

Income Taxation I
Prof. Jack Bogdanski
Fall 2016
Syllabus

Introduction

The Internal Revenue Code is an ever-evolving beast, changing virtually every year, and occasionally even several times within a single year. A major part of a tax lawyer's life is keeping up with the constant drumbeat of statutory revision.

Fortunately for students and scholars, the current political gridlock in our nation's capital has stabilized things lately, at least somewhat. For example, the Bankman casebook from 2012 (the "Casebook") is still relatively fresh; the few updates that are needed can be handled just fine by a brief handout. By contrast, the Code volume is new every year, because new regulations are always appearing and many Code provisions are tweaked annually, including recurring changes to reflect inflation. Use of older editions of any of the assigned books, or of study aids that are more than, say, four years old, is dangerous.

I doubt that there will be much, if any, significant tax legislation passed during the semester. Anything is possible, however, and if any important changes do occur, I will (of course) keep you posted.

One thing you'll notice when you look at the reading assignments is that we jump around a fair amount in the books. For that reason, it's a good idea to familiarize yourself with the checklist of topics on page 3. We'll be going through the topics in the order listed there.

Course Outline

The course has four major parts, as follows:

The first and largest is the all-important consideration of *gross income* (Casebook Chapters 1 to 3, Chirelstein Parts A, D, and E).

Second, and also of great significance, are *deductions and credits* (Casebook Chapters 4 to 6, Chirelstein Part B).

Third comes *income splitting, or attribution of income*, as it is sometimes known (Casebook Chapter 7, Chirelstein Part C).

The fourth and final part is a brief look at *capital gains and losses* (Casebook Chapter 8, Chirelstein Part F).

As you can see, the Casebook provides the basic order of the course, although we'll skip around quite a bit in that text. We'll spend by far the most of our time on the first two topics; the last two will be presented in a bit of a whirlwind tour at the end of the course. The assignments from Chirelstein and Zelenak follow the Casebook readings, as a way to help you understand and think about them.

About Your Mission

For each topic listed herein, you are responsible for the assigned textual materials and any and all Internal Revenue Code ("I.R.C.") and Treasury regulation sections discussed in the texts, listed on this syllabus, and/or mentioned in class. If you feel you need an exhaustive list of these Code and regulation sections, it might be a useful exercise for you to make one for yourself as we go along.

Also, remember that the Casebook is a few years old, and so a small portion of it may be out of date. As you tackle each reading assignment in the Casebook, check the free online Summer 2016 Student's Update to be sure you've got the latest information.

A final note of introduction: This is a 4-unit course. The official expectation is that you will spend eight hours a week, outside of class time, studying for this course. That's a full day every week for 13 weeks! Please be responsible and stay caught up. Although the volume of material assigned is by no means light, it shouldn't be too threatening if you're spending sufficient time reading, thinking, and talking about the subject. Above all, don't get discouraged if things seem confusing; with time and effort, most (if not all) of it will make sense in the end.

