

Syllabus—Federal Income Taxation – Fall 2019

(subject to change)

Fall 2019
Monday 5:00 pm to 7:30 pm
Room 204
Law 525-3

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"You must pay taxes. But there's no law that says you gotta leave a tip."
(Morgan Stanley Brokerage advertisement)

"The hardest thing in the world to understand is the Income Tax."
(Albert Einstein)

The opera reminds me of my tax audit. It was in a language I didn't understand. And it ended in tragedy." ("Jeff MacNelly's Shoe")

"I have something my doctor calls 'narcotaxes.' Within 20 minutes of hearing someone launch into an explanation of tax laws, my eyes become glassy, my body loses all feeling, and I go into a shallow coma." (Russell Baker)

"Virtually all persons or objects in this country . . . may have tax problems. Every day the economy generates thousands of sales, loans, gifts, purchases, leases, wills, and the like, which suggests the possibility of tax problems for somebody. Our economy is tax relevant in almost every detail."
(Potter Stewart)

Materials:

- Item #1: Joel S. Newman & Dorothy A. Brown, Federal Income Taxation: Cases, Problems, and Materials (6th ed. 2016) (the "Casebook")
- Item #2: Steven A. Bank & Kirk J. Stark, Selected Sections: Federal Income Tax Code and Regulations, 2018-2019 Edition (the "Statutory Supplement") (note: you can use the 2019-2020 edition or any recent edition)
- Item #3: Corpak Part 1 – This will provide additional reading material for the first four classes (approximately) (to be provided on TWEN before the first class)
- Item #4: Corpak Parts 2, 3, and 4 – These follows Corpak 1, and Parts 2 and 3 will provide additional reading material for the classes. Part 4 provides additional materials. These will be provided on TWEN.
- Item #5: Class Worksheets. The Worksheet for the first class will be handed out in class. Eventually, worksheets for other classes will be provided on TWEN.
- Item #6: There may be additional handout materials from time to time.

Course Description: This course is a survey of the federal income taxation of individuals. Topics will include the definition of gross income, exclusions from gross income, the requirements for various tax deductions, timing issues, and capital gains and losses. The course will highlight

income tax problems frequently faced by attorneys in general practice, such as the tax aspects of settlements and damage awards, the deductibility of attorney fees, and the tax consequences of sales and exchanges.

Grades & Final Exam Information: There will be one exam at the end of the semester, on Monday, December 9, beginning at 8:15 a.m. The exam likely will be a mix of multiple choice and essay questions. It is anticipated that during the exam you can use the Statutory Supplement for the course (which is titled “Selected Sections: Federal Income Tax Code and Regulations” by Steven A. Bank and Kirk J. Stark) (any single edition is acceptable), including any hand-written notes you have made in the Statutory Supplement (including notes on the blank pages at the beginning and end of the book), but you cannot attach other pages or other items to the Statutory Supplement other than flags or post-it notes used as flags. You may write a word or a short phrase on each flag or post-it note to help them serve as flags, but you cannot use them as other than flags. Otherwise, this is a closed book exam, and no calculators are permitted. It is anticipated that the grades for the course will be determined by performance on the final examination.

Attendance Policy: You are allowed to miss three (3) classes.

Writing Assignment: We will have a writing assignment to comply with the writing-across-the-curriculum requirement and the requirement to have a bar exam-type assessment. Satisfactory completion of the assignment is required to be eligible to take the exam and complete the course.

Recording of Classes: Students may audio record class from their regular location in the classroom, unless the professor announces in class that this policy has changed. The professor may audio record classes, and the professor may video record using the Law School’s technology. Classes may also be recorded for ADA compliance purposes.

