

**PERSONAL INCOME TAX**  
**276-001**  
**FALL 2009**

**COURSE SYLLABUS**

**Class Assignments:**

You will need two types of material, available from the bookstore –

1. A set of photocopies, in 3 parts: (a) this **Syllabus**; (b) **Materials**, consisting of cases, IRS rulings, other primary sources, and various secondary sources and explanatory essays; and (c) a **Problem Set**, containing a mixture of examples and questions.
2. A selection of current Income **Tax Statutes and Regulations**. I've ordered West's 2009 selection of Code and Regs sections.

Unlike your first-year classes, a tax course is a *statutory* rather than a case-based class. **THE MOST IMPORTANT MATERIAL YOU CAN READ BEFORE CLASS IS THE STATUTE.** So why do I include numerous cases? Because the facts are so juicy, and because cases illustrate the many transactions that taxpayers engage in. Contrary to popular opinion, the study of tax law is not about numbers, but rather about money and greed and power!

We meet Mondays, Tuesdays, and Wednesdays from 10:40 to 11:35 a.m. This Syllabus contains 40 numbered topics, broken down into one class hour each. Please be prepared to cover one topic each time we meet. We'll make adjustments to the schedule as necessary.

**Buddy System:**

Students often have a high anxiety level about tax classes. What might make this course difficult or confusing is not “numbers” in the math sense (we rarely do calculations) but rather “numbers” in the administrative law sense. *Everything* is numbered, from Internal Revenue Code sections, to regulations sections, to IRS rulings. And we tax lawyers tend to “talk in Code” rather than in English; hang in there, you'll soon be babbling away about “section 61” or “section 162.” You might also be baffled by the variety of business or other activities covered. We spend a lot of time discussing why people are doing what they're doing. That's what's so much fun about a tax course: you get to see life in all its fullness.

To help make this class less threatening and more of a cooperative effort, you must form into groups of two or three. Sort out soon (I can help pair you off), so that you can sit together with co-counsel. You and your co-counsel and ask/answer questions in class together. Work together, too, on the assigned problems.

### **Attendance, Preparation and Grade:**

I will not take attendance, but try to come to class even if you're unprepared. PLEASE ARRIVE AND BE SEATED ON TIME. **I reserve the right to hold up late-comers and seat them after a few minutes** (talk to me if you have scheduling problems).

Your grade will be based solely on the exam. The exam will be entirely objective (multiple choice, fill-in-the-blank, and/or short answer). The exam will be fully open-book, but you may not go online during the exam (for details, see the end of this Syllabus under "Exam"). You may elect pass/fail, but you'll probably study so hard you might as well go for the grade.

Get organized; *keep up* (set the right foundation); and call (906-5276), e-mail (ebrody@kentlaw.edu), or see me (Room 841) with questions (preferably with your co-counsel).

### **Income Tax in a Nutshell:**

How do you make sense of all this stuff? Even tax experts with many years' experience often don't know the answer to what might seem to be a fairly basic question. The Code and regulations are just too lengthy and complex (and they change all the time). Rather, in approaching a novel question, we know where to look for an answer (even if we don't find one!). As you work your way through the assignments, you are building a framework. Thus you can reason by analogy: *Where does this issue fit into the framework I already know?* Ask: "Which of the following four questions does this fit into?" –

*What* is income? (Or, often, what is deductible?)

*When* is it income? (Or, when is it deductible?)

*Whose* income is it?

*At what rate* should the income be taxed?

## 1. **THE INCOME TAX SYSTEM**

Materials: Pages 1-12: Joint Comm. on Tax'n, *Data on Federal Tax System*; Tax Policy Center, *Comparing U.S. Taxes Internationally*; Brody, *Tax Authorities and Other Good Things to Know*; Pam Olson, *List of Programs Run Through the Tax System*.

Problems: Handout Problem 1-1. Why don't we replace our \$2-plus trillion complex of income and payroll taxes, estate and gift taxes, and customs and excise duties, and just assess \$7,000 per person? What are the tradeoffs between *fairness*, *efficiency*, and *administrability* (complexity and cost)? As you go through the semester, think about why Congress is using the tax code to address the issues listed in Pam Olson's list, and whether it's a good idea.

