I. REQUIRED MATERIALS


II. STUDENT RESPONSIBILITIES

This course is subject to Loyola University Chicago School of Law’s Code of Student Conduct, including policies on attendance and academic honesty. The instructor reserves the right to modify a grade or withhold credit in cases of serious breach of conduct, attendance and/or class preparation requirements.

III. EDUCATIONAL GOALS, OBJECTIVES AND STUDENT LEARNING OUTCOMES

Students in this class will become equipped with essential knowledge of the law in the area of Federal Income Taxation. Students will develop fundamental lawyering skills including developing and evaluating strategies for solving problems, analyzing and applying legal rules and principles, learning to read and analyze a statute, developing a planning perspective, and being attuned to ethical issues. This class also is designed to teach students to identify and diagnose problems, develop strategies for solving a problem, identify legal issues, and apply statutes and legal doctrines to those issues.

IV. ASSESSMENT OF STUDENT LEARNING

95% of your grade will be based on a 3-hour, open-book, Final Exam (anonymously graded). “Open Book” means any written materials.

5% of your grade will be based on a short Skills Assignment that will you will submit with your Final Exam.

FINAL EXAM: Tuesday December 11, 2018
1:00 P.M.
V. TENTATIVE SYLLABUS

Class 1 Assignment: Kwall draft, pp. 1-18

PART I & PART II – INTRODUCTION & GROSS INCOME

RHODES HANDOUT – ATTACHED
CHAPTER 1 – INTRODUCTION TO FEDERAL INCOME TAX
CHAPTER 2 – INTRODUCTION TO GROSS INCOME - § 61

Class 2 Assignment: Kwall draft, pp. 19-28

CHAPTER 3 – BENEFITS RECEIVED BY BUSINESS OWNERS AND EMPLOYEES
  A. Benefits Received by Business Owners - § 61(a)(2)
  B. Benefits Received by Employees - § 61(a)(1)
     1. Wages and Salary
     2. Common Fringe Benefits

Class 3 Assignment: Kwall draft, pp. 28-44

  3. Other Excluded Fringe Benefits

Class 4 Assignment: Kwall draft, pp. 45-58

CHAPTER 4 – BENEFITS RECEIVED BY DONORS AND DONEES

Class 5 Assignment: Kwall draft, pp. 59-74

CHAPTER 5 – BENEFITS RECEIVED BY LENDERS AND BORROWERS

Class 6 Assignment: Kwall draft, pp. 75-87

CHAPTER 6 – BENEFITS RECEIVED BY TRANSFEROR OF PROPERTY - § 61(a)(3)
  A. The Realization Requirement
  B. Quantifying Gain or Loss When a Realization Event Occurs – § 1001(a)
     1. Basis

Class 7 Assignment: Kwall draft, pp. 88-96

  2. Adjusted Basis - §§ 1011, 1016

Class 8 Assignment: Kwall draft, pp. 97-109

  3. Amount Realized - § 1001(b)
Class 9 Assignment: Kwall draft, pp. 109-120

3. Amount Realized (continued)

Class 10 Catch-up and Review

Class 11 Assignment: Kwall draft, pp. 121-142

CHAPTER 7 – BENEFITS RECEIVED BY A PHYSICALLY INJURED PARTY - § 104(a)(2)

CHAPTER 8 – COMMON BENEFITS NOT CONSTITUTING GROSS INCOME

Class 12 Assignment: Kwall draft, pp. 143-159

PART III – DEDUCTIONS

CHAPTER 9 – DISBURSEMENTS FOR BUSINESS AND NON-BUSINESS ACTIVITIES

A. Introduction to Deductions - § 161
B. Disbursements Connected to Business Activities - § 162
   1. Meaning of “Trade or Business”
   2. Meaning of “Ordinary and Necessary”
   3. Meaning of “Expense” (vs. Capital Expenditure)

