

Federal Income Tax

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Federal Income Tax

A Problem-Solving Approach

Cases and Materials

Toni Robinson

QUINNIPIAC UNIVERSITY SCHOOL OF LAW

Mary Ferrari

QUINNIPIAC UNIVERSITY SCHOOL OF LAW

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A Note to Students

Many students, maybe including you, view the income tax course with hesitation (or horror). You may be concerned that tax is nothing but numbers, business, economics, finance, and accounting, *i.e.*, not only incomprehensible but, even worse, unbelievably boring to the liberal arts majors that many of you are. Don't panic! You need neither math, business, nor accounting expertise to succeed in this course. What you do need is an open mind to the reality that, when you enter law practice, your clients will come to you for assistance in solving problems of everyday living: divorce, real estate, family property matters, small business, tort claims—all of which involve issues requiring a basic understanding of business, finance, and taxation, a basic understanding without which you cannot communicate effectively with and successfully counsel your clients.

We believe that the study of federal tax law is essential because tax is the one subject that pervades almost every other substantive area of law practice in which you may eventually engage. The study of basic federal income tax requires you to begin to become life and business literate. We believe that good lawyers know more than the rules of law: they are true generalists who know something about business, finance, and accounting, and, equally important, a great deal about life. To borrow from Justice Cardozo in *Welch v. Helvering*, tax cases are unique (and far from boring) in that they deal with “life in all its fullness.” We have found that tax is an ideal medium through which to introduce students to basic business concepts and to discuss such basic business and financial matters as borrowing and lending, the time value of money, basic intra-family financial dealings, and the different types of business entities.

Even those of you who come to this course with business, accounting, or science backgrounds, and who think you do not have much to gain from this course because you took a tax course in college, or because you are good with numbers, have much to learn from the basic tax course. We have found that we can impart to you an appreciation of words. After all, statutes are written in words—words that must be read slowly and carefully, words that may not mean what you think they do. Numbers are important, but you can't be an effective lawyer without developing facility with the “language” of statutes. We hope to demonstrate to you that a lawyer's approach to tax is far different from that of a number cruncher.

Thus, we believe that the basic tax course has something to teach all law students from whatever background. Liberal arts majors need confidence in demystifying numbers, business, and finance; and business and science majors often need to be sensitized to the power of words and their creative possibilities. It is the confluence of numbers and words that makes the study of tax law so vital for all our students and so challenging for us who teach it.

We believe that to encourage students to study tax is also pedagogically sound. In the first year you studied the development of the common law through analysis of appellate

decisions. After your first year, however, it is imperative that you become more focused on the study of statutes. We have found the course in federal income taxation to be an ideal medium through which to teach rigorous statutory reading and analysis and methods of statutory interpretation (employed by courts and used by tax planners). The federal income tax course also introduces you to the sources of law and the legislative and administrative processes that are vital to virtually all areas of law practice. Further, through the federal income tax course, we can help you learn more about the Constitution, federalism, and the basic structure of the federal government.

Although we believe that it should be the goal of the basic federal income tax course to impart to students an understanding of the wide impact of the Internal Revenue Code on many legal problems that do not seem to have tax consequences, we know that it is impossible to give students a complete overview of the Code in a three or four credit survey course. There are, however, some foundational topics and cases that you should know. It is also vital for you to read the Code, to learn about the various authorities that interpret the Code, and to learn about the administrative process. If you do that, you will be able to read any statute—tax or otherwise—and you will know more about the administrative process (in which lawyers frequently engage in practice).

This book will give you an overview of the basic income tax calculation formula without examining in detail every single inclusion, exclusion, deduction, and credit. Our pedagogical goal is to assist you in creating for yourselves a sense of the structure of the whole by focusing on fundamental principles so you will be able to deal in the future with Code sections that you have not read before, and to deal with legislative changes (which in tax occur with unusual frequency.) It is approach and methodology we are trying to impart to you, not to overwhelm you with minutia.

This book is, we hope, unique among traditional casebooks. The teaching method we use here reflects what we have learned, during many years of teaching tax to many types of students, about how students learn tax. We have tried very hard to remember how we felt as beginners in the study of tax law. Thus, we conduct a colloquy with you as you proceed through the materials and present a series of problems designed to illustrate tax issues (and associated policy, procedure, and ethical issues) that affect real taxpayers in their everyday lives. This approach has helped our students feel more engaged with (and less intimidated by) the materials. At the end of the book we present a series of “transactional problems.” Because most of you have not had much experience in the technique of integrating multiple sources of law: cases, statutes, legislative histories, administrative regulations and other administrative communications, we have found that the best way for students to develop this critical skill is to apply what you have learned in the early parts of this book to these transactional problems.

Many of us who have practiced law, especially tax law, remember (with some chagrin) that the most difficult part of solving a tax problem was often identifying it. Because your client will tell you a “story” without identifying the particular issues (legal or tax), it will be up to you to make the identification. Some of you (we hope) will become tax lawyers. It will be up to you to both identify and solve the tax problems of your clients. But even those of you who pursue some other area of practice must be able at least to identify (not necessarily solve) those ever-lurking tax issues. We hope this book will provide you with a solid foundation in federal income tax no matter what legal career path you choose.

We look forward to working with you. Now, let’s begin.

