

Income Taxation (LAW 6600): Syllabus, Spring 2022

“I pay my tax bills more readily than any others—for whether the money is well or ill spent I get civilized society for it.”

Oliver Wendell Holmes. Letter to Harold J. Laski, 12 May 1930, in Holmes-Laski Letters 2:1247 (Mark DeWolfe Howe ed. 1953).

“The power to tax is the one great power upon which the whole national fabric is based. It is as necessary to the existence and prosperity of a nation as is the air he breathes to the natural man. It is not only the power to destroy, but it is also the power to keep alive.”

Nicol v. Ames, 173 U.S. 509, 515 (1899)

“Civil rights and income taxation may seem as far apart as any two legal subjects could be, but actually intersect in a surprising number of significant ways. Whenever money damages are sought in civil rights litigation, the tax treatment of damages will affect the amount that actually benefits the plaintiff after taxes. Even when litigation seeks non-money damages, as in predatory lending cases, civil rights lawyers need to attempt to structure the relief so that it does not cause undesirable tax consequences, such as income arising from forgiveness of debt. Civil rights lawyers may also need to analyze the financial consequences of tax benefits, such as tax-exempt status, in order to ascertain whether such benefits raise issues under the First Amendment’s Establishment Clause and the Fourteenth Amendment’s Equal Protection Clause. [C]ivil rights lawyers need to be aware of potential tax implications of civil rights litigation to a surprising degree.”

Stephen B. Cohen & Laura Sager, *Why Civil Rights Lawyers Should Study Tax*, 22 Harv. Blackletter L.J. 1 (2006) (abstract).

“Tax law is no more computation than literature is typing.”

Anonymous (variation on a comment by John Allen Paulos)

NOTE: All information contained in this syllabus is subject to reasonable clarification and change. I will make any necessary announcements on such matters in class. All announced clarifications and changes will become the official policy of the course.

Course Description: This is an “introductory” course in the truest sense of that word. It is designed for people with no specialized knowledge of the tax system, including those who do not plan to take any further tax classes. It is also quite explicitly a law class, i.e., it is a course that emphasizes analysis of the tax code as a piece of legislation that is enforced by an administrative structure and interpreted by courts with the aid of a set of common-law-like persuasive and binding authorities.

In other words, this is not an accounting class, and it is not an economics class. This course will teach you what lawyers should know (at a minimum) about the tax system, and it will give you the ability to read and interpret relevant sections of the tax code when you must confront them in the future. We will study the most fundamental issues that arise in income tax determinations: Who must pay taxes? What is included in income? When must a taxpayer pay taxes on her income? What may be deducted, excluded, or credited? What tax rates apply? Along the way, we will pay special attention to the tax consequences of certain important life events, such as selling a house and getting a divorce. Class time will be devoted to analyzing the Internal Revenue Code, relevant interpretive guidance, and judicial opinions. We will also spend significant time working through examples and problems.

Prerequisite: There is no prerequisite for this course.

Policies Regarding Electronic Devices and Laptop Computers: You may NOT use smart phones, iPads, or any other electronic devices (other than laptop computers, which are strongly discouraged but not prohibited) while in the classroom. TURN OFF such devices before coming to class. You should take this prohibition very seriously. Violators of this policy will be penalized.

Nearly all of you have become accustomed to taking notes on laptop computers. I strongly urge you to try to break the habit. A raised screen creates a barrier between you and the class. It encourages you to take verbatim notes rather than listening and writing down the most important material. And it will impede your ability to undertake an extremely important exercise at the end of the semester: the distillation of your handwritten notes, case notes and other materials into a useful outline; students with notes taken originally by computer will be tempted simply to treat those notes as an outline.

Generations of students succeeded in law school without laptop computers, and evidence suggests that they were better able to give their undivided attention to class. Moreover, you will find that in many professional contexts—client meetings, strategy sessions with colleagues, conferences with judges, depositions, etc.—you will be able to take notes, if at all, only by hand. That might change in future years, but the legal community is notoriously slow in changing its practices. You would do well to grow comfortable taking notes by hand, because you will surely have to do so for the foreseeable future, in many aspects of the real world of law practice.

Nonetheless, I do not currently prohibit laptop use in my classroom. If you decide you do wish to use a laptop computer to take notes, be aware that this is the **only** purpose for which you may use it in class. You **may not** use your computer to access the internet, check email, play games, display photographs or images, send your classmate the answer to a question I have asked, or any other purpose. Using your laptop for any prohibited purpose can result in penalties that will lower your grade for the course, as explained in “Requirements and Grades: Participation,” on p. 5 below.

In addition, research has shown that laptop computers can create a distraction for people sitting near a laptop user. Therefore, **seating in this class will be divided between laptop users and**

nonusers. On the first day of class, I will poll the students in attendance to determine how many seats will be needed for the two groups, and I will then designate which sections will be set aside for laptop users and nonusers.

Office Hours: I will hold official office hours from 2:45-4:45pm on Tuesdays (in my office, or at an in-person location that I will announce in advance) and from 10am-12 noon (virtually) on Thursdays. I also welcome you to stop by at any other time that I am in my office. Because of the unpredictability of my schedule, however, it is a good idea either to email or call ahead at 352-273-0931 (even if you will be coming by my office during regular office hours), or to talk to me before or after class about getting together at a specific time. The most reliable way to reach me is always by email.