Class 13 Assignment: Kwall draft, pp. 159-180

4. Reasonable Compensation (vs. Dividend) - § 162(a)(1)
5. Travel Expenses While Away from Home - § 162(a)(2)
6. Rental Expense (vs. Purchase) - § 162(a)(3)
7. Employment as a Trade or Business
8. Temporary Disallowance of Deduction for Unreimbursed Employee Business Expenses

Class 14 Assignment: Kwall draft, pp. 180-199

9. Business Bad Debts - § 166
C. Disbursements For Non-Business, Income Producing Activities - § 212
D. Deduction for Qualified Business Income - § 199A

Class 15 Assignment: Kwall draft, pp. 201-209

CHAPTER 10 – DISBURSEMENTS FOR PERSONAL PURPOSES - §262

A. Borrowing for Personal Purposes - § 163
Class 16 Assignment: Kwall draft, pp. 209-225

B. Loss Incurred With Respect to Personal Use Property - § 165
   1. Sale of Personal Use Property
   2. Casualty Losses
C. Other Personal Expenses
   1. Charitable Contributions - § 170
   2. Taxes - § 164
   3. Medical Expenses - § 213

Class 17 Assignment: Kwall draft, pp. 225-229

D. Limitations on Itemized Deductions
   1. Section 62 Deductions vs. Itemized Deductions
   2. Temporary Disallowance of Miscellaneous Itemized Deductions - § 67
   3. Itemized Deductions vs. The Standard Deduction - § 63
E. A Sample Tax Return

Catch-up and Review

Class 18 Assignment: Kwall, pp. 231-253

PART IV – INTRODUCTION TO THE FEDERAL INCOME TAXATION OF BUSINESSES

CHAPTER 11 – INTRODUCTION TO C CORPORATIONS, S CORPORATIONS, AND PARTNERSHIPS

PART V – TIMING OF INCOME AND DEDUCTIONS

CHAPTER 12 – TIME VALUE AND TAX ACCOUNTING
   A. Introduction to Time Value of Money
   B. Tax Accounting
      1. Cash Method of Accounting

Class 19 Assignment: Kwall draft, pp. 254-267

2. Accrual Method of Accounting

Class 20 Assignment: Kwall draft, pp. 269-280

CHAPTER 13 – GAINS AND LOSSES FROM DEALINGS IN PROPERTY
   A. Deferred Recognition of Gain - § 453
      1. Fixed Payment Installment Sales
      2. Contingent Payment Installment Sales
Class 21 Assignment: Kwall draft, pp. 281-297

B. Non-Recognition of Gain and Loss
   1. Like-Kind Exchanges - § 1031
   2. Property Transferred Incident to Divorce - § 1041
C. Exclusion of Gain on Sale of Residence - § 121

Class 22 Assignment: Kwall draft, pp. 299-316

CHAPTER 14 – SPECIAL DEFERRAL RULES
   A. Deferral of Income - § 83
   B. Deferral of Deductions
      1. Passive Activity Losses - § 469

Class 23 Assignment: Kwall draft, pp. 316-331

   2. Net Operating Losses - § 172
   3. Limitation on Excess Business Losses - § 461(l)

CHAPTER 15 – IMPUTATION
   A. Below Market Loans - § 7872
   B. Original Issue Discount

Class 24 Assignment: Kwall draft, pp. 333-344

PART VI – IMPACT OF TAX RATES

CHAPTER 16 – Progressive Tax Rates
   A. Application of Progressive Tax Rates to Unmarried Individuals - § 1(j)(2)(C)
   B. Impact of Progressive Tax Rates on Marriage - § 1(j)(2)(A)
   C. Assignment of Income
      1. Income from Services
      2. Income from Property

Class 25 Assignment: Kwall draft, pp. 341-352

D. Higher Tax Rates on Child’s Unearned Income - §§ 1(g), (j)(4)

CHAPTER 17 – Characterization
   A. Taxation of Capital Gains and Losses
   B. Gains and Losses from Dealings in Property
Class 26 Assignment: Kwall draft, pp. 353-372