2. **ECONOMIC CONCEPTS AND THE IDEA OF INCOME**

Code: § 61 and § 74.  
Regs: § 1.61-1 & -14.  
Materials: Pages 13-31: *Cesarini; Glenshaw Glass*; IRS, *IR-98-56* (record home-run baseballs); Academy of Motion Pictures, *Academy and IRS Reach Gift Basket Accord*; *IR-2006-128; James*.  
Problems: Handout Problems 2-1 through 2-3.

3. **INCOME FROM DEALINGS IN PROPERTY: INTRODUCTION**

Code: §§ 61(a)(3); 1001(a) & (b); 1011; 1012; and 165(c).  
Legislation enacted in October 2008 provides that, for 2009 only, the per-loss deduction is \$500 instead of \$100. Separately, the new law removes the 10%-of-AGI floor for net disaster losses (occurring in 2008 or 2009) resulting from a federally declared disaster, and allows individuals to claim those losses above-the-line.  
Regs: § 1.61-6.  
Problems: Handout Problems 3-1 through 3-5.

4. **THE TIME VALUE OF MONEY: INTRODUCTION**

Code: § 61(a)(4) & (7).  
Regs: Skim §§ 1.61-7 (interest) and -9 (dividends).  
Materials: Future Value and Present Value Tables (in Appendices A and B).  
Problems: Handout Problems 4-1 through 4-4.

5. **RECEIPT OF INCOME "IN KIND" (OTHER THAN CASH)**

Code: § 119.  
Regs: § 1.61-1 and -2(a) & (d)(1). Skim § 1.119-1.  
Materials: Pages 35-48: *Benaglia; Old Colony Trust; Maremont, Tax Free Income for Executives; Gotcher; Demer, Palin to Pay Tax on Past Per Diem; Soraghan, Lawmakers Skip Taxes on Family Travel; Rev.Rul. 79-24; Stamper, Virtual Economies*.  
Problems: Handout Problems 5-1 through 5-3.

6. **EXCLUSIONS FROM INCOME: GIFTS AND INHERITANCES**

Code: § 102; see also § 274(b) (we look at deductions in detail later, starting with Assignment 16).

Note: The 2009 annual *gift-tax* exclusion is \$13,000 per donee.

See Appendix F.

Regs.: § 1.102-1 and Proposed Reg. § 1.102-1.

Materials: Pages 49-55: *Duberstein*.

Problems: Handout Problems 6-1 through 6-5.

7. **STATUTORY FRINGE BENEFITS.**

Code: Skim § 132(a) through (f) and (j)(1) (you are not responsible for the details of § 132; just learn the points made in the Handout Problems).

Note: See Appendix F for the current limits on the transportation fringe benefits.

Regs.: § 1.61-2(d)(2); § 1.61-21(a) & (b), and skim the rest of the reg. § 1.132-3(e); and skim § 1.132-6.

Materials: Pages 60-62: CBO, *Restrict the Tax Exclusion for Qualified Parking*; RTA Transit Pass brochure.

Problems: Handout Problem 7-1 through 7-5.

8. **HEALTH BENEFITS AND PERSONAL INJURY**

Code: § 105(a) & (b) and § 106(a).  
§ 104(a)(2) and the last two sentences of § 104(a).

Regs: § 1.105-2.

Materials: Pages 63-67: CBO, *Reduce the Tax Exclusion for Employer-Paid Health Insurance*; Sack, *Business Cool Toward McCain's Health Coverage Plan*; Gruber Statement Before SFC; tax professors' e-mail exchange on evidence; *Eshelman v. Agere Systems*; Counsel Connect discussion.

Problems: Handout Problems 8-1 through 8-4.

9. **COMPLIANCE AND ETHICS** (*This will take more than one class hour.*)

Code: Note: In 2008, Congress passed two new information-reporting laws: The first requires a broker to file an annual information return showing a customer's adjusted basis when an individual or business sells a stock or bond; the second requires that financial institutions paying a merchant for

a credit or debit card transaction must file an information report with the IRS stating the net amount paid to the merchant during a calendar year.

Materials: Pages 68-104: IRS, *Fact Sheet on Confidentiality*; IRS, *Penalties and the Tax Gap*; *Cheek*; Wesley Snipes news story; Brody, *Employment Tax Liability*; employee classification news; Burman & Leiserson, *Payroll Taxpayers*; Obama's FY 2010 compliance proposals; TAM 9639001 [and see Form 8919 and SS-8 in Appendix C]; *Buffalow*; *Rhodes v. Batilla*; Counsel Connect exchange re payroll taxes.