Email Policy: My email address is: Neil.H.Buchanan@law.ufl.edu. If you have questions about the course, you should ask in class, come to my regular office hours (see above), request to meet with me in my office at another time, or ask your question(s) in an email message.

I will make a good-faith effort to answer questions that I receive via email, but I cannot guarantee that I will be able to respond to every question. I will not answer questions about material that we have not yet covered in class.

Readings: Required:

Casebook: Bankman, Shaviro, Stark, and Kleinbard, FEDERAL INCOME TAXATION, Wolters Kluwer, 18th edition

Statutory Supplement: Bank and Stark, SELECTED SECTIONS: FEDERAL INCOME TAX CODE AND REGULATIONS, Foundation Press, 2021-22 edition

Recommended:

Bankman, Griffith, and Pratt, FEDERAL INCOME TAX: EXAMPLES & EXPLANATIONS, Wolters Kluwer, 8th edition

Chirelstein and Zelenak, FEDERAL INCOME TAXATION (CONCEPTS AND INSIGHTS), Foundation Press, 14th edition

The reading assignments for the first two weeks of class meetings are posted on the law school's [Courses and Syllabi](#) page.

Each Thursday, I will post on this course's Canvas page the readings for the following week's class meetings.

Students should expect to spend at least two hours outside of class reading and preparing for every hour of class.

IMPORTANT additional reading responsibility: In the course of reading the casebook, you will frequently come across references to sections of the Internal Revenue Code and administrative guidance from the Department of the Treasury. When you come across such references in the casebook, **you should read the relevant sections**, which can be found in the Supplement (Bank and Stark). We will generally discuss these sections in class, where I will explain which sections (and subsections) are most important for you to study.

The vast majority of the reading for this course will be from the casebook and the supplement. I will also assign additional readings from other sources.

Finally, I strongly suggest that you follow legal and tax-related news on a daily basis. In addition to a good daily newspaper, the website www.Justia.com is a portal to free legal information that will be extremely useful to you.

Weekly Course Schedule of Topics (subject to revision):

Week 1 – Course administration, introduction, and basic concepts

Week 2 – Tax Law, policy, tax administration, and litigation

Week 3 – What is income?

Week 4 – Noncash income

Week 5 – Sale of a home

Week 6 – Gifts and loans

Week 7 – Annual accounting

Week 8 – Transfers at death

Week 9 – Realization

Week 10 – Nonrecognition

Week 11 – Divorce and family issues

Week 12 – Medical expense deductions

Week 13 – Charitable deductions and mixed personal deductions

Requirements and Grades:

Examination: The most important determinant of the grade in this class – and the only written work to be submitted – will be the final exam. The exam for this course is scheduled to be administered on Thursday, May 5, 2022 at a time to be announced. During the first meeting of the course and at various times throughout the semester, we will discuss in detail the format and coverage of the exam.

The law school policy on exam delays and accommodations can be found [here](#).

Attendance:

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed four absences over the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. If you have a legitimate reason for missing class, you should contact me before or soon after class ends for your absence to be excused. A student who fails to meet the attendance requirement will be dropped from the course. The law school's policy on attendance can be found [here](#).

You will learn more and perform better by attending class. This is an unparalleled opportunity to learn, for which you are paying a significant sum of money (and devoting a significant fraction of your lives). Take advantage of it!

Participation: I will call on students **at random** to answer questions, to go over cases, and so on. Because preparation and discussion are critical parts of the course, good class participation will affect your grade favorably, while poor participation and/or lack of preparation will affect your grade unfavorably.

Class Demeanor Expected by the Professor: You should not arrive late to class, leave early, or leave to take a break during class absent extenuating circumstances. Be sure to turn off your cell phone during class.

I reserve the right to lower your final grade if you engage in behavior that disrupts the learning environment for your classmates, or on the basis of participation, preparation, unauthorized use of electronic devices, etc.

Academic Honesty:

Academic honesty and integrity are fundamental values of the University community. Students should understand the UF Student Honor Code located [here](#).

Learning Outcomes:

A student who completes this course:

- (1) will be familiar with the basic concepts of U.S. federal income tax law,
- (2) should have an understanding of tax planning and tax controversies, especially for individual taxpayers and also for some business contexts, and
- (3) will be able to identify tax questions that can arise in legal practice outside of tax practice.

Preferred Names and Pronouns:

It is important to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name and pronouns are not reflected on the official UF roll, please let me know as soon as possible by e-mail or otherwise how you would like to be addressed in class. I would like to acknowledge your preferred name, and pronouns that reflect your identity. I welcome you to the class and look forward to a rewarding learning adventure together.

You may also change your “Display Name” in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records.

Discourse, Inclusion, and Classroom Ethos

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions.

As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to:

- commit to self-examination of our values and assumptions,
- speak honestly, thoughtfully, and respectfully,
- listen carefully and respectfully,
- reserve the right to change our mind and allow for others to do the same, and

- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers.

As part of my commitment to teaching and serving the diverse UF Law community, I have signed the UF Law Anti-Racism Resolution.

Grading Information and Grading Scale:

This course follows the Levin College of Law’s grading policies found [here](#). The below 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

Accommodations:

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.

Online Course Evaluation Process:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) 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 [here](#).

Statement on In-Class Recording

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.