Student Learning Objectives: At the end of this course, students will be able to:

- Analyze a federal income tax return and describe aspects of the individual’s economic activity for the year and make predictions about the individual’s total economic wealth.
- Argue about whether the structure of the federal income tax system is appropriately progressive or not, or whether certain provisions of the tax law treats taxpayers fairly.
- Estimate the amount that a plaintiff needs to recover in a settlement (or in a damage recovery) to receive a target amount after-tax.
- Estimate the amount that a defendant can pay in a settlement (or in a damage recovery) based on the after-tax cost the defendant plans to incur to conclude the lawsuit.
- Analyze a method for a client to save capital gains taxes on a sale of certain types of property.
- Identify tax issues involved when a client receives amounts; make effective arguments about whether those amounts are taxable income; and if taxable, what year those amount will be taxed.
- Analyze whether an employee who receives employer-provided housing, discounts on merchandise, meals, and other fringe benefits, will be taxed on those benefits.
- Identify tax issues involved when a client pays certain amounts; make effective arguments about whether those amounts are tax deductible; and if tax deductible, in what year the amount may be deducted.

Emergency Procedures: Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety's website www.dps.siu.edu (disaster drop down), and in an Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

Disability Policy: The School of Law no longer makes determinations about appropriate accommodations for disabilities. Those decision are now made by the University Disability Support Services ("DSS") Office. In regards to these procedures: Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares: The purpose of Saluki Cares is to develop, facilitate, and coordinate a university-wide program of care and support for students in any type of distress – physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For information on Saluki Cares: (618) 453-5714 or siucares@siu.edu, <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

Workload Expectation: The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), a "credit hour" is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time. This is a 3-credit hour class, meaning that we will spend three 50-minute blocks of time together each week (all on Wednesday nights). The amount of assigned reading and out of class preparation should take you about 6 hours for the week. All told, applying the ABA standard to the number of credits offered for this class, you should

plan on spending a total of 9 hours per week (3 in class and 6 preparing for class) on course-related work.

Projected Reading Schedule (Subject to Change):

1st Class (Monday, Aug. 19, 2019) – Intro/Income:

- Newman & Brown (N&B) Casebook pages 1 to 12
- Corpak Part 1 pages 12-16 middle (including *Eisner v. Macomber*, 252 U.S. 189 (1920))
- N&B Casebook pages 32-34 middle (*Commissioner v. Glenshaw Glass* and related Notes)

- Note: We likely will discuss Presidential Tax Returns. There will be some separate pages on the TWEN page under “Course Materials” for “Presidential Tax Returns.” However, there is no requirement to read that material, and it will not be tested directly on the exam.
- N&B Casebook pages 13-27
- SKIP N&B Casebook page 27 middle to 28
- Corpak Part 1 pages 16 middle to 23 middle, including *Cesarini v. U.S.*, 296 F. Supp. 3 (D. Ohio 1969), “One Way to Avoid Tax on Found Items,” “And the Losers Are . . . All the Oscar Nominees!”

2nd Class (Monday, Aug. 26, 2019) – Intro/Income; Defining Gross Income

- N&B Casebook 29-31
- SKIP N&B Casebook pages 34 middle to 36 (regarding imputed income)
- N&B Casebook pages 36 bottom – 39 middle
- Corpak Part 1 pages 24 middle to 29 (*Gamble* case and *First Northwest Industries* case) (note that we will be studying the shorter version of *First Northwest Industries* in the Corpak rather than the longer version in the Casebook)
- SKIP N&B Casebook pages 39 middle to 42

- N&B Casebook pages 43–47 (including *Old Colony Trust* and *Kirby Lumber*)
- Corpak Part 1 page 30 (regarding *Old Colony Trust*)
- SKIP Casebook 48-56 (skip the *Zarin* case and notes thereafter)
- N&B Casebook 57-64 (including *Collins* case)
- Corpak Part 1 pages 31-32 (details on the *Gilbert* case discussed in the *Collins* case)

3rd Class (a Labor Day make-up will be scheduled): Defining Gross Income; Income Exclusions

- Corpak Part 1 pages 33-34 on the “Rules of Debt”
- SKIP Casebook pages 65-79
- N&B Casebook pages 81-92 top (including *Duberstein* and *Peebles* cases)