10. **SELF-PRODUCED PROPERTY AND SERVICES; LIFE INSURANCE**

Code: § 101 (note that paragraph (g) was added in 1996, after the Private Letter Ruling and news story in your Materials).

Materials: Pages 105-112: *Garber*; CBO *Include Investment Income from Life Insurance*.

Problems: Handout Examples 10-1 through 10-4.

11. **BASIS FOR GIFTS AND INHERITANCES**

Code: § 1011; § 1012; § 1015; and § 1014. Skim § 1022.

Materials: Pages 117-121: *Taft v. Bowers*; CBO, *Modify the Estate & Gift Tax Provisions of EGTRRA*.

Problems: Handout Problems 11-1 through 11-4.

12 & 13. **INTRODUCTION TO DEDUCTIONS AND CREDITS**

(As noted, this topic will take two class hours.)

Code: Compare § 162(a) and § 212 with § 262; §§ 62 & 63; and (finally!) § 1 (except for subsections (g) and (h), which we'll look at in later classes).

Note 1: This stuff is much easier to understand from the **IRS Form 1040** in Appendices C and D to the Materials. The Obamas' form is for 2008. **Revenue Procedure 2008-66**, as amended by **Rev. Proc. 2009-21** (in Appendix F) has the 2009 inflation-adjusted rate tables and other indexed amounts that we will use in this course. Compare the much simpler Illinois return, at D-11 & D-12.

Note 2: As to future rates, see the Obama Administration's 2010 Budget:

(1) It would allow the scheduled 2011 return, when the Bush rate cuts "sunset,"

of the top two marginal ordinary-income tax rates, 36% and 39.6%. The top rate on dividends and capital gains would revert to 20% (which would affect taxpayers with income of about a quarter of a million dollars).

(2) In a proposal that has attracted strong bipartisan criticism, the taxes saved on itemized deductions would be limited to 28%. (The alternative minimum tax rates are 26% and 28%, so the maximum value of deductions for taxpayers subject to the AMT is currently 28%.)

Materials: Pages 122-134A: TPC, *Comparing Standard and Itemized Deductions*; Brody, *Rates vs. Base*; TPC, *Difference between Tax Deductions and Tax Credits*; excerpts from the Obamas' 2008 federal and Illinois tax return (in Appendix D); Surrey, *Tax Subsidies as a Device for Implementing Government Policy*; Tax Expenditures Table, FY 2009 U.S. Budget; OMB, *Income Tax Expenditures*; CBO, *Combine the Personal Exemption and Standard Deduction*; CBO, *Increase Individual Income Tax Rates and Limit the Tax Benefit of Itemized Deductions*.

Problems: Handout Problems 12-1 through 12-4.

#### 14. CASH METHOD OF ACCOUNTING

Code: §§ 446, 451(a), & 461(a), and skim § 448.

Regs: Skim § 1.446-1; read § 1.451-1 & -2; read § 1.461-1.

Materials: Pages 135-141: *McCormack*; *Rev. Rul. 78-38*.

Problems: Handout Problems 14-1 through 14-7.

#### 15. RETIREMENT INCOME: CONSUMPTION TAX

Code: § 62(a)(7); § 275(a)(1)(A); § 401(a)(1) through (a)(4); § 402(a); and § 409A. Skim § 401(k). If you're interested IRA rules, see §§ 219 and 408 (contributions deductible, but payouts taxable) and § 408A ("Roth" IRAs: no deduction, no income). You need only grasp the basic fundamentals of the tax rules on retirement accounts, as set out in the Handout Problems.

Materials: Pages 142-165: *Rev. Rul. 60-31*.

To get a flavor of the consumption-tax/flat-tax debate, skim the statements of Stephen Entin and Joel Slemrod; and CBO, *Impose a Value-Added Tax*.

Problems: Handout Problems 15-1 through 15-4.

