

University of Washington School of Law  
Fall 2021

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Zoom Office Hours: By Appointment.

Zoom “Study Hall:” Monday, Wednesday, Friday: 10:30AM – 11:45AM (see more below for details, expectations)

**Individual Income Tax A530  
SYLLABUS**

**Materials/Casebook:**

Bankman, Shaviro, Stark, Kleinbard, *Federal Income Taxation* (Aspen 18th Ed.)

Steven Bank & Kirk Stark, *Selected Federal Taxation Statutes and Regulations* (or other current edition of a federal individual income tax “supplement”)\*

\*It is my opinion that a current “statutory supplement” which has selected sections of federal individual income tax Code and Treas. Reg. provisions (such as the Bank/Stark one) is very useful to complete the course efficiently. In the remote format, it is certainly possible to access the Code and Treas. Reg. sections online. I predict it will be more time consuming and at least a little clunkier than using the physical supplement. Happy to chat more if you are deciding what is best.

**Course Evaluation:**

Your course evaluation will be administered during the last week of class. More details to come.

**Name preference:**

I want very much to refer to you by the name and gender with which you identify. I also wish to pronounce your name correctly. Please feel free to provide me a name that differs from the one that may appear on my roster or any other additional information that you believe will help me refer to you appropriately.

**Disability-Related Needs:**

If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 011 Mary Gates Hall or 206-543-8924 or [uwdrs@uw.edu](mailto:uwdrs@uw.edu) or [disability.uw.edu](http://disability.uw.edu). DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions.

Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

### **Learning Objectives for the Course**

The main learning objectives in this course are as follows:

- (a) Develop the ability to identify major legal issues that arise for individuals determining their federal income tax liabilities;
- (b) Master the fundamental concepts of U.S. Federal Individual Income Taxation Law;
- (c) Develop fluency to read, and skills to interpret, statutes and agency regulations;
- (d) Understand the relative importance of various sources of tax law, including the Internal Revenue Code, Treasury Department Regulations, judicial cases interpreting the Code/Regulations, as well as various forms of guidance issued by the Internal Revenue Service; and
- (e) Engage in analysis and reasoning needed for problem solving in the field of U.S. Federal Individual Income Taxation Law.

### **Grading**

This class is graded as a **mastery class** and will be graded as described below. As a mastery class, the mandatory curve does not (and will not) apply.

Your final grade will be based on the total number of points you accumulate on **seven problem sets**. (There is no “traditional,” timed final examination). Together, there are 800 total points. The breakdown is as follows.

#### **Problems sets 1-7: (800 points total, 700 substantive points, 100 writing points)**

For each of the seven problem sets, a student can earn **100 substantive points** and **14 writing points**.<sup>1</sup>

**Substantive Points.** These points are awarded for substantive accuracy. Partial credit is certainly available. For instance, a student who goes through a problem with the correct procedure but makes a small mathematical error will generally receive close to, if not full, credit. At the same time, a student who answers a 10 point question with the number “1,” may not receive much credit even if “1” happened to be the correct answer.

**Writing Points.** These points are awarded for clarity, precision and polish in writing.

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<sup>1</sup> Because  $14 \times 7$  does not = 100, all student will receive 2 freebie points as a round up. You're welcome.

Q1. Are most of the answers to questions (over 3 points ) grammatically correct , free of typos and written in complete sentences?

If no → expect 0-4 points.

If yes→ Expect at least 5 -7 points (out of 14)

If yes to the first question →

Q2. When questions are over 2 points each, have I (i) cited relevant rules and/or cases, (ii) stated the relevant content of that rule and then (iii) applied it to the fact pattern at hand. Note this does NOT and should NOT require blue booking. An answer such as the following works.

IRC Section 61 provides that gross income is “income from whatever source derived.” As a result, if a taxpayer receives a monkey after performing tutoring services, that monkey is gross income under the Code.

Expect 8-14 points if you have sometimes or always done the above (in addition to the things denoted in Q1). The range depends on how consistently and well you have done this.

**Types of Problems:** The problem sets will have questions that vary in format. There will be, for instance, short answer questions asking you to apply the material to fact patterns, open-ended policy questions and more lengthy issue spotters. Rewrites will be available so long as substantial effort is made by submission deadlines, which are listed below, in your Master Documents and on Canvas Quizzes (all discussed more below).

**Code of Conduct:** I am committed to providing each of you the tools you need to succeed in this course. It is my privilege to work hard alongside you to help this happen. Cheating, however, is not something I tolerate well. Please adhere to the following Code of Conduct:

**Your quiz responses must reflect your own work. To that end, you may not convey, or intentionally receive, specific answers to the quiz questions from current or past classmates. At the same time, I have decided to permit collaboration with current students. Therefore, you may discuss the quiz questions with currently enrolled classmates. Just be sure that you are learning the concepts, and not simply following another student’s direction, as you collaborate. Again, you may not convey, or intentionally receive, specific answers to the quiz questions.**

Please do not violate this Code.