- Casebook pages 92-93 middle (Employee Gifts and Problems #3 through #8)
- SKIM N&B Casebook pages 95 middle to 97 (tipping)

- N&B Casebook pages 97 bottom–108 middle (including Problems #1 through #3 on page 98; *Taft v. Bowers*, Problems #1 & #2 on page 102; *Faird Es-Sultaneh*, Basis of Property Acquired from a Decedent)
- Corpak pages 35-39

4th Class (Monday, Sept. 9, 2019); Income Exclusions; Fringe Benefits

- N&B Casebook pages 108 bottom–114 (including *Turner*);
- SKIP N&B Casebook pages 114 bottom–116 bottom (skip *Haverly* case)
- N&B Casebook pages 116 bottom–123 including (Problems #1 through #6, and #10 through #12 on pages 122-123)
- N&B Casebook pages 123 bottom to 131 middle (including *U.S. Junior Chamber of Commerce* case; scholarships and awards; Problem #1 on page 130)
- Corpak 39-43 bottom (parsonage allowance; more on prizes and awards)

[The rest of this Projected Reading Schedule is a very rough draft.]

5th Class (Monday, Sept. 16, 2019); Damage Awards; Business Deductions

- N&B Casebook pages 131-140 middle (including *Amos* and Problems #1 through #4, and Problem #6 on pages 139-140)
- Corpak Part 2 page 1 (background on *Amos* case)
- Corpak Part 2 pages 2 to 7 middle (including *Robinson* case materials and PLR 200041022 (10/13/2000) (described as the IRS's "bruise rule" ruling))
- SKIP N&B Casebook 140 middle to 141 (Tax-Exempt Bonds)
- N&B Casebook 143-158 top (including *Welch v. Helvering*, *Amend*, and *Trebilcock*)
- Corpak Part 2 pages 7 middle to 8
- N&B Casebook 158-167 (*Jenkins* case)
- Corpak Part 2 pages 9 to 10 (illegal payments)

6th Class (Monday, Sept. 23, 2019); Business Deductions; Education Expenses

- Corpak Part 2 pages 11 to 17 (*Heineman* case) [Note: After the 2017 Tax Act, a sole proprietor could deduct the type of expenses in *Heineman*, but an employee could not deduct those types of expenses because of the elimination of miscellaneous itemized deductions.]
- N&B Casebook 168-171 middle (*Gilmore* case)
- SKIP N&B Casebook 171 middle-175 bottom (Note on the *Gilmores*)
- N&B Casebook 180-186 top (*Cavanaugh* case)
- N&B Casebook pages 175 bottom to 179 (*Kopp's Company* case)

- N&B Casebook 186-188 top (Problem involving *Sam Gilliam* case) (questions #1 through #4)
- Corpak Part 2 page 18 (legal analysis on *Gilliam* case)
- SKIP N&B Casebook 188-203 (Skipping *California Helpers, Olive, and Exacto Springs*)
- Corpak Part 2 pages 19 to 23 (*John & Betty Watson; A Possible Method etc.*) [Note: After the Tax Cuts and Jobs Act of 2017, business education expenses could be deducted by a sole proprietor under these rules, but for 2018 through 2025 business education will not be deductible by an employee because of the elimination of miscellaneous itemized deductions.]

7th Class (Monday, Sept. 30, 2019); Business Deductions; Medical Expenses; Casualty Losses