16. **BUSINESS VERSUS PERSONAL EXPENDITURES;  
INVESTMENTS; HOBBY LOSSES**

- Code: § 165(a), (b), (c) & (d); § 183; § 172(a) and (b)(1) & (2). Reg. § 1.212-1(f).
- Materials: Pages 166-192B: *Smith; Pevsner*; Brody, *Leakage and Symmetry* (save part 4 for Assignment 23); *Torpie*; DOJ, “Lottery Ticket Schemers Sentenced”; Brody, *Roadmap for Deductions*; *Storer*.  
See Todd Palin’s 2006 and 2007 Schedule C in Appendix E.
- Problems: Handout Problems 16-1 through 16-5.

17. **TRAVEL AND ENTERTAINMENT**

- Code: § 162(a)(2); § 274(a), (d), (e), (k) & (n).
- Regs: § 1.162-2.
- Materials: Pages 193-207: *Rudolph; Correll; Hantzis*..
- Problems: Handout Problems 17-1 through 17-5.

18. **“ORDINARY AND NECESSARY”**

- Code: § 162(a) (first clause); § 162(c), (f) & (g); § 162(m); § 280E.
- Materials : Pages 212-237A: *Welch; Jenkins*; Action on Decision on *Jenkins; Tank Truck Rentals; Sullivan; Tellier; PLR 2008-34-016* (restitution); GAO, *Deductibility of Civil Settlement Payments*; and compare Bush’s 2007 proposal (only passed by SFC) with Obama’s FY 2010 budget proposal.
- Problem: Handout Problem 18-1.

19. **DEPRECIATION AND OTHER METHODS OF COST RECOVERY**

- Code: § 263(a); § 167(a); skim § 168(a) through (e).  
§ 179; and § 197(a) through (e). § 1016(a)(1) & (2).  
For 2009, note temporary bonus depreciation and 179 allowance, described in the problem set and in Appendix F.
- Regs: § 1.461-1(a); §§ 1.167(a)-1, -2 & -3.
- Materials: Pages 238-249: Brody, *Cost Recovery (“Depreciation”)*; Action on Decision on *Simon & Liddle*; discussion on Counsel Connect; CBO, *Extend the Period for Recovering Cost of Equipment*.
- Problems: Handout Problems 19-1 through 19-5.

20. **CAPITALIZATION VERSUS DEDUCTION**

- Code: § 263; § 263A(a) & (b). § 1016(a)(1).  
Regs: Reg. § 1.162-4; Prop. Reg. § 1.263(a)-1 through -3 (excerpts) [in Materials at 259-265].  
Materials: Pages 250-265: *INDOPCO*; Elliott, *Practitioners Satisfied with Definition of Unit of Property*; proposed 162 and 263 regs (examples).  
Note: You are not responsible for the post-INDOPCO regs (on intangibles) – notably § 1.263-5 – issued in 2004.  
Problems: Handout Problems 20-1 through 20-6.

21. **DEBT ASSOCIATED WITH PURCHASE AND SALE OF PROPERTY**

*(This will take less than one class hour.)*

[Note: In Assignments 21 and 22, ignore references to nonrecourse debt. I will explain this concept in class, but you are not responsible for it.]

- Reg.: § 1.1001-2(a).  
Materials: Pages 266-67: *Woodsam Associates*.  
Problems: Handout Problems 21-1 and 21-2.

22. **CANCELLATION OF INDEBTEDNESS**

*(This might take more than one class hour.)*

- Code: § 61(a)(12); § 108(a)(1), (a)(3), (b)(1), (d)(1) through (3), (e)(5), & (h); and § 1017(a).  
Materials: Pages 268-277: IRS, *Mortgage Forgiveness Debt Relief Act*; Simon, *Tax Relief for Homeowners*; Rev. Rul. 76-96; skim *Gehl*.  
Problems: Handout Problems 22-1 through 22-3.

23. **THE A.G.I. “FLOORS” UNDER CERTAIN ITEMIZED DEDUCTIONS: Employee Business Expenses and Investment Expenses; Medical Expenses; and Personal Casualty Losses**

- Code: § 67(a) & (b); skim § 213; and § 165(a) through (f) and (h) & (i) (and in (h), focus on the approach; you are not responsible for the calculation).  
NOTE: The Oct. 2008 bailout/rescue package, amended § 165(h)(1) to read: “Any loss of an individual described in subsection (c)(3) shall be allowed only to the

extent that the amount of the loss to such individual arising from each casualty, or from each theft, exceeds \$500 (\$100 for taxable years beginning after December 31, 2009).”