**Points for Each Question.** You will be able to see the points designated for each question in the Master Document and on Canvas Quizzes (where you will ultimately submit your work). More difficult problems— such as problems that review several concepts or problems in which I have asked for extra research/precision in writing — will often receive more points than more basic, short answer questions. Use the points as a signal for relative effort expected. For instance, it is probably fine to write a one word/number answer for a 1-2 point problem but not for a 20 point problem.

Students should expect to receive the following grades based on percentage of total points earned.

| Percentage |    |
|------------|----|
| 100-95%    | A  |
| 94% - 90%  | A- |
| 89-80%     | B+ |
| 79-70%     | B  |
| 69%-60     | B- |
| 59%-50%    | C  |
| 49%-40%    | D  |
| 39%-30%    | F  |

The substantive accuracy percentage will, obviously, be calculated by taking total point awarded over total points possible. So, for instance, a student who accumulated a total of 85% of total points would receive a B+.

### **Submission and Deadlines:**

You will submit Problem Sets on **Canvas Quizzes** by the relevant due dates (read more for policies on grace periods and extension requests). I have also replicated the Problem sets (and the points available for each question) within several “Master Documents”. I thought some students might prefer to work with one document as they go through material and then cut and paste final answers into canvas quizzes. Of course, you may also just complete problems on canvas quizzes directly.

I will provide feedback as quickly as humanly possible (it is almost never more than 48 hours and usually quite a bit faster). You will then have an opportunity to improve based on that feedback by rewriting the problems so long as your first effort was a substantial one. You may do this as many times as you wish. My goal is to help you achieve your goal for the class. There are no due dates for rewrites.

Below are what I am calling “tentative” due dates (also listed on Master Document and in the prompt for each Problem Set in Canvas Quizzes). Please consider anything turned in within three days of the below due dates to be “on time” — *i.e.* there is a three day grace period. After that, please email me if you think the problem set will be late. I am happy to accommodate requests I just want to be sure I am not providing so much flexibility that it becomes a hinderance to your progress (it happens).

I have set these dates to keep you on pace so you are able to finish the problem sets before you start studying for final examinations. I am not wedded to that goal, however. Please keep in contact with me if any of the deadlines are creating unforeseen conflicts or hardships.

**Problem Set 1:**October 4<sup>th</sup> at 5PM**Problem Set 2:**October 13<sup>th</sup> at 5PM**Problem Set 3:**October 25<sup>th</sup> at 5 pm**Problem Set 4:**November 4<sup>th</sup> at 5pm**Problem Set 5:**November 16<sup>th</sup> at 5pm**Problem Set 6:**

December 1st at 5pm

**Problem Set 7:**December 10<sup>th</sup> at 5pm**Where Do I Begin? Class Set Up.**

I know how important it is that courses be well organized. On canvas, under Files → Folder “Master Documents,” I will upload documents that act as a step by step roadmap. I think you will find it easy to work with but if you are having trouble finding anything (or have a suggestion for how I could make things more user friendly) let me know.

**Why Have I Designed the Course this Way?**

As you will see from the Master Documents, you will generally be asked to complete a reading assignment and to then watch an **asynchronous Panopto lecture** (or two) which discusses that material more in depth. You will then be asked to answer several questions before moving onto the next topic.

I will be available for study halls between 10:30-11:45am, MWF, unless I email you otherwise. A zoom link will be available on canvas and I will also email you “morning of.” These study halls are not mandatory. I am available to answer questions in many other ways. For instance, I am ready to answer questions quickly on email and available for individually scheduled zoom appointments.

Students who attend study halls use them in different ways. Some use these designated periods of time to work on the problem sets, knowing that I am on the line to answer questions as they emerge. Others arrive with a few questions in mind and log off after they have been answered. It is an unstructured time in which I make myself available to each of you. There are no set rules. You do not need to have a camera on, etc.

*Structure of the Course: My Thoughts*

This course was selected to be one of several remote courses in the J.D. curriculum. I realize students may have a wide range of views on this—some will be intensely relieved to be taking the course remote, some extremely skeptical and everywhere in between.

I would like to start out by saying I think it was humane and important that the administration allow some remote options for students at this time.

That said, the course was selected by the administration because of its proven success in past quarters. I, therefore, have no doubt that you will be able to learn as much, if not more, as you would in the traditional in person format. If, however, you know that remote learning is so repugnant to you that you are simply not sure that you can tolerate it in any way, shape, or form, it may be difficult for you to learn. I am happy to discuss.

