

Syllabus—Federal Income Taxation – Fall 2023

(subject to change)

Fall 2023
Tues & Thur 11:00-12:15
Law 525-3
Room 164

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The Joy of Tax!!!

“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 reminded 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)

Office Hours: Wednesday from 3:30 to 5:30 pm, and by appointment (may be by phone or zoom).

Materials:

- Item #1: Joel S. Newman, Dorothy A. Brown & Bridget J. Crawford, Federal Income Taxation: Cases, Problems, and Materials (7th ed. 2019) (the “NBC Casebook”)
- Item #2: Steven A. Bank & Kirk J. Stark, Selected Sections: Federal Income Tax Code and Regulations, 2022-2023 Edition (the “Statutory Supplement”) (note: you can use the 2019-2020 edition or any edition after that one)
- Item #3: As indicated on the Projected Reading Schedule, we will also cover a significant amount of “Bonus Material” from the TWEN page for the course.
- Item #4: There may be additional materials posted on TWEN 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.

Grading & Final Exam Information: There will be one exam at the end of the semester during the regularly scheduled exam period. The exam will be closed book. When this Syllabus was prepared, the date and time for the exam had not been announced yet. The exam likely will be a mix of multiple choice and essay questions; there may also be short answer essay questions. It is anticipated that the grades for the course will be determined by performance on the final examination.

Attendance Policy: Attendance will be taken at the beginning of each class. Under the Rules of the School of Law, a student may not accumulate absences in a course numbering in excess of three times the credit hours for the course during the semester. Thus, because we meet twice a week, the maximum number of absences in this course is six (6) classes. The Rules provide for three options if a student accumulates absences in excess of the allowable number. The professor may recommend that: (a) the student be given the lowest possible grade; (b) the student be given a “W:” or (c) the student be allowed to continue in the course with a grade reduction.

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 final exam and complete the course.

Recording of Classes: Students and the professor may record classes from their regular location in the classroom, unless the professor announces in class that this policy has changed. Recordings of the class may not be shared with persons who are not enrolled in this class without the professor’s prior consent. The professor may use the zoom platform to record classes and may share recordings with members of the Law School’s IT department or as otherwise necessary. The professor may also record classes using standard law school technology. Classes may also be recorded (and shared with others as required) for ADA compliance purposes. The law school administration may also record classes.

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

- Argue persuasively about whether the structure of the federal income tax system is appropriately progressive or not.
- 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.
- Suggest 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.
- Analyze whether various tax law doctrines and systems provide taxpayers with appropriate access to justice when they are aggrieved; such doctrines and systems will include whether costs incurred to earn income should be tax deductible or whether the deduction should be replaced with credits; whether personal and dependency exemptions should be reinstated; and whether the rate system, the enhanced standard deduction, and the earned income credit combine to treat low-income taxpayers fairly.

Emergency Procedures: We ask that you become familiar with **Emergency Preparedness@SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness@SIU website, and through text and email alerts. To register for alerts, visit: <http://emergency.siu.edu/>.

Disability Policy: SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval please contact DSS immediately at 618-453-5738 or disabilityservices.siu.edu. You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Please send approved accommodations to your faculty through the DSS online portal.

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) 453-2461 or siucares@siu.edu, <http://salukicare.siu.edu>. Associate Dean Doug Lind (dlind@siu.edu, 618-453-8713) and Assistant Dean Judi Ray (judiray@siu.edu, 618-453-8135) are available at the School of Law to help students access university resources.

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: 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 two 75-minute blocks of time together each week (on Tuesday and Thursday). 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.

Plagiarism: Plagiarizing another's work, in whole or in part, is a violation of the Honor Code and can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. The Honor Code defines plagiarism as: passing off another's ideas, words, or work as one's own, including written, oral, multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author's work with quotation marks, footnotes, or other appropriate designations in such a way as to make clear the true author of the work.

Ban on Collaboration/AI in Writing Assignment: You are not allowed to obtain help from any other person (including any other student) or from generative artificial intelligence (including, but not limited to, ChatGPT) on the writing assignment in this course. This ban on collaboration includes obtaining written materials from any other person or generative artificial intelligence and communicating with any other person about the assignment. If you violate the ban on collaboration policy, you will fail to successfully complete the assignment and will not be entitled to take the final exam in the course. You also may be found in violation of the Honor Code, which can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. When in doubt about how to proceed, ask me.