Materials: Pages 278-287: *Rev. Rul. 97-9*; *Rev. Rul. 63-232*; Commissioner’s Testimony on Ponzi Schemes; Joint Committee on Taxation, *Two-Percent Floor*; Brody, *Leakage and Symmetry* (part 4, on pages 176-77); Form 2106 (Employee Business Expenses) in the Obamas’ 2008 tax return (Appendix C).

Problems: Handout Problems 23-1 through 23-6.

#### 24. **CHARITABLE CONTRIBUTIONS**

*(This topic will take more than one class.)*

Code: Skim § 170 (a)(1), (b)(1)(A), (c), (d)(1), (e)(1), (f)(8), (11), (12), (16) & (17); (i), and (j); § 501(a), (b), & (c); and skim § 6115.  
See Form 8283 in Appendix C.

Materials: Pages 288-301: IRS, *Charitable Contributions Can Lower Tax Bills* [note 2004 change to car donations in § 170(f)(12) and 2006 change to household-goods donations in § 170(f)(16)]; Lyric Opera solicitation letter; Lipman, *\$37-Billion in Noncash Gifts*; CBO, *Limit Deductions for Charitable Gifts of Property to Tax Basis*; AP, *New Rules Make Tax Deductions Harder*; CBO, *Limit Deductions for Charitable Giving to Excess Over 2% of AGI*; CBO, *Create an Above-the-Line Deduction*; Schwinn, *Government Releases Rules for Donations of Vehicles*; IRS, *Contributions to Charity*; Regulations on Deductibility, Substantiation, and Disclosure of Certain Charitable Contributions; Goodman Theatre solicitation material.

Note: The Pension Protection Act of 2006 requires documentation for *all* charitable gifts, not just those over \$250.

Problems: Handout Problems 24-1 through 24-4.

#### 25. **TAXES: INTEREST EXPENSE**

Code: § 164(a) and (b)(1) & (5). § 163(a) and (h) (skip (3)(D), the treatment of pre-1987 debt); skim § 163(d); § 461(g); § 265.

Notes: The election to deduct sales tax in lieu of income taxes has been extended for 2008 and 2009; new in 2008 is a temporary above-the-line deduction for up to \$500 (\$1000 on a joint return) of state or local real-estate taxes paid.

The 2009 stimulus act provides a temporary deduction (for which you are not responsible) for state and local sales taxes paid on the purchase of new

- cars, light truck, recreational vehicles, and motorcycles through 2009. This deduction is subject to a phase-out for taxpayers with adjusted gross income in excess of \$125,000 (\$250,000 in the case of a joint return).
- Materials: Pages 302-309: CBO, *Eliminate or Limit Deductions of State and Local Taxes*; CRS, *Federal Deductibility of State and Local Taxes*; Duarte, *Housing Act Tax Relief*; CBO, *Reduce the Mortgage Interest Deduction*.
- Problems: Handout Problems 25-1 through 25-6.

26. **EDUCATION**

*(This topic might take more than one class.)*

- Code: § 117; § 25A [see Obama Administration's proposal in the materials for a description of new – and temporary – Code § 25A(i), which modifies the Hope credit for 2009 and 2010]; § 221; § 222 [extended through 2009 with an incomprehensible caveat about the AMT]; § 529.
- Regs: § 1.162-5. See Form 8863 in Appendix C; see Appendix F for 2009 credit amounts for the Lifetime Learning Credit.
- Materials: Pages 313-331: Paul Caron's TaxProf Blog, *Deduction for Harvard MBA Expenses*; Tax Policy Center, *Tax Incentives to Help Families Pay for College*; CBO, *Consolidate Tax Credits and Tax Deductions for Education Expenses*; Obama Administration's 2010 Proposal on the American Opportunity Tax Credit; *Shumer Calls for Support of Combined Education Credit*.
- Problems: Handout Problems 26-1 through 26-7.

