

## READING ASSIGNMENTS PART II

### NOTES:

- Focus on the Code and Regulation 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

### PART TWO – IDENTIFICATION OF INCOME SUBJECT TO TAXATION (cont'd)

#### 6. Gain from Dealings in Property

##### A. Factors in the Determination of Gain

###### 1. Introduction

Text: pp. 113-114

Code: §§ 1001(a), (b) (first sentence), (c); 1011(a); 1012

Regs: § 1.1001-1(a)

###### 2. The Realization Requirement

Text: pp. 114-116. 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 may address the extent to which “realization” is a constitutionally mandated requirement with respect to taxing income from appreciated property.

##### B. Determination of Basis

###### 1. Cost as Basis

Text: pp. 119-120 (omit *Philadelphia Park Amusement* case; only read the Note following that case)

Code: §§ 1011(a); 1012; 1016(a)(1)

Regs: § 1.61-2(d)(2)(i); 1.1012-1(a)

Problems: pp. 120-121 (omit Problems 1(e) & (f) and Problem 2)

2. Property Acquired by Gift

Text: pp. 121-124 (omit *Farid-Es-Sultaneh* case)

Code: § 1015(a)

Regs: § 1.1015-1(a)

Problems: p. 128 (Problem 1 only)

3. Property Acquired Between Spouses or Incident to Divorce

Text: pp. 129-131

Code: § 1041(a) & (b); 1015(e)

Regs: § 1.1041-1T(a) & (d)

Problem: p. 131

4. Property Acquired from a Decedent

Text: pp. 131-134

Code: § 1014(a)(1), (b)(1) & (6), (e)

Regs: 1.1014-3(a); 20.2031-1(b)

Problem: p. 134

C. The Amount Realized

Text: pp. 134-156 (skip Note on pp. 156-157)

Code: § 1001(b)

Regs: §§ 1.1001-1(a); 1.1001-2(a), (b), (c) (Examples (1) & (2))

Problems: pp. 157-158 (omit Problems 1(f) & (g) and Problem 3)

## **7. Life Insurance Proceeds and Annuities**

### **A. Life Insurance Proceeds**

Text: pp. 159-162

Code: § 101(a)(1). Note § 101(g)

Regs: § 1.101-1(a)(1)

Problems: none (omit the Problems on pp. 162-163)

### **B. Annuity Payments**

Text: 163-167

Code: § 72(a)(1), (b), (c)

Regs: § 1.72-4(a); 1.72-9 (Table V)

Problems: pp. 167-168 (omit Problem 1(d))

## **8. Discharge of Indebtedness**

Text: pp. 169-177.

Code: §§ 61(a)(12); 108(a), (b)(1)-(3), (d)(1)-(5), (e)(1), (2) & (5); 1017(a), (b)(1)-(3)(B). Note § 108(f)(5), (h).

Regs: §§ 1.61-12(a); 1.1001-2(a), (c) (Example 8)

Problems: pp. 177-178 (omit Problems 2 & 3)

## **9. Damages and Related Receipts**

### **A & B. Introduction and Damages in General**

Text: pp. 179-182

Problems: pp. 182-183 (omit Problem 1(b))

### C. Damages and Other Recoveries for Personal Injuries

Text: pp. 183-186 (stop after the carryover paragraph near the top of p. 186);  
189-190 (Rev. Rul. 79-313)

Code: §§ 104(a)

Regs: §§ 1.61-14(a); 1.104-1(a), (c)

Problems: pp. 191-192 (omit Problem 1(g) and Problems 2(b) & (c))

## 10. Separation and Divorce

### A. Alimony and Separate Maintenance Payments

Text: pp. 193-194

Code: Note §§ 71; 215(a) & (b) (these sections no longer apply for divorce or separation agreements executed after 2018).

Problems: None

### B. Property Settlements

Text: 195-198 (omit *Young* case)

Code: § 1041. Note § 1015(e)

Regs: 1.1041-1T(b)

Problems: pp. 203-204 (omit Problems 1(d) & (e) and Problem 2(c))

## 11. Other Exclusions from Gross Income

### Tax Expenditures – General Overview

Text: pp. 462-465 (excerpt from Surrey, *Tax Subsidies as a Device for Implementing Government Policy* and following Note)

Handout: Excerpt from Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2020-2024* (you do not need to print this document). Read the explanation on the first several pages; merely skim the Tables to get an idea of the types of tax provisions that are considered tax expenditures; in the context of the present chapter, note the entries for “Exclusion of capital gains on sales of principal

residences” on handout p. 27, “Exclusion of foreign earned income” on handout p. 24, the various tax expenditures relating to education on handout pp. 30-31, and the “Exclusion of interest on public purpose State and local government bonds” on handout p. 35)

A. Gain from the Sale of a Principal Residence

Text: pp. 205-210

Code: § 121 (omit (b)(5), (d)(5), (d)(6), (d)(8), (d)(10), (e), (g))

Regs: §§ 1.121-1(a); -1(b)(1), (2), and (4) Examples 1 & 2; -1(c)(1) & (2); -2(a)(1)-(3); -2(a)(4) Examples 1 & 2; -3(a), (b), (c)(1)-(3); -3(c)(4) Example 1; -3(d)(1) & (2); -3(d)(3) Example 1; -3(e)(1) & (2); -3(e)(4) Examples 1 & 3; -3(f); -3(g)(1) & (2) Example 1

Problems: pp. 210-211 (omit Problems 1(d), 1(f), 3 & 4)

B. Income Earned Abroad

Text: pp. 212-213

Code: Note § 911 (there is no need to read this section)

C. Exclusions and Other Tax Benefits Related to the Costs of Higher Education

Text: pp. 213-220 (focus on the materials covering § 25A).

Code: § 25A. Review § 117. Note §§ 108(f); 127; 135; 221; 222; 529; 530

Problems: pp. 220-221 (Problems 1(a)-(e) only). In doing Problem 1(e), assume that Spouses have a modified adjusted gross income of \$175,000 (instead of \$200,000).

D. Federal Taxes and State Activities

Text: 221-226

Code: §§ 103; 141(a) & (e). Note §§ 115; 142; 148; 149