

INTERNATIONAL TAX I

LAW 7614

3 CREDIT HOURS

FALL 2022

ROOM: HOLLAND HALL 359

MON. 10:30-11:55

Wed. 10:30-11:55

INSTRUCTOR: *Yariv Brauner*

*Holland Hall 325
brauner@law.ufl.edu
(352) 273 0949*

OFFICE HOURS: 12:00-13:00 after class (MW).

COURSE COMMUNICATIONS: via email.

REQUIRED TEXT: NONE

ADDITIONAL RESOURCES: Current Internal Revenue Code and Treasury Regulations.

COURSE DESCRIPTION: The United States rules applicable to transactions and investment by foreigners in the United States and by United States residents abroad, compared, as necessary to a coherent set of rules constructing the international tax regime via bilateral income tax conventions between countries.

PREREQUISITE KNOWLEDGE AND SKILLS: Corporate Tax taken in parallel.

PURPOSE OF COURSE: Acquaintance with the international tax regime.

COURSE GOALS AND/OR OBJECTIVES: *By the end of this course, students will apply the laws of the international tax regime.*

TEACHING PHILOSOPHY: Problem based instruction. Preparation ahead of class and participation is mandatory in this class.

INSTRUCTIONAL METHODS: PROBLEM BASED, CLASS DISCUSSION.

COURSE POLICIES:

ATTENDANCE POLICY: ATTENDANCE IS MANADATORY.

FINAL EXAM. THERE WILL BE QUIZZES IN THIS CLASS.

ASSIGNMENT POLICY: all assignments are mandatory. It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

ACADEMIC HONESTY: Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

GRADING:

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0

A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

The law school policy on exam delays and accommodations can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. See <https://gatorevals.ua.ufl.edu/students/> for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via

<https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at: <https://gatorevals.aa.ufl.edu/public-results/>.

UF POLICIES:

UNIVERSITY POLICY ON ACCOMMODATING STUDENTS WITH DISABILITIES:

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with

disabilities should follow this procedure as early as possible in the semester.

UNIVERSITY POLICY ON ACADEMIC MISCONDUCT: Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

NETIQUETTE: COMMUNICATION COURTESY: All members of the class are expected to follow rules of common courtesy in all email messages, threaded discussions and chats. <http://teach.ufl.edu/docs/NetiquetteGuideforOnlineCourses.pdf>

CLASS RECORDING POLICY:

The Office of Student Affairs will continue to record all classes via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will determine when students may have access to these recordings, and the recordings will be password protected. These recordings will be retained only for a short period of time and it is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

GRADING POLICIES:

The final grade will be comprised of the grade awarded to the final exam and quizzes (66% of the final grade) and a grade assigned for contribution to the class discussion (34%).

COURSE SCHEDULE:

We will spend two to three classes on each unit. Assignments will be handed out in advance. For the first assignment, see below.

Unit I: Intro & Jurisdiction

Unit II: Source

Unit III: Allocation of Deductions

Unit IV: Business Income

Unit V: Non Business Income

Unit VI: Transfer Pricing

Unit VII: Anti Deferral

Unit VIII: The Foreign Tax Credit

Unit IX: Treaties

Unit X: International Tax Planning

Oct. 28: International Tax Symposium – Participation and preparation of all of the papers presented is mandatory for this course.

The students are also expected to participate in all academic tax events (lectures, workshops, etc.) during the semester. Please discuss with the Professor in advance if you are unable to attend an event.

First Assignment (prepare for the first meeting)

Sections: 1, 2(d), 11, 55, 877, 877A, 911, 7701(a)-(b),

Regulations: 301.7701-2, 301.7701-3, 301.7701(b)-1(c), 301.7701(b)-2, 301.7701(b)-3

Rev. Proc. 2020-20.

1. A is a U.S. citizen, whose parents left the U.S. when she was 1-year old to Argentina. She has not been to the U.S. since. She is now 35 and a successful lawyer in Buenos Aires. She asks you whether she will be taxed as a U.S. resident on capital gains she expects to make on stock of a U.S. corporation that she wishes to purchase through an online broker. She has no other income with any connection to the U.S. or U.S. residents.

1A. Would sec. 911 help her if the gain is precisely \$100,000?

1B. Would she be better off relinquishing her citizenship prior to selling the portfolio?

2. B is an individual citizen and resident of Brazil. His start-up company negotiates cooperation with a U.S. corporation, which requires him to frequently visit the U.S. Shall he become a U.S. resident in 2021 in the following cases?

- a. He spent the first three full months of 2019-2021 in the U.S.
- b. Would the fact that he was hospitalized with Covid-19 for 80 days during his 2020 stay change your answer to “a”?
- c. He spent 360 days in the U.S. in each of 2019 and 2020, and the whole month of June in 2021.
- d. He spent 20 days in the U.S. in each of 2019 and 2020. What is the maximum number of days he can stay in the U.S. in 2021?

3. What if A (in question 1) was not a U.S. citizen, but had spent the months January-June (exactly) of 2019-2021 in the U.S., enjoying the sun in Miami’s south beach and doing nothing else. She continued to practice law in Argentina the rest of the year.

4. What if A alternatively decided after spending the first week of January 2021 on the beach in Miami to move to Miami and work as a commentator for a local Spanish-speaking radio channel. She returned to Buenos Aires, sold her practice and belongings over the next six months and returned to Miami on July 1, 2021 for her first day at work. She has not left the U.S. since. She was present in the U.S 180 days in 2019 and did not visit in 2020. Will she be taxed as a U.S. resident on a sale of stock executed on June 1, 2021? On July 1, 2021?

5. A GmbH is a German entity with limited liability and centralized management under German law. A BV is a similar entity under Dutch law. Assume that both entities do not allow for free transferability of ownership shares and cease to exist (liquidate) upon the withdrawal or sale of interest by any member of the entity. NV is a Netherlands Antilles corporation. Assume that it is similar to a U.S. corporation in all characteristics. Now, USCO, a Delaware corporation, wholly owns an NV that owns all of the shares of a BV that owns all of the shares of a GmbH, which shall be the only operative entity. This structure was put in place 30 days ago and now the corporate lawyers ask you to assist in accomplishing the following: 1. Free (of U.S. tax) deployment of cash between BV and

GmbH (and vice versa). Assume that dividends are free of withholding tax if between resident entities within the E.U.; and 2. Allow for a future IPO of the European operations of the group. Is it possible?