Checklist of Topics

- | | |
|---|---|
| <p>PART ONE — GROSS INCOME</p> <ul style="list-style-type: none"> <input type="checkbox"/> Introduction <input type="checkbox"/> <i>Drescher</i> <input type="checkbox"/> I.R.C. § 83 <input type="checkbox"/> <i>Benaglia</i> <input type="checkbox"/> I.R.C. § 119 <input type="checkbox"/> I.R.C. §§ 105–106 <input type="checkbox"/> I.R.C. § 132 <input type="checkbox"/> Other fringe benefit exclusions <input type="checkbox"/> Constructive receipt <input type="checkbox"/> Cafeteria plans <input type="checkbox"/> <i>LoBue</i> <input type="checkbox"/> Employee stock options <input type="checkbox"/> Imputed income <input type="checkbox"/> Tax policy <input type="checkbox"/> Barter <input type="checkbox"/> Gifts <input type="checkbox"/> <i>Glenshaw Glass</i> <input type="checkbox"/> <i>Duberstein</i> <input type="checkbox"/> <i>Olk</i> <input type="checkbox"/> Prizes <input type="checkbox"/> Scholarships <input type="checkbox"/> Realization of gain and loss <input type="checkbox"/> Basis <input type="checkbox"/> <i>Inaja Land and Gladden</i> <input type="checkbox"/> <i>Irwin v. Gavit</i> <input type="checkbox"/> Annuities <input type="checkbox"/> Life insurance <input type="checkbox"/> Gambling <input type="checkbox"/> Accounting problems <input type="checkbox"/> Damages <input type="checkbox"/> Loans <input type="checkbox"/> Discharge of indebtedness <input type="checkbox"/> <i>Diedrich</i> <input type="checkbox"/> <i>Crane and Tufts</i> <input type="checkbox"/> Illegal income <input type="checkbox"/> Nonrecognition transactions <input type="checkbox"/> <i>Davis</i> <input type="checkbox"/> <i>Farid-Es-Sultaneh</i> <input type="checkbox"/> Installment sales <input type="checkbox"/> Nonqualified deferred compensation <input type="checkbox"/> IRAs | <ul style="list-style-type: none"> <input type="checkbox"/> Rates revisited <p style="text-align: center;">PART TWO — DEDUCTIONS AND CREDITS</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adjusted gross income <input type="checkbox"/> Personal exemptions <input type="checkbox"/> Child credit <input type="checkbox"/> Standard deduction <input type="checkbox"/> I.R.C. § 68 <input type="checkbox"/> Casualty losses <input type="checkbox"/> Medical expenses <input type="checkbox"/> Charitable contributions <input type="checkbox"/> Alimony <input type="checkbox"/> Interest <input type="checkbox"/> Taxes <input type="checkbox"/> Earned income credit <input type="checkbox"/> Miscellaneous deductions <input type="checkbox"/> Hobbies <input type="checkbox"/> Home offices <input type="checkbox"/> Vacation homes <input type="checkbox"/> Child care credit <input type="checkbox"/> Transportation <input type="checkbox"/> Meals <input type="checkbox"/> Lodging <input type="checkbox"/> Entertainment <input type="checkbox"/> Clothing <input type="checkbox"/> Legal expenses <input type="checkbox"/> Education expenses <input type="checkbox"/> Current expenses vs. capital expenditures <input type="checkbox"/> “Ordinary and necessary” <input type="checkbox"/> Depreciation <input type="checkbox"/> Tax shelters <p style="text-align: center;">PART THREE</p> <ul style="list-style-type: none"> <input type="checkbox"/> Income splitting <p style="text-align: center;">PART FOUR</p> <ul style="list-style-type: none"> <input type="checkbox"/> Capital gain and loss |
|---|---|

Reading Assignments

Within each assignment block, I suggest you read the various materials in the order listed, from top to bottom in each table.

PART ONE — GROSS INCOME

1. Introduction

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>West Code volume pages</i> |
|-----------------------|---|-------------------------------|
| 1–10 (Parts A–B) | | |
| 20–31 (Parts D–G) | | |
| | Preface (pp. v–vi) and Introduction (pp. 1–7) | |
| 40–43 (Part J) | | |
| 19 | | |
| | | 1843–1846 |

2. *Drescher*; I.R.C. § 83

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Additional Code sections</i> | <i>Online course supplement</i> |
|---------------------------|------------------------------|---------------------------------|---------------------------------|
| 45–49 (middle) | | | |
| | | | Part 1 (<i>Drescher</i>) |
| 37 (bottom)–40 | | | |
| | 9–18 (Part A through ¶ 1.01) | | |
| | 515–520 (Appendix A) | | |
| 270 (bottom)–275 (middle) | | | |
| | | I.R.C. § 83 | |

3. *Benaglia*; I.R.C. §§ 119, 105–106, 132

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|---|--------------------------|
| 49–67 (middle) — skipping (for now) note 2 on pages 62–63 (top) | |
| | 18–28 (¶ 1.02) |

4. Other fringe benefit exclusions; constructive receipt; cafeteria plans

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Additional Code sections</i> |
|-----------------------|--|---------------------------------|
| 34–35 (middle) | | |
| 256 (bottom)–263 | | |
| | 318 (middle)–321 (middle) (Sec. 11 through ¶ 11.01(a)); 326 (top) (¶ 11.01(c)) | |
| 62–63 (top) (note 2) | | |
| | | I.R.C. §§ 127, 129 |

