PERSONAL INCOME TAX
276-001
FALL 2007

COURSE SYLLABUS

Class Assignments:

You will need three types of material, all 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.


3. TaxProf 7.01™ (the 2004 version; I will alert you to the few places where the law has changed), a computer-based tutorial. The Syllabus tells you which of these questions to prepare for each class. These questions are a fundamental – and time-consuming – component of your class assignments; don’t wait until you’re studying for the exam! You are not responsible for questions I don’t assign.

Notes: TaxProf is available on CD. If you do not have a computer with a CD-ROM reader, the school will give you access to the tutorial (for the same purchase price). Full disclosure: The program (in its seventh edition and sold around the country) is written by my husband.

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 1:55 to 2:50 p.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** bring in TaxProf or any printouts from TaxProf (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*; Brody, *Tax Authorities and Other Good Things to Know*.

**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)?

**TaxProf:** INSTRUCTIONS; TAX LAW 101.

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, *Trip to Space*; Tax Whistle-Blowers.

**Problems:** Handout Problems 2-1 through 2-3.

**TaxProf:** DEFINING INCOME, *General Concepts*: Q.11, Q.12, Q.13 and Q.16.


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

**Code:** §§ 61(a)(3); 1001(a) & (b); 1012; and 165(c).

**Regs:** § 1.61-6.

**Problems:** Handout Problems 3-1 through 3-5.

**TaxProf:** SALES AND EXCHANGES, *Computing Gain and Loss*: Q.1 through Q.8, Q.11 through Q.14, and Q.18.


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

**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, Rev. Rul. 79-24; Stamper, Virtual Economies.*
- **Problems:** Handout Problems 5-1 through 5-3.
- **TaxProf:** DEFINING INCOME, *General Concepts*: Q.1, Q.3 (no, you are not responsible for this formula!), Q.4, Q.18 and Q.22. DEFINING INCOME, *Meals and Lodging*: Q.2 through Q.4; skim Q.5 through Q.8.

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 2007 annual gift-tax exclusion is $12,000 per donee.
  
  See Appendix F.
- **Regs.:** § 1.102-1 and Proposed Reg. § 1.102-1.
- **Materials:** Pages 49-59: *Duberstein; Bannon.*
- **Problems:** Handout Problems 6-1 through 6-5.
- **TaxProf:** DEFINING INCOME, *Gifts and Inheritances*: Q.1 through Q.4, Q.10 through Q.16, and Q.20.
  
  
  DEFINING INCOME, *Damages*: Q.16.

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).
- **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 60-63: CBO, *Restrict the Tax Exclusion for Qualified Parking; RTA Transit Pass brochure.*
- **Problems:** Handout Problem 7-1 through 7-5.
- **TaxProf:** DEFINING INCOME, *Fringe Benefits*: Q.1, Q.2, Q.3, Q.5, and Q.7 through Q.12.
  
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.


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

TaxProf: PERSONAL DEDUCTIONS, *Medical Expenses*: Q.16; skim Q.17 (we cover the medical-expense deduction in Assignment 23) and Q.18.

DEFINING INCOME, *Damages*: Q.1 through Q.10, Q.17, and Q.18.

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


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).


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


11. **BASIS FOR GIFTS AND INHERITANCES**

   Code: § 1011; § 1012; § 1015; and § 1014. Skim § 1022.
   Problems: Handout Problems 11-1 through 11-4.
   TaxProf: DEFINING INCOME, Gifts: Q.5 through Q.8, and Q.17 through Q.19.

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

   (As noted, this topic will take two classes.)

   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:** This stuff is much easier to understand from the IRS Form 1040 (and Schedule A), in Appendix C to the Materials. This form is for 2006. Revenue Procedure 2006-53 (in Appendix F) has the 2007 inflation-adjusted rate tables and other indexed amounts that we will use in this course.
   
