Course Description & Methodology

The central themes of this course will be (1) the acquisition and use of tax basis and (2) the determination of income/loss character or type. In order to develop these themes relatively fully, we will also consider other topics, including anti-tax-avoidance rules. We will focus primarily on business property held by sole proprietors, although we will also devote some attention to simple investment assets. Please be aware that we will not be studying industry-specific rules (e.g., oil & gas, farming), nor will we study rules related to more sophisticated investment assets (e.g., put or call options, forward contracts).

The course will be taught primarily through the problem-solving method. Thus, while overview lecture will be used, most of the time will be spent on applying rules to specific fact patterns.

Course Objectives:

- Understand importance of and improve ability to use fundamental income tax concepts.
- Improve ability to interpret and apply tax statutes, regulations, and other tax authorities.
- Establish a base from which to acquire further tax expertise.

Course Materials

The required problem assignments for this class will primarily be drawn from the *Problem Book for Federal Income Taxation, 6th ed.*, by Paul R. McDaniel, Martin J. McMahon, Jr., Daniel L. Simmons, & Gregg D. Polsky. You are required to have access to and read the Internal Revenue Code and Treasury Regulations listed in “Class Assignments.” Additional required reading consists of overview slides provided through TWEN (note: these slides may be amended to reflect class discussion as needed) and, on
occasion, cases, administrative rulings, other tax authorities, or excerpts thereof. These items will be accessible either through westlaw/lexis or will be posted to the TWEN site for this course. You are required to register for this class on TWEN; please let me know if you have any difficulty in doing so.

It is recommended but not required that you obtain either (1) Federal Income Taxation (6th ed.) by Paul R. McDaniel, Martin J. McMahon, Jr., Daniel L. Simmons, & Gregg D. Polsky (which is the casebook that accompanies the problem book) or (2) the treatise Federal Income Taxation of Individuals (3d ed. & 2012 cumulative supplement), by Boris I. Bittker, Martin J. McMahon, Jr., & Lawrence A. Zelenak.

If you wish to consult additional reading for the topics we will cover, suggested books are Understanding Federal Income Taxation (3d ed.) by J. Martin Burke & Michael K. Friel, or Federal Income Taxation Concepts & Insights (11th ed.) by Marvin A. Chirelstein.

Evaluation & Requirements

Grade

5 percent: Participation
95 percent: Final Exam

Class Participation

You are expected to attend class and to be prepared when I call on you; attendance will be taken. Repeated lack of preparedness may be counted as one or more absences. Class disruption (e.g., cell phone use, texting, internet surfing, arriving late, leaving early) may be counted as one or more absences. You will be notified each time you accrue an absence on account of disruptive behavior and/or lack of preparation. I will periodically post class attendance records on TWEN.

Absences taken for observance of religious holidays will be excused. If you are planning to miss class for a religious holiday, please let me know. If you are absent because of a special situation (sickness, family emergency, job interview, etc.), the absence may be excused at my discretion after you have provided adequate documentation of the situation and you have completed a make-up assignment. If you are dealing with a personal situation of high difficulty and prolonged duration, please seek assistance from me and/or the graduate tax office as soon as possible.

If you have more than four unexcused absences from regularly scheduled classes, your participation grade will be 0, you may be barred from taking the final exam, and you will be barred from participating in the retesting process (see below).

Final Exam
The final exam will be five hours and will be on the day scheduled by the graduate tax office (currently scheduled for Monday, Dec. 10, at 8:30 a.m.). The exam will be given at the law school.

Students who receive a grade on the final exam lower than a B and who have accrued four or fewer unexcused absences (see above) will have the opportunity to be retested. The highest possible exam grade obtainable through the retesting process will be the lower of (1) a B or (2) one full grade increase from the initial grade on the exam. For example, a student receiving a B- on the initial final exam and who has met the attendance requirement would be eligible to retest for an exam grade no higher than a B. A student receiving a C- on the final exam and who has met the attendance requirement would be eligible to retest for an exam grade no higher than a B-. The retesting process will not be used to lower grades.

Grade Scale & Grading Policies:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Points</th>
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<tbody>
<tr>
<td>A (Excellent)</td>
<td>4.0</td>
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<tr>
<td>A-</td>
<td>3.67</td>
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<tr>
<td>B+</td>
<td>3.33</td>
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<tr>
<td>B (Good)</td>
<td>3.00</td>
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<tr>
<td>B-</td>
<td>2.67</td>
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<tr>
<td>C+</td>
<td>2.33</td>
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<tr>
<td>C (Satisfactory)</td>
<td>2.00</td>
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<tr>
<td>C-</td>
<td>1.67</td>
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<tr>
<td>D+</td>
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<td>D (Poor)</td>
<td>1.00</td>
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<td>D-</td>
<td>0.67</td>
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<td>E (Failure)</td>
<td>0.00</td>
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The law school grading policy is available at: [http://www.law.ufl.edu/students/policies.shtml#9](http://www.law.ufl.edu/students/policies.shtml#9).