5. *LoBue*; employee stock options; imputed income

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Online course supplement</i> |
|-------------------------|---|--|
| | | Part 2 and Part 3 (<i>LoBue</i> and note on options) |
| 275 (middle)–282 | | |
| | 468 (middle)–473 (top) (Sec. 19 through ¶ 19.01) | |
| 71 (middle)–76 (middle) | | |
| | 28–30 (¶ 1.03) | |

6. Tax policy; barter; *Glenshaw Glass*; *Duberstein*; *Olk*

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Online course supplement</i> |
|---------------------------|--------------------------|---------------------------------|
| 11–19 (top) | | |
| 308 (bottom)–312 (middle) | | |
| | 497–502 (Note) | |
| 76 (middle)–91 (middle) | | |
| | 75–78 (¶ 4.03) | |
| | | Part 4 (<i>Olk</i>) |
| 99 (bottom)–103 (middle) | | |

7. Prizes; scholarships; realization of gain and loss

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Online course supplement</i> |
|-----------------------|---|---------------------------------|
| 35 (Sec. 4) | | |
| 195–207 (middle) | | |
| | 30 (bottom)–34 (middle) (start of ¶ 2.01) | |
| | 79–90 (¶¶ 5.01–5.02) | |
| 215 (bottom)–226 | | |
| | 100–102 (¶ 5.05) | |

8. Basis; *Inaja Land*; *Gladden*

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Online course supplement</i> |
|---------------------------|--------------------------------------|---------------------------------|
| 103 (middle)–110 | | |
| | 64–70 (top) (Sec. 4 through ¶ 4.01) | |
| 110 (bottom)–113 (middle) | | |
| | 34 (middle)–36 (top) (end of ¶ 2.01) | |
| | | Part 6 (<i>Gladden</i>) |

9. *Irwin v. Gavit*; annuities; life insurance

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Online course supplement</i> |
|-----------------------|----------------------------|----------------------------------|
| | | Part 7 (<i>Irwin v. Gavit</i>) |
| | 70–75 (top) (¶ 4.02) | |
| 113 (middle)–120 | | |
| | 36–44 (top) (¶¶ 2.02–2.03) | |

10. Gambling; accounting problems

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Online course supplement</i> |
|---------------------------|----------------------------------|---|
| 120 (bottom)–122 | | |
| 127 (middle)–132 (middle) | | |
| | | Part 8 (<i>Alice Phelan Sullivan</i>) |
| 139 (middle)–142 | | |
| 132 (bottom)–139 | | |
| 122 (bottom)–127 (middle) | | |
| | 305–318 (Part D through Sec. 10) | |

11. Damages

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|-----------------------|-------------------------------|
| 142 (bottom)–145 | |
| | 44 (middle)–49 (top) (¶ 2.04) |

12. Loans; discharge of indebtedness

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|-----------------------|--------------------------|
| 145 (bottom)–159 | |
| | 49–64 (top) (Sec. 3) |

13. *Diedrich; Crane; Tufts*

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|---------------------------|---|
| 159 (bottom)–163 (middle) | |
| 36 (Sec. 5) | |
| 163 (middle)–181 (middle) | |
| | 351–361 (middle) (Part E through ¶ 13.01) |
| | 367 (bottom)–381 (¶¶ 13.03–13.05) |

14. Illegal income; nonrecognition transactions

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|---------------------------|----------------------------------|
| 181 (middle)–186 (middle) | |
| 227–238 (top) | |
| 191 (bottom)–193 (middle) | |
| | 391 (middle)–404 (top) (Sec. 15) |
| | 90 (bottom)–96 (¶ 5.03) |

15. *Davis; Farid-Es-Sultaneh*

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|------------------------|--------------------------------|
| 290 (middle)–300 (top) | |
| | 96 (bottom)–100 (top) (¶ 5.04) |

16. Installment sales; nonqualified deferred compensation; IRAs; accrual method; rates revisited

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|-----------------------|--|
| 249–256 | |
| | 384 (bottom)–391 (middle) (Sec. 14) |
| 263 (bottom)–270 | |
| | 321 (middle)–325 (§ 11.01(b)) |
| | 102 (bottom)–106 (§ 5.06) |
| 34–35 (middle) | |
| | 328 (middle)–345 (middle) (Sec. 12) |
| 21 (bottom)–24 (top) | |
| 557–561, 566–569 | |
| | 289 (bottom)–294 (middle) (§ 9.04) |