   
   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.
   Problems: Handout Problems 14-1 through 14-7.
   TaxProf: TIMING, Cash Method: skim Q.1 through Q.4; do Q.5 through Q.11; Q.13 through Q.18; and Q.22 through Q.25.
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.*

Skim the consumption-tax/flat-tax pieces to get a flavor of the debate – the Statement by Congressman Dick Armey on Flat Tax; the Statement of Joel Slemrod on Flat Tax; and CBO, *Impose a Value-Added Tax.*

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

**TaxProf:** TIMING, *Cash Method:* Q.19 through Q.21.


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; Nicks; Brody, Leakage and Symmetry* (save part 4 for Assignment 23); *Torpie; DOJ, “Lottery Ticket Schemers Sentenced”; Brody, Roadmap for Deductions; Calarco.*

**Problems:** Handout Problems 16-1 through 16-5.

**TaxProf:** LOSS LIMITATIONS, *Losses:* Q.3 and Q.6.

TIMING, *Annual Accounting Period:* Q.3 through Q.5.

LOSS LIMITATIONS, *Hobby Losses:* Q.1 through Q.5; skim Q.6, Q.7 & Q.8.

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.

**TaxProf:** BUSINESS DEDUCTIONS, *Travel and Entertainment:* Q.1 through Q.8, Q.11, Q.17 through Q.19, Q.21, Q.24, and Q.26 through Q.29, Q.31, and Q.34.
18. **“ORDINARY AND NECCESSARY”**

Code: § 162(a) (first clause); § 162(c), (f) & (g); § 162(m); § 280E.

Materials: Pages 212-238D: Welch; Jenkins; Action on Decision on Jenkins; Tank Truck Rentals; Sullivan; Tellier; posting on Counsel Connect; GAO, Deductibility of Civil Settlement Payments; Bush’s 2007 proposal (passed by SFC, but no further); Wood, Tax Deductions for Damage Payments.

Problem: Handout Problem 18-1.

TaxProf: BUSINESS DEDUCTIONS, Ordinary and Necessary: Q.1, Q.19, and Q.20 through Q.23.
DEFINING INCOME, Crimes and Politics: Q.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).

Regs: § 1.461-1(a); §§ 1.167(a)-1, -2 & -3.

Materials: Pages 239-249: Brody, Cost Recover (“Depreciation”); Action on Decision on Simon & Liddle; discussion on Counsel Connect; CBO, Extend the Period for Recovering Cost of Equipment.


BUSINESS DEDUCTIONS, Cost Recovery: Q.1 through Q.7, Q.9, Q.16, Q.17, Q.20 (just skim Explanation), Q.22, Q.25 (you are not responsible for the “applicable convention”), Q.28, and Q. 29.


MISCELLANEOUS, Time Value of Money: Skim Q.36.

20. **CAPITALIZATION VERSUS DEDUCTION**

Code: § 263; § 263A(a) & (b). § 1016(a)(1).

Regs: Prop. Reg. § 1.263(a)-1 through -3 (excerpts) [in Materials at 259-270A].

Materials: Pages 250-270A: INDOPCO; Gay; proposed 263 regs (skim the text of the preamble; focus on the examples).

Note: You are not responsible for the post-INDOPCO regs (on intangibles) – notably § 1.263-5 – issued in 2004.


21. **DEBT ASSOCIATED WITH PURCHASE AND SALE OF PROPERTY**  
(This will take less than one class.)

[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).

22. **CANCELLATION OF INDEBTEDNESS**  
(This might take more than one class.)

- Code: § 61(a)(12); § 108(a)(1), (a)(3), (b)(1), (d)(1) through (3), & (e)(5); and § 1017(a).
- 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).
- Materials: Pages 278-287: *Rev. Rul. 97-9; Rev. Rul. 63-232;* Joint Committee on Taxation, Two-Percent Floor; Brody, Leakage and Symmetry (part 4, on pages 176-77); Form 2106 (Employee Business Expenses) in Appendix C.
  - BUSINESS DEDUCTIONS, Travel and Entertainment: Q.35 and 38.
PERSONAL DEDUCTIONS, Medical Expenses: Q.6 through Q.8, Q.12, Q.14 (for now, ignore references to the 3% floor), and Q.15.

LOSS LIMITATIONS, Losses: Q.2.