27. & 28. **CAPITAL GAINS AND LOSSES**

*(Although we will take 2 class hours, prepare both assignments up front.)*

**What is a capital asset? How are gains and losses taxed?**

- Code: §§ 1221; 1222; 1223(2); 1(h); 165(c) & (f); 1211; and 1212(a) & (b)(1).
- Materials: Pages 333-41D: Brody, *Guide to Capital Gains*; U.S. Treasury, *Dividends and Capital Gains*; CBO, *Extend the Zero and 15% Rates*; CBO, *Replace Multiple Tax Rates with a Deduction*; Bielfeldt; Gordon & Washburn, *Raise the Capital Loss Limits*; Hatch Introduces Bill; Norris, *The \$32 Billion With a Bonus in Tax Breaks*; Mullins, *Music to Songwriters' Ears*.
- Note: See Schedule D in the Obamas' tax return (Appendix E) for an illustration of the net capital loss limitation rule.
- Problems: Handout Problems 27-1 through 27-6.

**Why the tax preference for capital gains?**

Materials: Pages 341-343: *Hellerman*.  
Problem: Handout Problem 28-1.

29. **SECTION 83: COMPENSATION WITH RESTRICTED PROPERTY**

Code: § 83(a), (b), (c)(1), & (h).  
Material: Pages 344-347: AICPA Recommendations.  
Problems: Handout Problem 29-1 through 29-3.

30. **[CATCH-UP FROM PRIOR CLASSES]**

31. **RECAPTURE [IF WE'RE RUNNING BEHIND, MOVE TO END OF SEMESTER]**

Code: Skim § 1231; read § 1245(a).  
Problems: Handout Problem 31-1.

32. **NONRECOGNITION EVENTS: LIKE-KIND EXCHANGES**

Code: §§ 1001(c); 1031(a) through (e); 1223(1).  
Regs: §§ 1.1031(a)-1; 1.1031(b)-1(a) & (b); 1.1031(d)-1(a) & (b).  
Materials: Pages 348-353: CBO, *Eliminate Like-Kind Exchanges*; *Rutherford*  
Problems: Handout Problems 32-1 through 32-6.

33. **INVOLUNTARY CONVERSIONS; SALE OF PRINCIPAL RESIDENCE**

Code: Skim § 1033; read § 121.  
Note: As described in the conference agreement on the 2009 stimulus act, a temporary homebuyer credit exists (you are not responsible for this):  
**Refundable First-time Home Buyer Credit.** Last year, Congress provided taxpayers with a refundable tax credit that was equivalent to an interest-free loan equal to 10 percent of the purchase of a home (up to \$7,500) by first-time home buyers. The provision applies to homes purchased on or after April 9, 2008 and before July 1, 2009. Taxpayers receiving this tax credit are currently required to repay any amount received under this provision back to the government over 15 years in equal installments, or, if earlier, when the home is sold. The credit phases

out for taxpayers with adjusted gross income in excess of \$75,000 (\$150,000 in the case of a joint return). The bill eliminates the repayment obligation for taxpayers that purchase homes after January 1, 2009, increases the maximum value of the credit to \$8,000, . . . and extends the availability of the credit for homes purchased before December 1, 2009. The provision would retain the credit recapture if the house is sold within three years of purchase. *This proposal is estimated to cost \$6.638 billion over 10 years.*

Materials: Pages 356-361: *Rev. Rul. 76-319; Rev. Rul. 76-390; Rev. Rul. 95-22.*

Problems: Handout Problems 33-1 through 33-4.

34. **WHAT IS THE TAXABLE UNIT? SINGLE AND MARRIED**

Code: § 1 (but see the 2009 inflation-adjusted dollar amounts in Rev. Proc. 2008-66, in Appendix F) and § 7703(a).  
skim § 6013(a) and § 151(a) & (b).

Materials: Pages 362-391: *Seaborn; Boyter; CBO, Advance the Marriage Penalty Provisions; Law Profs on marriage penalties; CBO, Potential Budgetary Impact of Recognizing Same-Sex Marriages; Senators Seek Domestic Partner Tax Reform; McCormally, Tax Savings for Domestic Partners; CBO, Marriage and the Federal Income Tax.*

Note: Chief Counsel Advice No. 200608038 (Feb. 24, 2006) opined that *Poe v. Seaborn* does not apply to registered domestic partners under California's Domestic Partner Rights and Responsibilities Act of 2003 because the relationship is not marriage under California law.

Problems: Handout Problem 34-1 and 34-2.

35. **TAX RATES AND GAMES CONGRESS PLAYS: EXERCISES**

[NOTE: We will do this assignment the Wednesday before Thanksgiving.]