Professor Toni Robinson
Professor Mary Ferrari

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- Sheldon I. Banoff and Richard Lipton, "More on Historic Homers: Do Auction Prices Control?," 90 J. Tax'n 189 (1999), Warren, Gorham and Lamont.
- Sheldon I. Banoff and Richard Lipton, "McGwire's 62nd Home Run: IRS Bobbles the Ball," 89 J. Tax'n 253 (1998), Warren, Gorham and Lamont.
- Bruce Bartlett, "Why the Correct Capital Gains Tax Rate Is Zero", 84 Tax Notes 1411 (1999), Tax Analysts, Inc.
- Berger and Johnstone, *Land Transfers and Finance: Cases and Materials, Fourth Edition*, 1993. Reprinted with the permission of Aspen Law & Business.
- Ira Berkow, "McGwire's 70th Homer Still Defying Gravity," *The New York Times*, January 13, 1999.
- Boris I. Bittker, "Tax Shelters, Nonrecourse Debt, and the Crane Case," 33 Tax L. Rev. 227 (1978), Tax Law Review, New York University School of Law.
- Boris I. Bittker, "Federal Income Taxation and the Family," 27 Stan. L. Rev. 1389 (1975), Stanford Law Review.
- Boris I. Bittker and Martin J. McMahon, Jr., *Federal Income Taxation of Individuals*, 1995, Warren, Gorham and Lamont.
- Black's Law Dictionary, 6th ed.*, 1990. Reprinted with the permission of The West Group.
- Steven Bradford and Gary Ames, *Basic Accounting Principles for Lawyers*, 1997, Anderson Publishing Company.
- Marvin Chirelstein, *Federal Income Taxation, Eighth Edition*, 1999, Foundation Press.
- Noel B. Cunningham and Deborah H. Schenk, "The Case for a Capital Gains Preference," 48 Tax L. Rev. 319 (1993), The Tax Law Review, New York University School of Law.
- Bill Dedman, "Fan Snaring No. 62 Faces Big Tax Bite," *The New York Times*, September 7, 1998.
- Kip Dellinger, "Home Run Balls and Nettlesome Tax Problems," 1998 TNT 177-178 (September 14, 1998), Tax Analysts, Inc. Used with Permission.
- Joseph M. Dodge, *The Logic of Tax*, 1989. Reprinted with the permission of The West Group.
- Jesse Dukeminier, "A Modern Guide to Perpetuities," 74 Cal. L. Rev. 1867 (1986), California Law Review.
- William E. Elwood and Cynthia A. Moore, *Employee Fringe Benefits*, 394—3rd T. M. 1101 (1996), Tax Management Portfolio (U.S.) Series, Bureau of National Affairs.
- Pamela Gann, "Abandoning Marital Status as a Factor in Allocating Income Tax," 59 Tex. L. Rev. 1 (1980), Texas Law Review.
- Michael J. Graetz, *The U.S. Income Tax: What It Is, How It Got That Way, and Where We Go From Here*, 1999, W.W. Norton & Co.
- Robert E. Hall and Alvin Rabushka, *The Flat Tax, Second Edition*. Reprinted with the permission of the publisher, Hoover Institution Press, copyright (c) 1995 by the Board of Trustees of the Leland Stanford, Junior University

- Mary Heen, "Plain Meaning, the Tax Code, and Doctrinal Incoherence," 48 *Hastings L.J.* 771 (1997).
- Kohler's Dictionary for Accountants, Sixth Edition*, 1983, Prentice-Hall, Inc., Pearson Education.
- Stephen Labaton, "Scientologists Granted Tax Exemptions by the U.S.," *The New York Times*, October 14, 1993.
- John W. Lee, "Capital Gains Myths," 67 *Tax Notes* 809 (1995), Tax Analysts, Inc.
- Elizabeth MacDonald, "Scientologists and IRS Settled for \$12.5 Million," *The Wall Street Journal*, December 30, 1997.
- Paul R. McDaniel and Stanley Surrey, "The Tax Expenditure Concept: Current Developments and Emerging Issues," 20 *B.C. L. Rev.* 225 (1979), *Boston College Law Review*.
- McIntyre, et. al., *Readings in Federal Taxation, Second Edition*, (1983), Foundation Press.
- Matthew Miller, "A Tax None Will Touch," *U.S. News and World Report*, August 4, 1997.
- Joseph A. Pechman, *Federal Tax Policy, Fifth Edition*, 1987, Brookings Institution Press.
- Burgess J.W. Raby and William L. Raby, "Religious Tuition as Charitable Contribution," 88 *Tax Notes* 215 (2000), Tax Analysts, Inc.
- Gail Richmond, *Federal Tax Research, Fifth Edition*, 1997, and *Sixth Edition*, 2002, Foundation Press.
- David E. Rosenbaum, "The Fine Print: The Tax Bills; When Lawmakers Look Homeward," *The New York Times*, July 21, 1999.
- St. Petersburg Times, "Sellout to Scientology," excerpt from editorial, January 6, 1998.
- Henry C. Simons, *Personal Income Taxation: The Definition of Income as a Problem of Fiscal Policy*, 1938, The University of Chicago Press.
- Dan Throop Smith, "High Progressive Tax Rates: Inequity and Immorality?," 20 *U. Fla. L. Rev.* 451 (1968), University of Florida, Frederic Levin College of Law.
- Joseph J. Cordes, Robert D. Ebel, and Jane G. Gravelle, Editors, *The Encyclopedia of Taxation & Tax Policy, CD-ROM Edition*, C. Eugene Steuerle, "Tax reform, federal," 1999, The Urban Institute Press.
- Paul Streckfus, "Scientology Case Redux," 87 *Tax Notes* 1414 (2000), Tax Analysts, Inc.
- Lawrence A. Zelenak and Martin J. McMahon, Jr., "Taxing Baseballs and Other Found Property," 84 *Tax Notes* 1299 (1999), Tax Analysts, Inc.