Ban on Collaboration/AI on Exam: The final exam for this course is closed book. You may NOT consult materials of any kind, with any person other than the proctor, nor access any other resource, including, but not limited to generative artificial intelligence. Failure to comply with this rule will result in a failing grade on the exam. You also may be found in violation of the Honor Code, which can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared on any violation.

Safety Awareness Facts and Education: Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here: <http://safe.siu.edu>

Projected Reading Schedule (Subject to Change):

1st Class (Tuesday, Aug. 22, 2023) – Intro/Income:

- Newman, Brown & Crawford (“NBC”) Casebook pages 1 to 13 top
- Bonus Material for Class #1 (including *Eisner v. Macomber*, 252 U.S. 189 (1920))
- NBC Casebook pages 34-36 middle (*Commissioner v. Glenshaw Glass* and related Notes)

2nd Class (Thursday, Aug. 24, 2023) – Intro/Income:

- NBC Casebook pages 13-27
- Bonus Material for Class #2 (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!”)

3rd Class (Tuesday, Aug. 29, 2023) – Intro/Income

- Skip NBC Casebook pages 29-30
- NBC Casebook 31-34 top
- SKIP NBC Casebook pages 36 middle to 38 (regarding imputed income)
- NBC Casebook pages 39 to 41 middle
- Bonus Material for Class #3 (including *Gamble* case and *First Northwest Industries* case) (note that we will be studying the shorter version of *First Northwest Industries* in the Bonus Material rather than the longer version in the Casebook)

4th Class (Thursday, Aug. 31, 2023) – Defining Gross Income;

- NBC Casebook pages 45 middle to 49 (including *Old Colony Trust* and *Kirby Lumber*)
- Skip NBC Casebook 50-58 bottom (skip the *Zarin* case and notes thereafter)
- NBC Casebook 58 bottom to 66 (including *Collins* case)
- Bonus Material for Class #4 (including details of the *Gilbert* case discussed in the *Collins* case)

5th Class (Tuesday, Sept. 5, 2023): Defining Gross Income; Income Exclusions

- Bonus Material for Class #5 (on the “Rules of Debt”)
- SKIP NBC Casebook pages 66 bottom to 81
- NBC Casebook pages 83-93 bottom (including *Duberstein* and *Peebles* cases)

6th Class (Thursday, Sept. 7, 2023): Income Exclusions

- NBC Casebook pages 93 bottom-95 bottom (Employee Gifts, and Problems #1 to #8)
- SKIM NBC Casebook pages 97 to 99 middle (tipping)
- NBC Casebook pages 99 middle to 109 middle (including Life Insurance; problem 1 to 3 & 5 on page 100-101; Basis of Property Acquired by Gift; *Taft v. Bowers*, *Faird Es-Sultaneh*; Problems #1 to #2 on page 104)
- Bonus Material for Class #6 (including material on Tax-Free Bequests; Basis of Property Acquired by Gift)

7th Class (Tuesday, Sept. 12, 2023); Income Exclusions; Fringe Benefits

- Catch-Up
- NBC Casebook pages 109 middle–116 top (Basis of Property Acquired from a Decedent; Fringe Benefits - *Turner* case)
- Skip NBC Casebook pages 116 top to 118 top (skip *Haverly* case)
- NBC Casebook pages 118 top to 125 (including Problems #1 through #7, and #10 through #14 on pages 124-125)
- No Bonus Material for Class #7

8th Class (Thursday, Sept. 14, 2023); Income Exclusions; Fringe Benefits

- NBC Casebook pages 125 middle to 132 (including *Junior Chamber of Commerce* case; scholarships and awards; problem #1 on page 132)
- Bonus Material for Class #8 (parsonage allowance; more on prizes and awards)

9th Class (Tuesday, Sept. 19, 2023); Damage Awards; Business Deductions

- NBC Casebook pages 133 middle to 143 top (including *Amos*; Problems #1 to 4 & #6 on page 142)
- Bonus Material for Class #9 (including *Amos* background; *Robinson* case materials and PLR 200041022 (10/13/2000) (described as the IRS's "bruise rule" ruling))
- SKIP NBC Casebook 143 & 144 (Tax-Exempt Bonds)
- NBC Casebook 145-153 (including *Welch v. Helvering*)
- Bonus Material for Class #9 (introduction to deductions)