LOSS LIMITATIONS, Casualty and Theft Losses: Q.1 through Q.4, Q.9 through Q.13, and Q.17 through Q.22.

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.

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.

TaxProf: PERSONAL DEDUCTIONS, Charitable Contributions: Q.2 through Q.6, Q.8 (we study the capital gains rates in Assignments 27 & 28), Q.11, Q.14, Q.15, Q.17 through Q.26, Q.30, and Q.31.

FILING, EXEMPTIONS, AND RATES, Tax Rates: Q.8.

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.

Materials: Pages 302-309: Changes to This Year’s Return; CBO, Eliminate or Limit Deductions of State and Local Taxes; Lav, Sales Tax Deduction; CBO, Reduce the Mortgage Interest Deduction.


TaxProf: PERSONAL DEDUCTIONS, Taxes: Q.1 through Q.3, Q.6 through Q.10, Q.14,
and Q.15.
PERSONAL DEDUCTIONS, Interest Expense: Q.1 through Q.5 (for now, ignore the reference in the Explanation to Code section 68), Q.6 (we cover capital gains rules later), Q.7 through Q.13, Q.15, Q.17, Q.20, Q.32, and Q.39 (ignore the “passive activity” part of this question).
MISCELLANEOUS, Time Value of Money: Skim Q.30 through Q.33.

26. EDUCATION
(This topic might take more than one class.)

Code: § 117; § 25A; § 221; § 222 [extended through 2007]; § 529.
Regs: § 1.162-5. See Form 8863 in Appendix C; see Appendix F for 2007 credit amounts.
Materials: Pages 310-332: JCT, Tax Benefits for Higher Education; GAO, Postsecondary Tax Preferences; CBO, Consolidate Tax Credits and Tax Deductions for Education Expenses; Emanuel, Camp, Bayh bill.
Problems: Handout Problems 26-1 through 26-7.
PERSONAL DEDUCTIONS, Interest Expense: Q.22 through Q.27; Q.29.
PERSONAL DEDUCTIONS, Education Incentives: Q.1 through Q.17.

27. & 28. CAPITAL GAINS AND LOSSES
(Although we will take 2 classes, prepare both parts of this assignment up front.)

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

Code: § 1221; § 1237; and § 1231(a) & (b).
§ 1222; § 1223(2); § 1(h); § 165(c) & (f); § 1211; and § 1212(a) & (b)(1).
Note: See the Bush tax return, at Appendix E-5, for an illustration of the loss limitation rule.
TaxProf: CHARACTERIZATION, Capital Assets: Q.1 through Q.6; Q.9 through Q.16.
CHARACTERIZATION, Capital Gain Rates: Q.1 through Q.9, Q.14 through
Q.21, and Q.28.
CHARACTERIZATION, Holding Period: Q.1 through Q.8.
PERSONAL DEDUCTIONS, Charitable Contributions: Q.8 and Q.9.

Why the tax preference for capital gains?

Problem: Handout Problem 28-1.
TaxProf: CHARACTERIZATION, Policy: Q.1 through Q.5 (we cover like-kind exchanges in Assignment 32); Q.6 through Q.10; and Q.12 through Q.14.

29. SECTION 83: COMPENSATION WITH RESTRICTED PROPERTY

Code: § 83(a), (b), (c)(1), & (h).
Problems: Handout Problem 29-1 through 29-3.

30. [CATCH-UP FROM PRIOR CLASSES]

31. RECAPTURE

Code: Skim § 1231; read § 1245(a).
Problems: Handout Problem 31-1.
CHARACTERIZATION, Section 1231 Assets: Q.1 through Q.4, Q.6, Q.9, and Q. 12 through Q.15.
CHARACTERIZATION, Capital Gains Rates: Q.5.

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
TaxProf: **SALES AND EXCHANGES, Realization:** Q.5.
**NON-RECOGNITION, Like-Kind Exchanges:** Skim Q.1 to see the economics; Q.2 through Q.7, and 29 through Q.31.

