

Federal Income Taxation

A Systemic Approach

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Preface

This book is based on a course I have taught over the last 35 years using a variety of commercially published casebooks. While it covers the same material covered in other introductory courses on federal income taxation, it covers it in an unusual order and with an unusual emphasis. I seek to instill in students an understanding of how an income tax ought to work, how our current tax system actually works, and why the differences generally offer opportunities for tax minimization. That is, I want to help my students develop a solid understanding of the basic themes that pervade an income tax. To me, the most important theme is the realization doctrine and the problems it generates. Accordingly, the course starts with basis and its consequences. It then moves on to income more generally and then additional timing issues. Considerable attention is paid to assignment of income concerns and to the capital gain provisions as well as to the relationship between the two. Time value of money issues will be found throughout.

A first course on taxation should also help students develop the skills necessary to read a complex and detailed statute. In a survey course, few Code provisions can be examined in detail, but it is important that some be read closely. I use the like-kind exchange provision in §1031 early in the course to introduce common statutory techniques and to impress upon students the need to read the statute. The OID rules also are covered in detail as an example of a very modern provision.

With a few exceptions, I cover only currently applicable law. Even those provisions that have expiration dates are taught with the same dignity as Code provisions that do not automatically expire: all provisions potentially are temporary and even temporary provisions can have great staying power.

Cases have been edited, sometimes heavily, with footnotes renumbered and string citations removed.

Some thanks are in order. My Harvard colleagues, Tom Brennan, Dan Halperin, Louis Kaplow, Steve Shay, and Al Warren, are a constant source of inspiration and assistance. Fingerprints of my former colleague, Richard Doernberg, can be found everywhere. And without the remarkable effort of my administrative assistant, Ms. Kim Petersen, there would be no book.

The law changes so quickly now that it seems best to eschew traditional publishing to ensure its contents can be kept current. This book is updated each year.

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