

## READING ASSIGNMENTS PART I

### NOTES:

- You should read the Syllabus (available on course web site - <https://mkirsch.nd.edu/fedtax>) before the first class
- Unless otherwise noted, assignments listed as “Handouts” are available on the course website.
- Focus on the Code and Regulations sections listed below (rather than the Code and Regulation sections listed in each header in the casebook)
- You are responsible for preparing (prior to class) all assigned problems
- The heading numerals (e.g., “1. Orientation”) correspond to the book chapter number, not the class session number. We will not necessarily be covering one book chapter in each class session (indeed, some chapters will be spread over several class sessions). At the end of each class session, I will announce how far we will cover in the next class.

### PART ONE – INTRODUCTION

#### 1. Orientation

A & B. A Look Forward / A Glimpse Backward

Text: pp. 3-11

C. The Income Tax and the United States Constitution

Text: pp. 11-18. Note that the Supreme Court recently heard oral arguments in *Moore v. U.S.*, 36 F.4<sup>th</sup> 930 (9<sup>th</sup> Cir. 2022). That case addresses the extent to which “realization” (discussed at the top of page 15) is a constitutionally mandated requirement with respect to taxing income from appreciated property. The case has the potential to significantly undermine numerous existing tax provisions and open the door for widespread tax planning and avoidance. However, it does not directly impact the general provisions we will focus on in this course, so we will not examine the issue in any detail.

#### D. The Tax Practitioner's Tools

Text: pp. 18-32. Note that the Supreme Court this term will be hearing cases that address *Chevron* (discussed on pp. 29-31). This issue is beyond the scope of this class, so we will not be discussing it in any detail.

Code: §§ 7805; 7806. Skim § 7701 (listing of general definitions)

#### E. An Introduction to Tax Policy Fundamentals

Text: pp. 32-33

Handout: Excerpt on tax policy from Government Accountability Office, *Understanding the Tax Reform Debate: Background, Criteria & Questions* (ignore the out-of-date corporate tax rate table on p. 49)

#### F. The Road Ahead

Text: pp. 34-36

Handout: *Simplified Overview of Income Tax Determination*

### **28. Procedure and Professional Responsibility**

#### A. Overview of Federal Tax Procedures

##### 1 & 2. Introduction / The Self-Assessment System

Text: pp. 967-969

Code: §§ 6011(a); 6072(a); 6081(a)

##### 3 & 4. Administrative Procedures / Judicial Procedures

Text: pp. 969-81 (stop reading at the *Judicial Finality* heading on p. 981)

Code: §§ 6213(a); 6501(c)(4); 7463(a); 7482(a), (b)(1). Note §§ 7430, 7491

Problems: p. 987 (Problem 1 only)

B. Special Rules Applicable to Deficiency Procedures (Merely skim this material; I will briefly summarize this topic in class)

1. Timing Rules, Interest and Penalties

Text: pp. 988-92

Code: §§ 6501(a), (b)(1), (c)(1), (3), (4) & (e)(1)(A); 6503(a)(1); 6601(a); 6621(a)(2); 7502(a)(1), (b), (f). Note §§ 6651; 6662; 6663; 7201; 7203; 7206

Problem: None

C. Special Rules Applicable to Refund Procedures (Merely skim this material; I will briefly summarize this topic in class)

Text: pp. 996-1000

Code: §§ 6511(a); 6511(b); 6513(a); 6611(a); 6621(a)(1); 7502(a), (b), (f)

Problem: None

**29. Professional Responsibility Issues**

Text: pp. 1001-05

Code: § 6694

Regs: § 1.6662-4(d)(1), (2), (3)(i), (ii) & (iii)

Problem: p. 1005 (focus on Code § 6694)

**PART TWO – IDENTIFICATION OF INCOME SUBJECT TO TAXATION**

**2. Gross Income: The Scope of Section 61**

A. Introduction to Income

Text: pp. 39-40

Code: § 61

#### D. The Economists' Definition of Income

Note that we are going slightly out of order, looking at the broad economists' definition before diving into the Code's definition. The Haig-Simons economic definition provides a useful conceptual framework against which to consider the Internal Revenue Code. It may also be relevant in the Supreme Court's consideration of the realization requirement in the pending *Moore* case.

Text: pp. 60-62

Handout: Excerpt on the tax base from Alvin Warren, *Three Versions of Tax Reform*

#### B. Equivocal Receipt of Financial Benefit

Text: pp. 40-56

Code: § 61

Regs: §§ 1.61-1(a); 1.61-2(a)(1), -2(d)(1); 1.61-14(a)

Problems: pp. 56-57 (skip Problem 5)

#### C. Income Without Receipt of Cash or Property

Text: pp. 57-58 (skip the *Dean* case)

Code: § 61

Regs: §§ 1.61-2(a)(1), -2(d)(1)

Problem: p. 59 (Problem 2 only)

### 3. The Exclusion of Gifts and Inheritances

#### A. Rules of Inclusion and Exclusion

Text: 63-64

Code: §§ 102(a) & first sentence of (b)

Regs: § 1.102-1(f) (proposed)

## B. Gifts

### 1. The Income Tax Meaning of Gift

Text: pp. 64-74

Code: § 102(a)

Problems: p. 74

### 2. Employee Gifts

Text: pp. 74-76

Code: § 102(c); 274(b)(1)

Regs: § 1.102-1(f) (proposed)

Problems: p. 76 (Problem 3 only)

## C. Bequests, Devises, and Inheritances

Text: pp. 76-84

Code: §§ 102(a), (b) first sentence, (c)

Regs: § 1.102-1(a), -1(b)

Problems: pp. 84-85 (skip Problems 1(i), 2, and 3)

## 4. Employee Benefits

### A. Exclusions for Fringe Benefits

Text: pp. 87-96

Code: §§ 132; 61(a)(1). Note §§ 79(a); 106(a); 112; 125; 127; 129

Regs: § 1.132-1(b)(4); 1.132-2(a)(1), (2) & (3); 1.132-6(d)(2)(i); 1.132-6(e)(1); 1.132-8(a)(1), -8(a)(2)(i)

Problems: p. 97 (skip Problems 1(g), (h), (j), (k), (o) & (p))

In addition, consider the extent to which any person has gross income under the following scenarios:

(x) Employee of a commercial airline is entitled to acquire vouchers that allow Employee, her spouse, or her dependent children to fly free on her airline. The seats are available only on a “stand-by” basis – i.e., if there are empty seats after all paying passengers have boarded. Employee’s spouse utilizes a voucher for a free flight that otherwise would have cost \$500.

(y) Same as (x), except the vouchers can also be used by Employee’s siblings, and her brother utilizes a voucher for a free flight that otherwise would have cost \$500.

(z) Same as (x), except the vouchers can also be used by Employee’s parents, and her mother utilizes a voucher for a free flight that otherwise would have cost \$500.

## **5. Awards**

### **A. Prizes**

Text: pp. 106-108 (skip *McDonell* case; only read the casebook Note)

Code: § 74; 274(j). Note §§ 102(c); 132(a)(4), (e)

Regs: §§ 1.74-1(a); 1.74-1(b), (c)(1) (proposed)

Problem: None

### **B. Scholarships and Fellowships**

Text: pp. 108-111

Code: §§ 117. Note § 127(a), (b)(1), (c)(1)

Regs: §§ 1.117-6(b), -6(c)(1)-(4), -6 (d)(1)-(3) (proposed)

Problems: p. 111 (Problem 1 only)