

International Tax I
UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW
FALL 2023 SYLLABUS – LAW 7614 – 3 CREDITS

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Office Hours: Tu Th 9:20-10:20

MEETING TIME: Tu Th 10:20-12:00

LOCATION: HH180

COURSE DESCRIPTION AND OBJECTIVES:

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.

STUDENT LEARNING OUTCOMES:

At the end of this course, students should be able to apply the laws of the international tax regime.

REQUIRED READING MATERIALS:

Immediate access to the Internal Revenue Code and Regulations. Other readings will be assigned in class occasionally.

COURSE EXPECTATIONS AND GRADING EVALUATION:

Attendance and class contribution are mandatory. 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.

Students will be evaluated based upon contribution to class discussion (34%), quizzes and a written final exam (66%).

CLASS ATTENDANCE POLICY:

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed no absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. 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](#).

UF LEVIN COLLEGE OF LAW STANDARD SYLLABUS POLICIES:

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

ABA OUT-OF-CLASS HOURS REQUIREMENTS: ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Each weekly class is approximately 3 hours in length, requiring at least **6 hours of preparation** outside of class including reading the assigned materials and preparing the problems for class discussion.

COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS

This syllabus is offered as a guide to the direction of the course. Our pace will depend in part on the level of interest and the level of difficulty of each section and is subject to change. We will spend 2-3 classes on each unit. Make sure you follow the canvas page for updates and weekly reading assignments. On Canvas you will also find the problems set for the entire course.

Unit I: Intro & Jurisdiction

Unit II: Source

Unit III: Business Income

Unit IV: Non Business Income

Unit V: Transfer Pricing

Unit VI: Deferral

Unit VII: The Foreign Tax Credit

Unit VIII: Treaties

Unit IX: International Tax Planning

Oct. 27: 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 (Colloquium sessions, lectures, workshops, etc.) during the semester.

First Assignment:

Read:

Internal Revenue Code Sections: 1, 2(d), 11, 55, 872(b)(3), 877, 877A, 911, 7701(a)-(b),
Treasury Regulations: 301.7701-2, 301.7701-3, 301.7701(b)-1(c), 301.7701(b)-2, 301.7701(b)-3
Rev. Proc. 2020-20.

Prepare the following problems:

1. Abigail is a U.S. citizen, whose parents left the U.S. when she was 1-year old to move 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.

- a. Would sec. 911 help her if the gain is precisely \$100,000?
- b. Would she be better off relinquishing her citizenship prior to selling the portfolio?

2. Beto is an individual citizen and resident of Brazil. His start-up company negotiates cooperation with a U.S. corporation, which requires him to visit the U.S. Shall he become a U.S. resident in 2022 in the following cases?

- a. He spent the first three full months of 2019-2022 in the U.S.
- b. He spent 360 days in the U.S. in each of 2020 and 2021, and the whole month of June in 2022.
- c. He spent 20 days in the U.S. in each of 2020 and 2021. What is the maximum number of days he can stay in the U.S. in 2022?

3. What if Abigail (in question 1) was not a U.S. citizen, but had spent the months January-June (exactly) of 2020-2022 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 Abigail alternatively decided after spending the first week of January 2022 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, 2022 for her first day at work. She has not left the U.S. since. She was present in the U.S 180 days in 2020 and did not visit in 2021. Will she be taxed as a U.S. resident on a sale of stock executed on June 1, 2022? On July 1, 2022?

5. Jose is a Mexican citizen whose family lives in a small town located in northern Mexico. For each of the last three years, Jose has come to the United States to work in south Texas during the fall harvest and spends 120 days in the United States each year including the current year. Jose's family stays in Mexico and he sends money back to them while he works in the United States. After the harvest season, he returns to his home in Mexico where he has a house and car. Would Jose be considered a resident alien assuming the following additional facts?

- a. He works in the United States with a green card but never has any permanent dwelling place while in the United States?
- b. He works in the United States under a temporary agricultural workers visa (an H-2A VISA).
- c. Jose is an undocumented worker but returns to Mexico as before after the harvest season.
- d. Instead of the above facts, suppose Jose works in the United States from June 13 to December 31 (for 200 days) in the prior year but plans to work less than 120 days in the current year (from February 13 through June 13) and plans to work less than 120 days going forward?
- e. Jose lives in Mexico and is employed by Corporation X in its office in Mexico. Jose was temporarily assigned to X's office in the United States. Jose's employment in the United States office began on February 1 and continued through June 1, 1988. On June 2, Jose resumed his employment in Mexico. On the 59 days in the period beginning on February 1 and ending on June 1, Jose traveled each morning from his residence in Mexico to X Corporation's United States office for the purpose of engaging in his employment with X Corporation. Jose returned to his residence in Mexico on each of those evenings. On seven days in the period from February 1 through June 1, Jose worked in Corporation X's Mexico office. How many days is Jose considered to have been in the United States for purposes of the substantial presence test? See Reg. §301.7701(b)-3(e).

6. Celia was in a serious automobile accident in the United States on March 25. Celia intended to leave the United States on March 31 (as evidenced by an airline ticket), but she was unable to leave on that date as a result of the injuries suffered in the accident. Celia recovered from the injuries and was able to leave and did leave the United States on May 31. How many days are counted for purposes of applying the substantial presence test in Celia's situation? Would your answer change if Celia's return flight (as evidenced by an airline ticket) was scheduled for May 31? See Reg. §301.7701(b)-3(c).

7. Jessica is a national of a foreign country and has come to the United States under the below facts. Is Jessica a resident alien or is she entitled to exclude the days in which she is a teacher or student for purposes of the substantial presence test? In your answers, consider Treas. Reg. §301.7701(b)-3(b)(7) in these problems.

- a. Jessica is temporarily present in the United States during the current year as a teacher, within the meaning of section 101(a)(15)(J) of the Immigration and Nationality Act. Jessica does not receive

compensation described in Section 872(b)(3) in the current year. Jessica has been treated as an exempt student for the past three years.

- b. Jessica is temporarily present in the United States during the current year as a teacher and receives compensation described in Section 872(b)(3) in the current year. Jessica has been treated as an exempt teacher for the past two years but her compensation for those years was not described in Section 872(b)(3). Is Jessica able to exclude her days as a teacher this year for purposes of the substantial presence test?
- c. The facts are the same as in Example 2, except that all of Jessica's compensation for the two preceding years was described in section 872(b)(3). Will Jessica be considered an exempt individual for the current year? because she has not been exempt as a student, teacher or trainee for four of the six preceding calendar years.