Materials: Pages 392-399L: Brody, *Tax Rates and Games Congress Plays* (note: we look at the "kiddie tax", mentioned at end of Part A, in Assignment 37; and we look at the "alternative minimum tax," discussed in Part D, in Assignments 36 and 40); CBO, *Permanently Extend EGTRRA*; Sullivan, *A Good Reason to Raise the Capital Gains Rates*; CTJ, *The Obamas' Tax Returns*; Obama Administration's FY 2010 Proposals. To be supplemented, if available, with current tax-reform proposals.

Problems: Prepare answers to the questions in Brody, *Tax Rates and Games*

*Congress Plays*. Use the inflation-adjusted amounts in Appendix F.

36. **THE TAX TREATMENT OF DEPENDENTS**

Code: § 151(c); skim § 152; skim § 21; § 24.  
Materials: Pages 400-404A: CBO, *Eliminate Tax Subsidies for Child and Dependent Care*; P.L.R. 2003-39-001. Obamas' 2006 dependent-care expenses in the Appendix at D8 through D-10.  
Problems: Handout Problems 36-1 through 36-3.

37. **INCOME SHIFTING**

Code: § 73; § 102(b); skim § 1(g) [note May 2007 amendment, described in the Materials, re student dependents]; § 63(c)(5) (as adjusted in Appendix F).  
Materials: Pages 405-415: *Earl*; *Eller*; *Horst*; see *Games* (from assignment 35), "Kiddie Tax," at bottom of p. 394; Herman & Silverman, *Congress Closes "Kiddie Tax" Loophole*.  
Problems: Handout Problems 37-1 through 37-4.

38. **DIVORCE AND CHILD SUPPORT**

Code: § 71 (but not the computations in (f)); § 215; § 1041; § 6015.  
Materials: Pages 414-425C: Bill Wilkins, *I'm an Innocent Spouse* [note: the author is Obama's pick to be IRS Chief Counsel]; IRS information on innocent spouse relief; *Ferrarese*; *Strinz*.  
Problems: Handout Problems 38-1 through 38-3.

39. **ACCOUNTING FOR PROPERTY SALES: Installment sales; Stock; Mutual Funds**

Code: § 1060; § 197(d); § 453(a) through (d), and (i) & (k)(2).  
Problems: Handout Problems 39-1 through 39-7.

40. **A LAST LOOK AT THE ALTERNATIVE MINIMUM TAX**

Materials: Pages 426-441: *Games* (from Assignment 35), AMT at 397-98; *Klaassen*; *Andrews*, *Democrats Seek Tax Overhaul*; *Herman*, *Marriage Penalty in AMT*; C.B.O., *Relief from A.M.T.*; Tax Policy Center, *The Individual*

*AMT: 12 Facts and Projections; Steuerle, Fixing the AMT by Raising Rates.*

### **BONUS Q & A SESSION DURING READ PERIOD**

A few days before the exam, I will hold a Q&A session. This will NOT be a review session in the sense that I will present material – it will be up to you to ask questions. You are welcome to come to all, a portion, or none of the time. Of course, I will be otherwise available to answer your questions (preferably with co-counsel), but you might also want to see what questions your classmates have.

Caveat: As you go over old exams that I hand out, be aware that the law might have been different for the year of that exam! In addition, break points and other dollar amounts might have changed with inflation – that’s why I always use the second page of the instructions to set forth the tax tables, personal exemption amounts, and standard deduction amounts for you to use.

### **FINAL EXAM**

Friday, December 11, at 1:15 p.m. This will be a 3-hour, open-book exam. The format will be objective – multiple-choice, fill-in-the-blank answer, and/or short-answer. The answers must be written out by hand on the answer sheet provided or typed in a similar format. (It’s generally not worth it to take the exam on computer.) I will distribute old exams near the end of the semester (but I reserve the right to vary the format of the questions).

Take into the exam your Code and Regs, your Materials and problems, your notes, and a calculator – and feel free to take in any other written material (including commercial outlines, although you won’t need these!). Some of you might be living out of your notebook computers. You **may** bring your computer into the exam, including your notes and outlines. However, you may **not** use your computer to email or check the Web. I do not believe that the computer-users will have an advantage in taking the exam. Anyone who prepares for class, attends regularly, and studies the material should be able to do well on the exam; by contrast, anyone who does not keep up should not be able to do well on the exam simply by having an electronic outline.