- N&B Casebook 204-205 (*International Freighting* case)
- N&B Casebook 621-631 top (including *Ferris* case and *Bilder* case) [Note: Under the 2017 Tax Act, in 2017 and 2018 medical expenses are deductible to the extent they exceed 7.5% of AGI; after 2018, the 7.5% changes to 10%.]
- Corpak Part 2 pages 24 to 30 middle (including *W.B. Counts* case on nursing home care; background)
- SKIP N&B Casebook 631 top to 634 middle (skipping the *Finzer* case)
- Corpak Part 2 pages 30 middle to 35 (medical cases—*John Thoene, Schoen, Tao*; List of Some Other Deductible Medical Expenses)
- N&B Casebook pages 634 middle-637 (IRS PLR 9409006 & Miscellaneous Medical)
- N&B Casebook 607 middle to 620 (including *Chamales, Corbaley, Helvering v. Owens, and Schonhoff*) [Note: After the 2017 Tax Act, from 2018 through 2025, casualty losses are only deductible under the rules discussed in these materials (i) if attributed to a federally-declared disaster, or (ii) to the extent of casualty gains during the year.]
- Corpak Part 2 pages 36 to 38 (casualty losses) (including Rev. Rul. 63-232—the Termite Ruling)

8th Class (Monday, Oct. 7, 2019); Business Deductions; Capital Expenses; Depreciation; Inventory

- N&B Casebook 207-214 (Rev. Rul. 2001-4, *Fall River Gas*)
- Corpak Part 2 pages 39 to 46 middle (including *Cinergy Corp* case and brief summary of *Norwest Corp* case)
- SKIP N&B Casebook pages 214 bottom – 230 bottom
- N&B Casebook 230 bottom – 232 bottom
- Note: I will lecture on *Fribourg Navigation* at page 232 bottom – 234, but there is no need to read it in advance

- Corpak Part 2 pages 46 middle to 55 (including *Simon* case; Depreciation Notes from IRS Publication 946, Election Under IRC § 179; Organization Expenses Under IRC §§ 248 & 709)
- SKIP N&B Casebook pages 235 to 239 top
- Corpak pages 56 to 57 (note that we will be studying the summary of key points of the *Harrah's Club* case in the Corpak rather than the lengthier reprint in the Casebook)
- N&B Casebook page 239, Problems #1 & #2
- SKIP N&B Casebook pages 239 bottom to 242 top
- N&B Casebook 242 bottom-247 (*Frontier Chevrolet; annuities*).

9th Class (Monday, Oct. 14, 2019); Inventory; Timing

- N&B Casebook pages 248-262 (Inventory; *Thor*; *Paccar*) (but merely SKIM N&B Casebook 248 bottom-250 regarding LIFO & FIFO)
- Corpak Part 3 pages 1 and 2 (regarding *Thor*)
- SKIP 263-267
- N&B Casebook 269-278 (*Hornung, Ames*)
- Corpak Part 3 pages 3 to 6 (timing matters, including the *Baxter* case)
- N&B Casebook 278 bottom to 291 middle (including IRC § 109 & 1019, *North American Oil, U.S. v. Lewis, McKinney, Alice Phelan Sullivan*)
- [HAND-OUT WAC/BAR-ASSESSMENT ASSIGNMENT?]

10th Class (Monday, Oct. 21, 2019); Timing; Capital Gains

- N&B Casebook 291 bottom-309 (*Tampa Bay Devil Rays, Chrysler, Ford*)
- Corpak Part 3 page 7-8 middle (Rev. Proc. 2004-34)
- N&B Casebook 311-324 top (including *Gray v. Darlington, Rice*); Problems #1 through #4 on pages 323-324 top
- Corpak Part 3 pages 8 to 14 middle (rates; John Kerry; *Bryam* case; capital losses)
- SKIP N&B Casebook 324 top-332 middle
- N&B Casebook 332 middle-334 (*Hort* case)
- SKIP N&B Casebook 335-341 bottom

11th Class (Monday, Oct. 28, 2019); Capital Gains; Entertainment Expenses; Hobbies; Interest; Structural Considerations

- N&B Casebook 341 bottom-344 (*Long* case)
- SKIP N&B Casebook pages 344 bottom-349 bottom
- N&B Casebook 349 bottom – 359 top (*Williams v. McGowen; Gilson* cases)
- N&B Casebook 395-399 (*Danville Plywood*) [Danville Plywood is decided using IRC § 162, but we note that the 2017 Tax Act modified IRC § 274 regarding entertainment expenses.]

