

INCOME TAXATION: SPRING 2020

Professor Stephanie J. Willbanks

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COURSE OVERVIEW AND OBJECTIVES

This course is designed to teach the fundamentals of federal income taxation, including concepts of gross income, exclusions from income, gains from the sale of exchange or property, the character of income, business and personal deductions, credits, and tax policy. Coverage is selective, rather than comprehensive, to facilitate in-depth analysis of representative issues. The primary focus will be the Internal Revenue Code (IRC) and the regulations. The sections selected represent basic principles and representative models. The casebook, which combines cases and text, is assigned to illustrate the rules and principles in the IRC as well as tax policy and procedure. Class sessions will combine statutory analysis and problem solving, with case analysis playing a subsidiary role.

OBJECTIVES

Upon completion of the course, students will be able to analyze a factual situation, determine the relevant law, and explain, either orally or in writing, how the law applies to a specific set of facts. Students will also be able to critique the theories, rationales, and policies for the legal principles covered in the course. The specific learning outcomes are defined in terms of doctrine, skills, and values as described below. Learning objectives for each assignment are included in the assignments.

Tax Doctrine

1. Students will be able to analyze and apply basic principles of federal income taxation as they apply to individuals.
2. Students will be able to understand the specific tax doctrines in the assigned IRC sections and apply those doctrines to hypotheticals.
3. Students will be able to identify and critique different models for dealing with tax issues and determine what models best fit specific issues.

Skills

1. Students will enhance their ability to read, interpret, and apply complex statutes and regulations.
2. Students will enhance their writing skills and their ability to communicate with clients and other attorneys.
3. Students will acquire basic legal research skills in the field of taxation.

Values

1. Students will gain a basic understanding of client interests and ethical issues arising in tax representation.
2. Students will demonstrate professionalism in meeting course objectives.

REQUIRED TEXTS AND MATERIALS

1. James J. Freeland, Daniel J. Lathrope, Stephen A. Linda, and Richard B. Stephens, **FUNDAMENTALS OF FEDERAL INCOME TAXATION: CASES AND MATERIALS**, Foundation Press (19th ed. 2018)

This textbook is new. Do not use a prior edition as the IRC was changed significantly in the 2017 Tax Act.

2. **FEDERAL INCOME TAX CODE AND REGULATIONS: SELECTED SECTIONS (CCH 2019-2020 Edition)** (Martin B. Dickson, editor)

You **must** use a current version of the IRC for class. Using an outdated version will cause confusion and errors.

While you can access the IRC and regulations online for class preparation, it is extremely difficult to do so during class. You need to have the precise statutory language available during class. We will also refer to regulations in class from time to time and while it is easy to move between the IRC and the regulations in the one volume book, it is almost impossible to do so online.

More importantly, you will also not have access to online materials during the final exam.

The online versions also include all subsections while the recommended text does not.

3. **Cost of Living Revenue Procedure**

A number of IRC sections are adjusted annually for inflation, and the IRS issues a Revenue Procedure detailing those adjustments. For 2020, that Revenue Procedure is 2019-44. An edited version is posted on TWEN under the Syllabus tab. It will be referred to in individual assignments as appropriate.

4. **ASSIGNMENTS**

The assignments include readings and problems. The assignments are posted on only TWEN. You are responsible for reading the assigned problems and outlining a response prior to class discussion. Always note what IRC sections, regulations, or other authority support your analysis.

CLASS PREPARATION AND EXPECTATIONS

Students must be prepared for class, be prompt in attendance, and be professional in all interactions. There is a significant amount of material in this course that can be mastered through careful reading of the materials and working through the assigned problems. You should spend approximately three to four hours of preparation for every class.

The study of tax law may seem intimidating at first, but this is not an accounting class or a class that focuses on the preparation of tax forms and returns. Like other doctrinal law classes, it focuses on legal doctrine and theory, skills such as legal analysis and statutory interpretation, and professional values. Because of the nature of the material, many of the problems involve numbers. You may use a calculator as needed, and you may use a simple calculator (not your phone, iPad, or a calculator that can be programmed) during the final examination.