I would like to tell you why I have chosen this format for this course. I believe using asynchronous lectures to discuss concepts is superior to synchronous lectures, for quite a few reasons. Some are listed below:

- *Asynchronous vs. Synchronous:* The material can be conveyed in a more concise and direct format via asynchronous lecture as compared to watching synchronous lectures that involve large groups. Student evaluations in both this course and others in the law school indicate the benefits of students learning at their own pace and on their own time. For instance, if a concept is muddy for you, you can rewind the lecture infinite times.
- *The asynchronous format maximizes flexibility and minimizes disruptions.* There are still a lot of things that are likely to happen at this stage in the pandemic. Law students may have to quarantine. Unfortunately, some of us may still fall ill. Students with caregiving responsibilities – particularly those with unvaccinated children – may need to move to homeschooling through the Fall. But the pre-recorded lectures allow each student to maneuver around these complexities.
- *Individual feedback is maximized and a key feature of this course.* Because I will not be teaching live for six hours a week, I can use those six hours (and quite a few more) to provide *individualized feedback* and help on the assignments you are doing. This allows me to meet each of you where you are and quickly identify places where you are excelling and/or struggling.
- *Students learned a lot.* I can honestly say that the assignments submitted by my students in Spring 2020 and Autumn 2020 indicated a level of mastery that I never saw when a traditional final examination was used.

Now that you know my rationale for teaching the course this way, as well as my commitment to you, I want to earnestly encourage you to reach out to me if you are struggling with material or if you simply wish that you had more interaction with me. I stand ready to pop onto zoom for an office hour, for instance. Ironically (I think), this format should allow you to have more individualized interaction with me that you would have in person.

**Outline of All Reading Assignments:**

Also provided in Master Documents.

Note: I have used previous editions of this casebook for over ten years. The new edition you have has many strengths. However, the way in which the authors reorganized materials is not, to my mind, one of them. You will, therefore, see that sometimes the pages “jump around” in the sections below. I have done this to recreate the “old” organization which I find superior.

If this becomes confusing, please take a step back and see look at how it falls within the outline provided to you below. And always feel to reach out if I can explain how segments of reading fit within the “bigger picture.”

**I. CHARACTERISTICS OF INCOME**

- A. Introduction
  - skim pp. 1-28, 42-47
- B. What is Income?
  - skim pp. 49-61
- C. Noncash Benefits
  - Meals and Lodging (pp. 71-84)
    - Code § 119
    - Benaglia v. Commissioner
  - Other Fringe Benefits Statutes (pp. 85-90)
    - Code § 132
  - Valuation Approaches (pp. 91-94)
    - Turner v. Commissioner
- D. Imputed Income (pp. 133-140)
  - Reg. § 1.61-2(d)
  - Rev. Rul. 79-24
- E. Windfall and Gifts
  - Gift: The Basic Concept and Applications (pp. 142-154, 162-166)
    - Code §§ 102 and 274(b)
    - Commissioner v. Duberstein
  - Transfer of Unrealized Gain while donor is alive (pp. 166-169)
    - Code §§ 1012 and 1015
    - Skim: Taft v. Bowers
  - Transfers at Death (pp. 171-173)
    - Code §§ 1014 and 691
    - Questions
- F. Recovery of Basis (Capital)
  - General (pp. 97-98)

- Sale of Easements (pp. 98-100)
  - Inaja Land Co. v. Commissioner
- Gains and Losses from Gambling (pp. 100-102)
  - Code § 165(d)
- Life Insurance (pp. 375-379)
  - Code §§ 101(a) and 264(a)
- Annuities and Pensions (pp. 379-382)
  - Code § 72(a), (b) and (c)
- Recovery of Loss (pp. 102-107)
  - Code § 165(a), (b), (c) and (h)(1)
  - Clark v. Commissioner
- G. Recovery for Personal and Business Injuries
  - Damages for Personal Injuries in General (pp. 107-109, 119-125)
    - Code § 104(a), § 106 and §213(a)
- H. Transactions Involving Loans and Income from Discharge of Indebtedness
  - Loan Proceeds Are Not Income (pp. 318-320)
  - True Discharge of Indebtedness (pp. 320-324)
    - Code §§ 61(a)(12)
    - United States v. Kirby Lumber Co.
  - Contested or Uncertain Liabilities (pp. 324-334)
    - Zarin v. Commissioner
  - Transfers of Property Subject to Debt (357-361)
    - Diedrich v. Commissioner
- I. Illegal Income (pp. 125-130)
  - Gilbert v. Commissioner
- J. Interest on State and Municipal Bonds (pp. 368-372)
  - Code § 103
- K. Gain on the Sale of a Home (pp. 130-131)
  - Code § 121