1. Sale or Exchange Requirement
2. Capital Asset - § 1221
   a. Property vs. Income
   b. Inventory Exception - § 1221(a)(1)

Class 27 Assignment: Kwall draft, pp. 372-384

3. Property Used in a Trade or Business - § 1231
4. Recharacterization of Depreciable Property - § 1245
5. Sale of a Business

Class 28 Assignment: Kwall draft, pp. 384-401

6. Termination of Contract - § 1234A
C. Dividend Income - § 1(h)(11)
D. Surtax on Net Investment Income - § 1411

PART VII – ALTERNATIVE MINIMUM TAX

CHAPTER 18 – Alternative Minimum Tax

EPILOGUE – REVIEW OF MAJOR THEMES

1. Economic Considerations vs. Tax Considerations
2. The Time Value of Money
3. The Realization Event Requirement
4. The Effect of Progressive Tax Rates
R. Haig, "The Concept of Income," in the Federal Income Tax 1, 7 (Columbia University, 1921): "Income is the money value of the net accretion to one's economic power between two points of time."

C. Plehn, "Income as Recurrent, Consumable Receipts," 14 Amer.Econ.Rev. 1, 5 (1924): "Income is essentially wealth available for recurrent consumption, recurrently (or periodically) received. Its three essential characteristics are: receipt, recurrence and expendability." [Emphasis original.]

W. Hewett, The Definition of Income and its Application in Federal Taxation 22–23 (1925): "Net individual income is the flow of commodities and services accruing to an individual through a period of time and available for disposition after deducting the necessary cost of acquisition." [Emphasis original.]

H. Simons, Personal Income Taxation 50 (1938): "Personal income may be defined as the algebraic sum of (1) the market value of rights exercised in consumption and (2) the change in the value of the store of property rights between the beginning and end of the period in question."

R. Posner, Economic Analysis of Law, 231–32 (1973): "The broadest definition of income would be all pecuniary and non-pecuniary receipts, including leisure and gifts."
In order, therefore, that the clauses cited from Article I of the Constitution may have proper force and effect, save only as modified by the Amendment, and that the latter also may have proper effect, it becomes essential to distinguish between what is and what is not "income," as the term is there used; and to apply the distinction, as cases arise, according to truth and substance, without regard to form.

The fundamental relation of "capital" to "income" has been much discussed by economists, the former being likened to the tree or the land, the latter to the fruit or the crop; the former depicted as a reservoir supplied from springs, the latter as the outlet stream, to be measured by its flow during a period of time. For the present purpose we require only a clear definition of the term "income," as used in common speech, in order to determine its meaning in the Amendment; and, having formed also a correct judgment as to the nature of a stock dividend, we shall find it easy to decide the matter at issue.

After examining dictionaries in common use, we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909 (Stratton's Independence v. Howbert, 231 U.S. 399, 416; Doyle v. Mitchell Bros. Co., 247 U.S. 179, 185)—"Income may be defined as the gain derived from capital, from labor, or from both combined," provided it be understood to include profit gained through a sale or conversion of capital assets, to which it was applied in the Doyle Case.

Brief as it is, it indicates the characteristic and distinguishing attribute of income essential for a correct solution of the present controversy. The Government, although basing its argument upon the definition as quoted, placed chief emphasis upon the word "gain," which was extended to include a variety of meanings; while the significance of the next three words was either overlooked or misconceived. "Derived from capital"; here we have the essential matter: not a gain accruing to capital, not a growth or increment of value in the investment; but a gain, a profit, something of exchangeable value proceeding from the property, severed from the capital however invested or employed, and coming in, being "derived," that is, received or drawn by the recipient (the taxpayer) for his separate use, benefit and disposal; that is income derived from property. Nothing else answers the description.

The same fundamental conception is clearly set forth in the Sixteenth Amendment—"incomes from whatever source derived"—the essential thought being expressed with a conciseness and lucidity entirely in harmony with the form and style of the Constitution.