

Federal Income Taxation

12:30-1:45pm

Monday: Eck 1130

Tuesday/Thursday: Eck 1140

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4 FUNDAMENTAL INCOME TAX QUESTIONS

- **What** is taxed?

- Threshold question: what is “gross income”
- What amounts are deductible, excludible, or otherwise not subject to tax?

- **When** is it taxed?

- When is item included in gross income?
- When is taxpayer allowed to claim deduction?

4 QUESTIONS (cont'd)

- **How** is it taxed?
 - Character of item (e.g., ordinary vs. capital gain)
 - Tax Rates
- **Who** is taxed?
 - Who is the taxpayer with respect to the item?

Constitutional Issues

Article 1, § 8 – “The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises”

Article 1, § 9 – “No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.”

16th Amendment (1913):

“The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration”

SOURCES OF FEDERAL TAX LAW

- Internal Revenue Code of 1986 (a.k.a. Title 26 of U.S.C.)
- Treasury Regulations
 - Proposed / Temporary / Final
- Other IRS Administrative Guidance
 - Revenue Rulings
 - Revenue Procedures
 - Private Letter Rulings
 - Technical Advice Memoranda
 - etc.
- Judicial Opinions

TAX POLICY CRITERIA

- Equity (Fairness)
 - Vertical
 - Horizontal
- Efficiency (Neutrality)
- Simplicity/Administrability
 - Ability of TPs to understand the law
 - Costs to TPs to comply with the law
 - Ability of government to administer the law
 - Costs to government to administer the law

CHOICE OF FORUM

Selected Factors

Tax Court:

- Prepayment forum
- Interest keeps accruing
- Judges are tax law experts
- Informal procedures for small TPs
- Golsen Rule (re Ct of Appeals)

Fed District Ct:

- Pay & sue for refund
- Interest stops accruing
- Jury trial
- Applicable Ct of Appeals

Ct of Fed Claims:

- Pay & sue for refund
- Interest stops accruing
- Judges have some technical expertise (hear many tax cases)
- Ct of Appeals for Fed Cir