10th Class (Thursday, Sept. 21, 2023); Business Deductions

- NBC Casebook 154 to 169 top (including *Amend*, *Trebilcock* and *Jenkins* cases)
- Bonus Material for Class #10 (illegal payments)

11th Class (Tuesday, September 26, 2023): Business Deductions cont; For-Profit Transactions

- Bonus Material for Class #11 (*Heineman* case; material on describing a trade or business) [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 restriction on miscellaneous itemized deductions.]
- NBC Casebook 170-176 middle (expenses for the production of income—*Higgins* case; *Gilmore* case)
- SKIP NBC Casebook 176 middle-180 middle (Notes on *U.S. v. Gilmore*)

12th Class (Thursday, Sept. 28, 2023); Business Deductions

- NBC Casebook 184 bottom to 190 (*Cavanaugh* case)
- NBC Casebook 180 middle to 184 middle (including *Kopp's* case)
- NBC Casebook 191 & 192 top (Problem involving *Sam Gilliam* case) (questions #1 through #4)
- Bonus Material for Class #12 (legal analysis on *Gilliam* case)

- NBC Casebook 193-202 bottom (*Californians Helping to Alleviate Medical Problems and Olive*)

13th Class (Tuesday, Oct. 3, 2023); Business Deductions; Medical Expenses

- NBC Casebook 202 bottom to 209 top (including *Exacto Springs*)
- NBC Casebook 209-210 (*International Freight* case)
- NBC Casebook 502 bottom to 512 middle (including *Ferris* case and *Bilder* case)
- Bonus Material for Class #13 (*W.B. Counts* case; background on nursing home care)
- Skip NBC Casebook 512 middle to 515

14th Class (Thursday, Oct. 5, 2023); Medical Expenses; Casualty Losses

- Bonus Material for Class #14 (miscellaneous medical cases including *John Thoen*, *Schoen*, *Tao* cases; List of Some Other Deductible Medical Expenses)
- NBC Casebook pages 516-518 (IRS PLR 9409006; Other Medical Expenses)
- NBC Casebook 486 middle to 502 (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 only if attributed to a federally-declared disaster. IRC § 165(h)(5)(B)]
- Bonus Material for Class #14 (more on casualty losses, including Rev. Rul. 63-232, the Termite Ruling)

15th Class (Tuesday, Oct. 10, 2023); Business Deductions; Capital Expenses

- Catch-Up
- NBC Casebook 213-216 top (*Fall River Gas*)
- Bonus Material for Class #15 (including *Cinergy Corp* case and brief summary of *Norwest Corp* case)
- SKIP NBC Casebook pages 216 – 232 bottom

16th Class (Thursday, Oct. 12, 2023); Business Deductions; Depreciation; Inventories

- NBC Casebook 232 bottom – 234 bottom
- Note: I will lecture on *Fribourg Navigation* at page 234 bottom – 236, but there is no need to read it in advance
- Bonus Material for Class #16 (including *Simon* case; Depreciation Notes from IRS Publication 946, Election Under IRC § 179; Organization Expenses Under IRC §§ 248 & 709)
- Skip NBC Casebook pages 237 to 241 top
- Bonus Material for Class #16 (note: We will study the “Summary of Key Points from *Harrah’s Club v. United States*” in the Bonus Material rather than the lengthier reprint in the Casebook)
- NBC Casebook pages 241 top to 244 (notes after *Harrah’s Club*)
- NBC Casebook 244 bottom-250 bottom (*Frontier Chevrolet*; Annuities)

17th Class (Tuesday, Oct. 17, 2023); Inventory; Timing

- NBC Casebook 250 bottom to 265 bottom (Inventories; *Thor Power Tool* case; *Paccar* case; but SKIP NBC Casebook 251 middle to 253 regarding LIFO & FIFO)
- Bonus Material for Class #17 (regarding *Thor Power*)
- SKIP NBC Casebook 265 bottom to 269
- NBC Casebook 271-281 (*Hornung, Ames*)
- Bonus Material for Class #17 (timing matters including the *Baxter* case)
- HAND-OUT WAC/BAR-ASSESSMENT ASSIGNMENT? [Also, need to determine due date]

18th Class (Thursday, Oct. 19, 2023); Timing

- NBC Casebook 282 to 293 (including *North American Oil*, *U.S. v. Lewis, McKinney*, *Alice Phelan Sullivan*)
- No Bonus Material for Class #18