## II. PROBLEMS OF TIMING

- A. The Realization Doctrine
  - Origins (pp. 230-246)
    - Eisner v. Macomber
  - The Limits of Realization: Nonrecourse Borrowing in Excess of Basis (pp. 252-255)
    - Woodsam v. Commissioner
  - Contemporary Understandings of Realization (pp. 255-266)
    - Cottage Savings Association v. Commissioner
  - Statutory Nonrecognition Provisions (pp. 266-272)
    - FYI: PLR 200203033
- B. Transfers Incident to Marriage and Divorce (pp. 173-187)
  - Introduction and Property Settlements

- Code § 1041
    - United States v. Davis
  - Ante-nuptial Settlements
    - Farid-Es-Sultaneh v. Commissioner
  - Alimony, Child Support and Property Settlements
- C. Open Transactions, Installment Sales, and Deferred Sales
  - SKIM: Open Transactions (pp. 276-281)
    - (Code § 453(a), (c), and (d))
    - Burnett v. Logan
  - Installment Method (pp. 285-286)
- D. Constructive Receipt and Related Doctrines (pp. 286-293)
  - Amend v. Commissioner
  - Pulsifer v. Commissioner
- E. Deferred Compensation
  - Nonqualified Deferred Compensation (pp. 293-298)
  - Qualified Employee Plans (FYI)
  - Capital Gains Preference, in depth, 28-32, 619-627
  - Stock Options, Restricted Property and Other Employee Compensation
    - pp. 305-307, 315-316
    - Code § 83
    - Cramer v. Commissioner
- F. Cash Receipts and Payments of Accrual-Method Taxpayers
  - Delay in Receipt of Cash (pp. 208-230)
    - Code §§ 446, 451(a), 456 and 461(h)
    - Georgia School-Book Depository v. Commissioner
  - Prepaid Income
    - American Automobile Association v. United States
  - Deposits versus Advance Payments
  - Current Deduction of Future Expenses

### **III. PERSONAL DEDUCTIONS, EXEMPTIONS, AND CREDITS**

- A. Introduction (pp. 573-574)
- B. Casualty Losses (pp. 575)
- C. Extraordinary Medical Expenses (pp. 576 -582)
  - Code § 213
  - Taylor v. Commissioner
  - Ochs v. Commissioner
- D. Charitable Contributions (p. 582-593, 595-603)
  - Code §§ 170(a)(1)(b), (c) and (e)(1) and 501(a) and(c)(3)
  - Ottawa Silica Co. v. United States
  - Optional (not covered): Bob Jones v. United States

- E. Interest (pp. 603-606)
  - Code §§ 163(a) and (h) and 461(g)
- F. Taxes (pp. 606-608)
  - Code § 164(a)

#### **IV. MIXED BUSINESS AND PERSONAL OUTLAYS**

- Ø. Exemptions and Credits for caregivers (pp. 608)
  - Code § 24, 63
  - Child Care Expenses (pp. 531-34)
    - Smith v. Commissioner
    - Code §§ 21, 129
- A. Sections 162 and 212
- B. Clothing Expenses (pp. 521-525)
- C. Home Office and Vacation Homes (pp. 525-531)
  - Code §§ 162(a), 183, 262, 280A
  - Popov v. Commissioner
- D. Commuting Expenses (pp. 534-548)
  - Code § 162(a)
  - Commissioner v. Flowers
  - Hantzis v. Commissioner
- E. Travel and Entertainment Expenses (pp. 548-559)
  - Code §§ 274(a), (d), (e), and (n)
  - SKIP: Rudolph v. United States
  - Moss v. Commissioner
- F. Legal Expenses pp. (559-565)
  - Code § 212
  - United States v. Gilmore
- G. Hobby Losses (pp. 565-570)
  - Code §§ 162(a), 183, 262
  - Nickerson v. Commissioner

#### **V. DEDUCTIONS FOR THE COST OF EARNING INCOME**

- A. Introduction (415-416)
- B. Ordinary and Necessary (pp. 438-450, pp. 555-558)
- C. Current Expenses versus Capital Expenditures (pp. 420-428)
  - Code 162(a), 263

- SKIM: Encyclopedia Britannica v. Commissioner

D. Depreciation (pp. 450-459)

- Code §§167(a), 168(a)-(c), 197

E. Repair and Maintenance Expenses (pp. 430-437)

- Code § 195; Reg. § 1.162-4
- Midland Empire Packing Co. v. Commissioner

**VI. PRIMER ON INCOME SPLITTING & CAPSTONE PROBLEM**

A. Income from Services (pp. 387-396)

- Code §§ 83(a) and (h) and 127
- Lucas v. Earl
- Poe v. Seaborn

B. The Marriage Penalty and Bonus (pp. 396-399)

C. Capstone Problem