of Capital Expenditures
3-5 Depletion
3-6 Interest
3-7 Losses
3-8 Bad Debts
3-9 Personal Deductions
3-10 Personal Itemized Deductions

For the week of February 22nd:

Chapter 4. Whose Income Is It? 465-535
4-1 The Taxable Unit
4-2 Assignments of Income in General
4-3 Using Entities
4-4 Intrafamily Assignments Involving Consideration

For the week of March 1st:

Catch up

For the week of March 8th:

Chapter 5. Capital Gains and Losses 536-647
5-1 Mechanics of the Treatment of Capital Gains and Losses
5-2 The Policy of Preferential Treatment of Capital Gains
5-3 What is a Capital Asset?
5-4 What is a Sale or Exchange?
5-5 Holding Period
5-6 Nonrecognition of Gain or Loss
For the week of March 22nd:

*Chapter 6. When is it Income? Or Deductible? – Accounting Problems*  
6-1 The Taxable Year  
6-2 Methods of Accounting

For the week of March 29th:

*Chapter 6. When is it Income? Or Deductible? – Accounting Problems*  
(continued)  
6-3 Unstated or Imputed Interest  
6-4 The Special Case of Deferred Compensation  
6-5 Inventories  
6-6 Change of Accounting Method

For the week of April 5th:

*Chapter 7. Minimum Taxes*  
7-1 An Overview of the Minimum Tax

For the week of April 12th:

*Chapter 8. Corporate Tax Shelters and Ethical Responsibilities of Tax Lawyers*  
8-1 Corporate Tax Shelters  
8-2 Ethical Responsibilities of Tax Practitioners

For the weeks of April 19th and April 26th:

Possibly, a couple of weeks to catch up and, if time is available, to review.

Thursday, May 5th: Examination: from 6:00 to 10:00 p.m.