Outline of Topics & Class Assignments:

Class assignments are provided at the end of this syllabus. Periodically throughout the course, a selection of cases, administrative rulings, or excerpts thereof will be added as additional required reading assignments. The schedule may also be revised to reflect the pace of class discussion and/or any new legal developments. For the first class meeting, complete Section I and Section II (through Chapter 6 problems) of the class assignment schedule. Unless otherwise advised, you should assume that four to six problems will be covered per class session, and you should prepare accordingly.
For those wishing to do additional reading, suggested sections from the casebook and treatise are also provided.

**Other Policies, including Statement on Disability Accommodation:**

Additional law school and university policies may be found at (1) [http://www.law.ufl.edu/students/policies.shtml](http://www.law.ufl.edu/students/policies.shtml) (academic policies) and (2) [http://www.law.ufl.edu/students/honorcommittee/](http://www.law.ufl.edu/students/honorcommittee/) (honor code).

Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.
Class Assignments

All problem assignments are from the McDaniel, McMahon, Simmons, & Polsky problem book, unless otherwise noted. The principal Code and Reg. sections listed are required reading. Additional required reading includes overview slides provided through TWEN (note: slides may be amended to reflect class discussion as needed) and specified cases, administrative authorities, or excerpts thereof. The additional readings for sections I-III are listed below; additional required reading assignments will be added as the course progresses for the remaining sections. Unless otherwise advised, students should assume that 4-6 problems will be covered per class session, and they should prepare accordingly.

The suggested reading from the McDaniel, McMahon, Simmons, & Polsky casebook corresponds to the chapters and sections listed for the assigned problems. Suggested reading from the treatise by Bittker, McMahon & Zelenak is listed separately.

I. Tax Computation Overview

Problems: None

Principal Code Sections: § 1, § 11, § 61, § 62, § 63, § 67, § 68

Additional Reading: None

Suggested Treatise: Chapter 2 & ¶ 3.01-.02

II. Basis Concept

Problems: Basis Concept (will be distributed during first class and later posted on TWEN); Chapter 6, section 3.B, problems 1-3 (pg. 22); Chapter 6, section 3.A, problems 4-5 (pgs. 21-22); Chapter 25, section 2, problem 1 (but omit issue of character) (pgs. 93-94)

Principal Code & Reg. Sections: § 1011, § 1012, § 1016, § 1060; § 1.61-6, § 1.61-14, § 1.338-6, § 1012-1(c), § 1.1060-1

Additional Reading: Slides (on TWEN); Beaver Dam Coal Co. v. U.S., 370 F.2d 414 (6th Cir. 1966); Philadelphia Park Amusement Co. v. U.S., 126 F.Sup. 184 (Ct. Cl. 1954)

Suggested Treatise: ¶ 29.01-29.11, ¶ 31.11

III. Realization & Recognition
Problems: Chapter 6, section 3.A, problems 1-3 (pg. 21); Chapter 6, section 3.C (pg. 22); Chapter 10, section 4, problem 1 (pg. 36); Chapter 34, section 1, problems 1-3

Principal Code & Reg. Sections: §1001; § 7701(g); §1.1001-1(a), §1.1001-2

Additional Reading: Slides (on TWEN); Comm'r v. Tufts, 461 U.S. 300 (1983); Rev. Rul. 91-31

Suggested Treatise: ¶¶ 28.01-28.05, ¶28.07[2], ¶¶28.07[4]-[6], ¶29.12, ¶¶29.14-29.16, ¶4.05[3][b], ¶4.05[4][b]

IV. Basic Loss Deductibility Limitations

Problems: Chapter 15, section 1, all problems (pgs. 51-52); Chapter 15 section 2, problems 1 & 3 (pgs. 52-53)

Principal Code & Reg. Sections: §165, §262, §267(a)(1) & (b)-(d), §280B; Treas. Reg. §§1.165-1, -7, -9

Additional Reading: TBA

Suggested Treatise: ¶¶16.01-16.06[2]; ¶29.10

V. Non-Recognition Transactions

A. Like-kind exchanges

Problems: Chapter 26, section 1, problems 1-8 (pgs. 95-97) (include discussion of how answer to problem 1(e) would change if Bernice were Adam’s mother); Chapter 26, section 2, problem 1 (pgs. 97-98)

Principal Code & Reg. Sections: §1031; §1031(a)-1, §1031(a)-2, §1031(k)-1

Additional Reading: TBA

Suggested Treatise: ¶¶30.01-02

B. Involuntary conversions

Problems: Chapter 27, section 1, all problems (pgs. 100-01)
VI. Deductible Expense v. Capitalized Expenditure

Problems: Chapter 12, section 1, problem 1; Chapter 13, all problems (pgs. 43-47); 12-Month Rule for Certain Intangibles (on TWEN); Materials & Supplies (on TWEN)

Principal Code & Reg. Sections: §162, §195, §212, §263, §263A; §1.162-3T, §1.195-1, §1.263(a)-1T, §1.263(a)-2T, §1.263(a)-3T, §1.263(a)-4, §1.263(a)-5, §1.263A-1(a)-(e)