The assignments are posted only on TWEN. Each assignment includes learning objectives, problems, statutes, regulations, and text. Preparation for class involves not only reading the assigned text, but also reading the IRC and working through the problems. Doing so often involves reading regulations and cases. Students should determine the answers (or at least the steps in the analysis) to the problems. It is helpful to write out the steps, including the authority that supports your answer. Comprehension comes through repeated reading and careful attention to the language and design of the IRC and other sources.

Each assignment includes suggested regulations (except for the first assignment), and the text includes some references to specific regulations. I expect students to be able to find answers in the regulations even if a section has not been specifically assigned. It is not necessary to read each and every section or subsection of the regulations. Read the headings of the sections and subsections to find the relevant paragraph or example. Not all questions, however, can be answered by reference to the regulations.

I expect students to participate in class and to ask questions. I do not expect students to have the “right” answers all of the time. Please respect your colleagues and the Professor. This means being prepared for class, arriving on time, raising your hand to be called on, acknowledging the differing opinions of your colleagues, refraining from disrupting the class, and completing all assignments.

I will post the “board notes” (not my lecture notes) on the course web page after each class. These notes usually have the critical points from the day’s class. I try to record each class and place that recording on the course web page. These notes and recordings, and any other materials distributed by me, are copyrighted and solely for the use of students currently enrolled in the course. They may not be reproduced, shared with others, sold to others, or distributed in any manner other than with or to students currently enrolled in the course.

I do not prohibit laptops in the classroom, but I expect you to use them only for class activities. Other activities, such as checking email, playing games, engaging on social media, and the like are unprofessional and disruptive to your classmate.

If you take notes on a laptop, be aware that you might be simply transcribing material without comprehending it. The tendency is to include everything. Research shows that students who handwrite their class notes perform better on examinations.

Do not use your cell phone during class. The first time I see your cell phone, I will publicly ask you to turn it off. The second time I will confiscate it and give it to Dean Jefferson. This same rule applies to smart watches and other such devices. If you are expecting a call that you absolutely must answer or are experiencing an emergency, please inform the Professor at the beginning of class and then put your phone on silent mode.

GRADING POLICY

The grade in this course will be based 15 percent on professionalism, 35 percent on writing projects, and 50 percent on the final examination.

Professionalism will count for 15 percent of the final grade and will be based on attendance, punctuality, class preparation and participation, responsibility, civility, respect, and meeting all course obligations in a timely fashion.

Attendance

Class attendance is required. Absences will affect your grade. Unexcused absence from three (3) classes, will result in a written warning. Unexcused absence from one additional class will result in a grade of F.Wd. This statement constitutes the notice required by the Academic Regulations.

Absences resulting from religious observance, serious illness, and personal emergency are excused if notice is given to the Professor or through the Registrar within a reasonable time of the absence. Informing the Professor or Registrar of anticipated absences does not convert those absences into “excused” absences. Excused absences will not affect your grade unless they are excessive and except that you are not present and cannot contribute to class discussion. Unexcused absences will affect your class participation grade even if they do not exceed two regularly scheduled classes.

Being late for class may be treated as an unexcused absence if you are significantly or frequently late. Leaving in the middle of class will also negatively affect your grade. Class begins promptly at 9:00 a.m. If an emergency or other valid reason causes you to be late, let the Professor know.

If there is a delayed opening, class will begin at 9:55 a.m. on that day and end at 11:10 a.m., *i.e.*, the regular second period class period.

Punctuality

Be on time for class. This means being in your seat and ready to participate in class at 9:00 a.m. Weather is a factor so be prepared and give yourself extra time to travel to school. Always use your best judgment about traveling even if school is open. If you are absent or delayed due to weather, please email the Professor.

Class Preparation and Participation

You are expected to be prepared and to participate in class when called on. If you are not prepared, please pass. Passing can have a detrimental effect on your Professionalism grade. Class participation is measured primarily by its meaningfulness and utility to the classroom discussion. While frequency of participation matters, it is the substance of your contribution that matters more. This is a small class so you should expect to participate during each and every class. There will be “cold-calling,” but volunteers are strongly encouraged.