PART TWO — DEDUCTIONS AND CREDITS

17. Adjusted gross income; personal exemptions; child credit; standard deduction; I.R.C. § 68

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>West Code volume pages</i> |
|-----------------------|--|-------------------------------|
| 31–33 (top) | | |
| | 117–118 (middle) (introduction to Part B) | |
| 331–334 (middle) | | |
| 383–384 (top) | | |
| 387–388 (Secs. 3–4) | | |
| | | 1847–1848 |
| | 205–210 (§ 7.01) | |
| | 227 (middle)–231 (top) (§§ 7.06–7.07(a)) | |

18. Casualty losses; medical expenses

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|---------------------------|--------------------------|
| 334 (middle)–356 (middle) | |
| | 211–214 (§ 7.02) |

19. Charitable contributions; alimony; interest

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|-----------------------|-------------------------------------|
| 356 (middle)–376 | |
| | 215–218 (top) (¶ 7.03) |
| 300–304 | |
| | 294 (middle)–298 (top) (¶ 9.05) |
| 377–380 | |
| | 218–224 (middle) (¶ 7.04) |
| | 167 (bottom) –176 (top) (¶ 6.06) |

20. Taxes; earned income credit; miscellaneous deductions; hobbies

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|------------------------|---|
| 380 (bottom)–387 (top) | |
| | 231 (bottom)–233 (top) (¶ 7.08) |
| 389–393 (top) | |
| | 224 (middle)–227 (middle) (¶ 7.05) |
| 393–400 (top) | |
| | 118 (bottom)–120 (bottom) (introduction to Sec. 6) |

21. Home offices; vacation homes; child care credit

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|------------------------|---|
| 400–413 (middle) | |
| | 140 (bottom)–143 (top) (end of ¶ 6.02) |
| 433 (middle)–437 (top) | |
| | 120 (bottom)–123 (¶ 6.01(a)) |
| | 231 (¶ 7.07(b)) |

22. Transportation; meals; lodging; entertainment; clothing; legal expenses

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|---------------------------|--|
| 415 (middle)–427 (middle) | |
| 437 (middle)–452 (middle) | |
| | 126 (middle)–130, 133 (bottom)–140 (bottom) (¶¶ 6.01(c), 6.02) |
| 452 (bottom)–455 | |
| | 123 (bottom)–126 (middle) (¶ 6.01(b)) |
| 455 (bottom)–461 (middle) | |
| | 131–133 (¶ 6.01(d)) |

23. Education expenses; current expenses vs. capital expenditures; “ordinary and necessary”

| <i>Casebook pages</i> | <i>Chirelstein pages</i> | <i>Additional Code sections</i> |
|-----------------------|---|---|
| 461 (bottom)–464 | | |
| | 154–156 (top) (¶ 6.03(d)) | |
| | 233 (middle)–237 (middle) (¶ 7.09) | |
| 465–482 | | |
| | 143 (middle)–151 (middle) (¶ 6.03 through 6.03(b)) | |
| 489 (middle)–494 | | |
| | 156–160 (middle) (¶ 6.04) | |
| | | I.R.C. §§ 162(c), 162(f), 162(g), 280E |

24. Depreciation; tax shelters

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|---------------------------|---|
| 504 (bottom)–512 (middle) | |
| | 182 (middle)–196 (middle) (¶¶ 6.09–6.10(a)) |
| 515 (middle)–523 (top) | |
| | 361 (bottom)–367 (¶ 13.02) |

PART THREE — INCOME SPLITTING

25. Income splitting

Chirelstein pp. 249–256 (top) (Part C through ¶ 8.01(a)); Chirelstein pp. 272 (bottom)–283 (middle) (¶¶ 8.05–9.02).

PART FOUR — CAPITAL GAIN AND LOSS

26. Capital gain and loss

| <i>Casebook pages</i> | <i>Chirelstein pages</i> |
|---------------------------------------|--|
| 33 (middle)–34 (top) (Part H, Sec. 2) | |
| 193 (bottom)–194 | |
| | 411–413 (middle) (¶ 16.01) |
| | 419 (middle)–424 (top) (¶¶ 16.03–17.01) |
| | 460–469 (middle) (Sec. 18 and introduction to Sec. 19) |
| | 473 (middle)–476 (middle) (¶ 19.02) |