

Federal Income Taxation

M/W 11:00am-12:15pm

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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?

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
- No jury
- 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