Responsibility

You are responsible for enrolling in Income Tax Spring 2020 on TWEN and for obtaining relevant materials, including the assignments, from TWEN. All of the assigned questions and problems are available only on TWEN. Writing projects and final exam instructions will be posted on TWEN. You are expected to participate in class. You are also responsible for reading your school-related email on a daily basis.

Respect and Civility

You are expected to show respect for the Professor and your classmates. Please arrive on time and do not leave during class except for emergencies. Please turn off your cell phone. Please refrain from checking email, playing games, checking social media, shopping, and other computer activities that distract your classmates.

Please raise your hand to be called on. Please do not engage in side conversations or make comments about the contributions of your classmates. Please respect the differing contributions of other students. If you are a frequent contributor to class discussion, you might not always be called on to speak.

Writing Projects will count for 35 percent of your final grade. There will be three or four writing projects over the course of the semester. The instructions will be posted on TWEN. The writing projects will not be graded anonymously.

The specific instructions for each assignment will be posted on TWEN. The schedule and due dates will be posted in each assignment and from time to time in class. No extensions will be granted except in extraordinary circumstances beyond your control. This does not ordinarily include computer malfunctions so plan accordingly.

A significant penalty will be assessed for late assignments. If an emergency occurs, you must contact the Vice Dean (Beth McCormack), the Registrar (Maureen Moriarty), the Assistant Registrar (Tammie Johnson), or Professor Stephanie Willbanks prior to the due date.

HONOR CODE

All assignments are subject to the VLS Honor Code. Submission of your assignment includes your certification that you have abided by the Vermont Law School Honor Code and the Professor’s instructions. This means that you have neither given nor received unauthorized assistance; that you have not consulted any source not allowed by the Professor; and that your work is solely my own work product.

When submitting your written projects and when taking the final exam, you will be asked to sign an Honor Code form containing the same information.

Final Examination will count for 50 percent of the final grade. It will be an in-class, modified open-book examination; you may bring into the examination only your textbook, the IRC and regulations, class handouts, material from the course web page, and any materials substantially prepared by you for this course. This excludes student guides, commercial outlines, and outlines prepared by other students without your participation. The exam may include essay questions, short answer questions, multiple choice questions, or other objective questions.

You may be required to use a laptop computer with ExamSoft for this examination. No exceptions will be made except for accommodated students or a computer malfunction during the examination. A proctor must certify that your computer did in fact malfunction during the examination.

PRIOR EXAMINATIONS

The spring 2019 exam was one essay question and 25 multiple choice questions. The essay question is posted on TWEN. Prior exams are not posted because of changes in the IRC and the course.

OFFICE HOURS

Office hours are Mondays and Wednesdays from 11:00 a.m. to 12:30 p.m. or by appointment. I recommend that you make an appointment even during office hours either directly with me at swillbanks@vermontlaw.edu or through Brenda Caron at bcaron@vermontlaw.edu or 801-831-1211.

You can also send questions to me by e-mail at: swillbanks@vermontlaw.edu. I read my e-mail daily from Monday through Friday and will try to respond to questions within 24-36 hours unless I am off campus. I do not usually respond to e-mail over the weekend.

Please send only one question per email message. If you have multiple questions, send multiple messages. Some questions are not easily answered by email so I may suggest that you see me in person.

EMAIL

The VLS email system is an official method of communication at VLS and for this course. It is the primary way that I communicate with you. You are expected to check your VLS email on a daily basis. Course emails are sent through TWEN so you are also required to check whatever email you listed on Westlaw on a daily basis also.

I expect that all emails will be professionally written. A reading on professional emails (Email Like a Lawyer) has been posted on the course TWEN site under the tab: Writing Project Assignments.

COPYRIGHT

All materials (written and recorded) in this course are copyrighted. This also includes any recording of the class by the professor, any student, or any other person. These materials are only for the use of the individual student enrolled in this course and may not be reproduced or distributed without the express written consent of the professor.

Class may not be recorded without the prior express approval of the Professor.