33. **INvoluntary Conversions; Sale of Principal Residence**

**Code:** Skim § 1033; read § 121.

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

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

**TaxProf:** **NON-RECOGNITION, Involuntary Conversions:** Q.1 through Q.6, Q.8, Q.10, and Q.14 through Q.17.

**NON-RECOGNITION, Principal Residences:** Q.1 through Q.8; and Q.14.

**LOSS LIMITATIONS, Losses:** Q.4 and Q.5.

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

**Code:** § 1 (but see the 2007 inflation-adjusted dollar amounts in Rev. Proc. 2006-53, in Appendix F); § 6013(a); § 7703(a); § 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; 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.

**TaxProf:** **FILING EXEMPTIONS, AND RATES, Filing Status:** Q.1 (skim), Q.2, and Q.5.

**FILING, EXEMPTIONS, AND RATES, Personal Exemptions:** Q.1 and Q.2.

**FILING, EXEMPTIONS, AND RATES, Tax Rates:** Q.10 through Q.15.

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

**Materials:** Pages 392-398F: Brody, Tax Rates and Games Congress Plays (note: we look at the “kiddie tax”, mentioned at end of Part A, in Assignment 37;

Problems: Prepare answers to the questions in Brody, *Tax Rates and Games Congress Plays*. Use the 2007 inflation-adjusted amounts in Appendix F.

### 36. THE TAX TREATMENT OF DEPENDENTS

**Code:** § 151(c); skim § 152; skim § 21; § 24.


**Problems:** Handout Problems 36-1 through 36-3.

**TaxProf:** DEFINING INCOME, *General Concepts*: Q.23.

FILING, EXEMPTIONS, AND RATES, *Dependency Exemptions*: Q.3 through Q.5, and Q.7 through Q.11 (you are not responsible for PEP).

PERSONAL DEDUCTIONS, *Child Credit*: Q.1 through Q.4.

PERSONAL DEDUCTIONS, *Dependent Care Credit*: Q.1 through Q.6, Q.13.

### 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 405-413B: *Earl; Eller; Horst*; see *Games* (from assignment 35), “Kiddie Tax,” at bottom of p. 3; Herman & Silverman, *Congress Closes “Kiddie Tax” Loophole*.

**Problems:** Handout Problems 37-1 through 37-4.

**TaxProf:** BUSINESS DEDUCTIONS, *Ordinary and Necessary*: Q.2.

IDENTIFYING THE TAXPAYER, *Assignment of Income*: Q.1 through Q.4, Q.6, Q.12, Q.13, Q.16 (ignore references to Code section 1286); Q.19, Q.21, and Q.23.

IDENTIFYING THE TAXPAYER, *Kiddie Tax*: Q.1 through Q.13 [note that these questions were written before Congress increased the age from under 14 to under 18, and to dependents who are under 24].
38. **DIVORCE AND CHILD SUPPORT**

   **Code:** § 71 (but not the computations in (f)); § 215; § 1041; § 6015.
   **Materials:** Pages 414-425: Bonar; Bill Wilkins, *I’m an Innocent Spouse*; IRS information on innocent spouse relief; Ferrarese.
   **Problems:** Handout Problems 38-1 through 38-3.
   **TaxProf:** IDENTIFYING THE TAXPAYER, *Divorce*: Q.1 through Q.13, and Q.15 through Q.19.

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 (see Glossary in the TaxProf assignment for a definition of “applicable Federal rate”).
   **TaxProf:** DEFINING INCOME, *General Concepts*: Q.5.

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

   **Materials:** Pages 426-437: Games (from Assignment 35), AMT at 397-98; Klaassen; Andrews, *Democrats Seek Tax Overhaul*; Herman, *Marriage Penalty in AMT*; Steuerle, *Fixing the AMT by Raising Rates*.
   See Form 6251 in Appendix C.
   **TaxProf:** MISCELLANEOUS, *AMT*: Q.1, Q.3 through Q.7, and Q.10 through Q.13 (don’t worry about the calculations – just see the result).
BONUS Q & A SESSION DURING EXAM WEEK

A week or so 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

Wednesday, December 19, 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 bring TaxProf into the exam, or any printouts from TaxProf, and 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.