19th Class (Tuesday, Oct. 24, 2023); Accrual Method of Accounting

- Bonus Material for Class #19 (*Tampa Bay Devil Rays* case; Rev. Proc. 2004-34; *Chrysler* case; *Ford Motor* case; Statute/Regulation Response to *Ford Motor* case)

20th Class (Thursday, Oct. 26, 2023); Capital Gains

- NBC Casebook 295-307 (including *Gray v. Darlington* case, *Rice* case)
- Bonus Material for Class #20 (tax rates, John Kerry example, *Bryam*; capital losses)
- SKIP NBC Casebook 308-315
- NBC Casebook 316 to 318 middle (*Hort* case)

21st Class (Tuesday, Oct. 31, 2023—HALLOWEEN!!); Capital Gains cont.

- NBC Casebook 318 middle-328 top (*Lattera* case & *Long* case)
- SKIP NBC Casebook pages 328 to 333 top
- NBC Casebook 333 top to 336 top (*Williams v. McGowen*)
- Bonus Material for Class #21 (*Sale of Patent-Gilson* case)

22nd Class (Thursday, Nov. 2, 2023); Structural Concerns; Charity

- NBC Casebook 449-459 middle (structural concerns, including earned income credit and standard deduction; no cases)
- Bonus Material for Class #22 (structural considerations)
- NBC Casebook 459 middle to 471 middle (intro to charity; *Hernandez* case)
- Bonus Material for Class #22 (*Sklar* case)

23rd Class (Tuesday, Nov. 7, 2023); Charity

- SKIP NBC Casebook 471 middle to 474 middle
- NBC Casebook 474 middle-485 bottom (percentage limitations; Problems #1 through #5 on page 477; unrelated business income; valuation)

- Bonus Material for Class #23 (More on Charitable Giving, including public recognition; two types of 501(c)(3) organizations; *Lary v. U.S.* – the blood donation case; UBIT; valuation)

24th Class (Thursday, Nov. 9, 2023); Charities

- Bonus Material for Class #24 (*Lions Associated Drag Strip*, Rev. Rul. 64-275, Rev. Rule 70-4, *St. Louis Science Fiction Limited*, *Minnesota Kingsmen Chess Assn.*; IRS GCM 36993 (Hermione’s Team Goes for 501(c)(3) Status!!!); more on charities and charitable giving)

25th Class: NOTE: IT’S EXPECTED THAT THIS CLASS WILL NEED TO BE HELD IN ROOM 103: (Tuesday, Nov. 14, 2023); Miscellaneous Sales & Exchange Materials

- NBC Casebook 519-520 (Deferred Payment Sales)
- NBC Casebook 559-560 top (Exclusion of Gain from Sale of a Principal Residence)
- NBC Casebook 537-539 (Into to Non-Recognition Transactions)
- NBC Casebook 546 bottom to 558 (Involuntary Conversions, including *Santucci*, PLR 8127089, *Johnson*, *Willamette Industries*)
- Bonus Material for Class #25 (Revenue Ruling 76-319) (bowling alley ruling)
- SKIM NBC Casebook 540-546 middle (Like-Kind Exchanges)

26th Class (Thursday, Nov. 16, 2023); Education Expenses & Home Office Deduction

- NBC Casebook pages 337 & 338
- NBC Casebook pages 359 middle to 365 (Deductions for Education, *Coughlin* case)
- Bonus Material for Class #26 (Education; *John Watson* case; extra materials)
- NBC Casebook pages 366 to 377 (Business Use of Home, including *Soliman* case)
- Time Permitting: Bonus Material for Class #26 -- Material on 2017 Tax Act

THANKSGIVING BREAK—Saturday, Nov. 18 to Sunday, Nov. 26

27th Class (Tuesday, Nov. 28, 2023)

- If not covered in Class #23—NBC Casebook pages 477 & 478 (charitable contributions of appreciated property)
- NBC Casebook pages 382-384 (interest expense deduction)
- Brief lecture on IRC Section 1041 (mentioned in NBC Casebook page 108, note #2)
- Review/Quizzing?

28th Class (Thursday, Nov. 30, 2023)

- Extra Material?
- Review/Quizzing?

Exam—Day & Time to Be Announced.

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