Additional Reading: TBA

Suggested Treatise: ¶11.01, ¶11.08[1]-[3], Chapter 12, ¶29.09[2], ¶14.11[4]; skim ¶11.03, ¶11.06

VII. Cost Recovery & Depreciation

Problems: Chapter 14, sections 1-2, all problems (pgs. 49-50); Chapter 19, section 4, problem 1 (pg. 64). For Problem 1, section 1, compute the depreciation on the building and discuss the steps needed to determine how the computer technology would be depreciated. For Problem 4, section 1, add “How would your answer change if the property were not converted to personal use in 2008 and was used 25% in remodeling Leonardo’s building and 75% in his landscaping business?” (Note: numerous proposals in Congress have been made regarding depreciation schedules; the assumptions regarding schedules that will be used in answering these problems will be provided closer in time to coverage of these problems in class.)

Principal Code & Reg. Sections: §167, §168, §179, §197, §280F, §1016; §1.167(a)-1, §1.167(a)-2, §1.167(a)-3, §1.167(a)-11(e), §1.167(a)-14, §1.168(a)-1, §1.168(b)-1, §1.168(i)-4, §1.168(k)-1, §1.197-2; §1.280F-6

Additional Reading: TBA

Suggested Treatise: Chapter 14, ¶30.02[6], ¶30.03[7A] (supplement)

VIII. Character
A. Capital assets

Problems: Chapter 24, sections 1-3, all problems, except omit problem 2 on pg. 83 (Orlando Martin problem) (pgs. 80-87); Chapter 24, section 4, problems 1 & 4 (pgs. 87-88); Chapter 24, section 6, problems 1-2 (pgs. 88-89)

Principal Code & Reg. Sections: §1(h), §64, § 65, §1211, §1212(a)-(b), §1221, §1222, §1223, §1234A, §1235, §1236, §1237, §1253; Reg. §1.1223-1(i)

Additional Reading: TBA

Suggested Treatise: Chapter 31 (but omit 31.08 & 31.10); Chapter 32 (but omit 32.02 & 32.09); ¶33.06-07

B. § 1231 assets

Problems: Chapter 25, section 1, problems 1-2 (pgs. 90-91)

Principal Code & Reg. Sections: §1231; Reg. §1.1231-1

Additional Reading: TBA

Suggested Treatise: ¶33.01-02

C. Recapture provisions

Problems: Chapter 25, Section 1, Problems 3-5, 7 (pgs. 91-92); Chapter 25, Section 2, Problem 1(a) (focus on character) (pg. 93)

Principal Code & Reg. Sections: §1(h)(6), §1245, §1250

Additional Reading: TBA

Suggested Treatise: ¶33.04

D. Related party considerations

Problems: Chapter 25, section 1, problems 8 & 9 (pgs. 92-93), Chapter 25, section 1, problems 1(a)-(b) (pg. 90) (assume that Jack sells both buildings to his son, Junior)

Principal Code & Reg. Sections: §1239
IX. Installment Sales

Problems: Chapter 31, sections 1 & 2, all problems, except skip problem 4 (pgs. 114-16)

Principal Code & Reg. Sections: §453, §453A; §1.1001-1(g), §15A.453-0 (temp. reg.), §15A.453-1 (temp. reg.)

Additional Reading: TBA

Suggested Treatise: \num{29.13 -14}; Chapter 41 (except \num{41.04})

X. Additional Expense/Loss Deductibility Limitations

A. At risk rules

Problems: Chapter 35, section 1, all problems (pg. 126)


Additional Reading: TBA

Suggested Treatise: \num{19.03-04}

B. Passive activity losses

Problems: Chapter 35, section 2, all problems (pgs. 127-29)


Additional Reading: TBA

Suggested Treatise: \num{19.05}

C. Economic substance doctrine & other judicial doctrines
XI. Debt Principal Basics

A. Borrower

Problems: Chapter 10, sections 1 & 2, all problems (pgs. 34-35), section 4, problems 3 & 4 (pg. 37); Chapter 6, section 2, problems 1-2 (pgs. 19-20) (discuss Allyson’s consequences)

Principal Code & Reg. Sections: §61(a)(12), §108; §1.1001-2; §1.1001-3, §1.1001-1(g)

Additional Reading: TBA

Suggested Treatise: ¶4.01, ¶4.05, ¶28.07[3]; skim ¶4.02-04

B. Creditor

Problems: Chapter 15, section 3, all problems (pg. 53); Chapter 6, section 2, problems 1-2 (pgs. 19-20) (discuss Bank’s consequences); Chapter 31, section 2, problem 4(a) (pg. 114); Supplemental Debt Problems (on TWEN)

Principal Code & Reg. Sections: §165(g) & (j), §166, §453B, §1038, §1271; §1.166-5, §1.166-6, §1.1001-3, §1.1001-1(g)

Additional Reading: TBA

Suggested Treatise: Chapter 17, ¶28.04, ¶32.02, ¶30.05[3], ¶41.04; review ¶28.07[3], ¶32.03