- N&B Casebook 451 bottom-457 (*Dreicer* case) [Note: The 2017 Tax Act, for 2018 through 2025, suspends the deduction for miscellaneous itemized deductions. This effectively eliminates the deduction for hobby expenses to the extent of hobby income—and no deduction was ever allowed for hobby losses in excess of hobby income.]
- Corpak Part 3, pages 14 to 22 regarding “The Tale of Two Attorneys” – *Cohen* case and *Westphal* case.
- N&B Casebook pages 466-467 middle (interest, including acquisition indebtedness for a principal residence) [Note: Under the 2017 Tax Act, for 2018 through 2025, the deduction for interest on home equity indebtedness (previously allowed on indebtedness up to \$100,000), is eliminated. Also, the deduction for interest paid on mortgage debt to acquire, construct, or substantially improve a principal residence is restricted. The pre-2018 rules allowed interest deductions on mortgage debt up to \$1,000,000 for married filing jointly (the new law reduce that amount to \$750,000).
- N&B Casebook 563-567 middle (structural concerns, EIC, standard deduction) [Note: The 2017 Tax Act eliminated the personal exemptions and the dependency exemptions; the standard deduction was approximately doubled – for example, in 2017, the standard deduction for married filing jointly was \$12,700; for 2018 it is \$24,000.]
- Corpak Part 3 page 22 (structural considerations)
- [WAC/BAR-ASSESSMENT ASSIGNMENT DUE?]

12rd Class (Monday, Nov. 4, 2019); Charity

- N&B Casebook 579-580
- SKIP N&B Casebook 581-585 bottom (on Athletic Booster Clubs) [Note: The 2017 Tax Act eliminated the deduction for contributions to Athletic Booster Clubs.]
- N&B Casebook 585 bottom to 594 (*Hernandez* case; Page 594, Problems #1 and #4)
- Corpak Part 3 pages 23-25 (*Sklar* case)
- SKIP N&B Casebook 595 top-598 middle
- N&B Casebook 598 middle-607 middle (percentage limitations; Problems #1 through #5 on page 599; contributions of appreciated property; Problems #1 through #8 on page 601; unrelated business income; valuation) [Note: The 2017 Tax Act increases the limit on cash contributions to public charities from 50% to 60% of modified adjusted gross income from 2018 through 2025).
- Corpak Part 3 pages 26 to 35 (including public recognition, two types of 501(c)(3) organizations, *Lary v. U.S.* – the blood donation case; UBIT, valuation)

13th Class (Monday, Nov. 11, 2019); Review; More on Charities

- First part of review of course (no assigned reading for the review part of the class)
- Corpak Part 3 pages 36 to 56 (*Lions Associated Drag Strip*, Rev. Rul. 64-275, Rev. Rul. 70-4; *St. Louis Science Fiction Limited*, *Minnesota Kingsmen Chess Assn.*; IRS GCM 36993 (Hermione’s Team Goes for 501(c)(3) status!!!)
- Corpak Part 3 pages 56-64 (more on charities and charitable giving)

14th Class (Monday, Nov. 18, 2018); Review; Miscellaneous Sales & Exchange Materials

- Second part of review of course (no assigned reading for the review part of the course)
- N&B Casebook 639-640 (Deferred Payment Sales)
- N&B Casebook 682 (Sale of a Principal Residence)
- N&B Casebook 657-659 (Into to Non-Recognition Transactions)
- N&B Casebook 669-674 (Involuntary Conversions (including *Santucci*, PLR 8127089, *Johnson*))
- Corpak Part 3 pages 64-65 (Revenue Ruling 76-319) (bowling alley ruling)
- SKIM N&B Casebook 660-666 (Like-Kind Exchanges)
- Time Permitting: Overview of the 2017 Tax Cuts & Jobs Act – Corpak Part 3 pages 65 to 68

Examination: Monday, December 10, beginning at 8:15 am