

**Highlights of Changes Made to
The Fundamentals of Federal Taxation (6th ed. forthcoming)
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The following summary highlights key changes made to the 6th edition. The changes are current through August of 2022, including the Inflation Reduction Act of 2022. These changes will be noted at the beginning of each chapter in the Revised Teacher's Manual for the 6th edition, which will be available in December 2022. The problems in the main text are largely unchanged, and the Revised Teacher's Manual will reflect changes to answers arising from the inflation adjustments in the rate tables, etc.

Chapter 1: Introduction

The 6th edition adds a note that many tax expenditures are “upside down,” meaning they go overwhelmingly to higher income households, which can exacerbate income and wealth inequality. The 6th edition also includes a new “Related Matters” bullet at the end of Chapter 1 that introduces racial wealth disparities and inequities in our tax system. Several resources are provided, including Dorothy Brown's *THE WHITENESS OF WEALTH* (Crown Publishing 2021).

Chapter 2: Gross Income

The 6th edition highlights that some commentators have argued that the realization requirement is a tax preference for our wealthiest citizens because taxpayers with appreciated assets get to decide if and when they have income.

Chapter 3: Gains (and Losses) from Dealings in Property

The 6th edition adds a new “Related Matters” bullet at the end of the chapter highlighting the IRS's special tax treatment of sports teams' player contracts.

Chapter 4: Gifts and Inheritances

The 6th edition adds a new Problem 3(d), dealing with community property, in which the deceased spouse leaves a retirement account to the surviving spouse. The new edition also expands the section 102 tax policy discussion as well as substantially expands on the critique of the section 1014 basis step up rule in both the main text and in a new “Related Matters” bullet. The 6th edition also adds a new section in the main text on Income in Respect of a Decedent (IRD) exceptions to section 102 and 1014. Finally, the new edition adds a new “Related Matters” bullet deal with social-influencer freebies.

Chapter 5: Discharge of Indebtedness

The 6th edition mentions a recent case dealing with the section 108 insolvency exception and adds a discussion of the expanded exclusion of forgiven student loans that applies to discharges after 2020 and before 2026. The 6th edition also notes that the amount of discharge of indebtedness on a taxpayer's principal residence excludable from gross income is limited to \$750,000.

Chapter 7: Business and Investment Expense Deductions

The new edition adds a brief discussion of a case dealing with section 280E. It also expands the material dealing with deductibility of meals and entertainment expenses. In a new "Related Matters" bullet, the 6th editions discusses the deductibility of business expenses funded by forgivable SBA loans. In a different bullet, the new edition notes the IRS's position regarding the deductibility of attorney's fees under section 162(q).

Chapter 9: Depreciation and Amortization

The 6th edition provides the inflation adjusted limits for 2022 for section 179 bonus depreciation. It also highlights the gradual phase out of section 168(k) bonus depreciation, which starts in 2023). Examples in the main text have been updated to reflect inflation adjustments.

Chapter 10: Deductible Personal Expenses

The 6th edition adds a new bullet in "Related Matters" dealing with abandonment losses, in general, and cryptocurrency losses, in particular. The abandonment loss deduction has become relevant for owners of cryptocurrencies with no value.

Chapter 11: Other Deductible Expenses

The new edition highlights that the residential mortgage interest and real property tax deductions are tilted toward higher income and wealth households who need them least and likely exacerbate societal inequities. The text asks: Why should home mortgage interest be deductible when home rent is not? Isn't interest on debt just a form of rent? Finally, reference to section 222 in the text has been deleted since the provision has been repealed.

Chapter 12: The Deduction Hierarchy: Adjusted Gross Income, the Standard Deduction, and the Dependency Rules

The 6th edition adds several IRS Forms at the end of the chapter: Form 1040; Schedule 1, Additional Income and Adjustments to Income; Schedule A, Itemized Deductions; and Schedule C, Profit or Loss from Business (Sole Proprietorships). Students may find the forms helpful in understanding concepts raised in the chapter. The new edition also updates the inflation-adjusted amounts for the standard deduction (for 2022), as well as adds a "Planning Pointer" highlighting the importance of Form 8332 for a noncustodial parent to receive child credits for children. At

the end of the chapter, there is new material discussing the \$250 above the line deduction for a teacher's classroom expenses.

Chapter 14: Ordinary Tax Rates and Taxpayer Classification

The 6th edition adds citation to an article arguing that progressivity helps to reduce the income and wealth gaps between the top and bottom of income distribution, and, hence, racial disparities. The new edition updates the 2022 exemption amounts for the alternative minimum tax (AMT), and adds that the Inflation Reduction Act of 2022 added a 15% corporate AMT calculated on adjusted financial statement income for corporations with profits in excess of \$1 billion. Most significantly, the 6th edition includes the new 2022 tax rate schedules for individuals. The Revised Teacher's Manual will update answers to the problems with the new ordinary rate tables. In the last "Related Matters" bullet, the book clarifies that the Kiddie Tax subjects unearned income of children under the age of 18 to the child's parents' marginal rate (not the tax rates for trusts as was stated in the earlier edition).

Chapter 15: Tax Credits

The 6th edition adds a discussion of climate change tax credits in the Inflation Reduction Act of 2022 (IRA): (1) energy efficient home improvement credit; (2) residential clean energy credit; (3) new clean vehicle credit; and (4) used clean vehicle credit. We felt it important to add discussion of this historically significant legislation designed to significantly reduce U.S. greenhouse gas emissions and to combat climate change and forward energy independence. In addition, the new edition adds citation to a forceful policy defense of the Child Tax Credit, which helps reduce poverty and raise after-tax incomes of low-income families. It also reflects changes made to the American Opportunity and Lifetime Learning credits that were not reflected in the prior edition, as well as a change to the Earned Income Credit (specifically, the limit on investment income is \$10,000, which is indexed for inflation).

Chapter 17: Capital Gains and Losses

The 6th edition adds a new "Planning Pointer," which includes cites to two recent cases that dealt with whether a taxpayer held land for investment (a capital asset) or for development (not a capital asset). The new edition questions whether non-fungible tokens (NFTs), which often hold photos or digital artwork, qualify as "works of art" subject to the higher top capital gains rate of 28%. With respect to the mechanics of capital gains, the new edition reflects the 2022 inflation adjusted breakpoints between the 0% and 15% rates (and between the 15% and 20% rates) on adjusted net capital gain. All examples in the text are updated accordingly. Finally, in a new "Related Matters" bullet, the 6th edition discusses the characterization of cryptocurrency abandonment losses.

Chapter 18: Quasi Capital Assets

The new edition add mention of a recent case which dealt with whether property was a capital asset under section 1221 (used for production of income) or a quasi-capital asset under section 1231 (used in the taxpayer's trade or business).

Chapter 19: Recapture of Depreciation

The 6th edition deletes two bullets in the "Related Matters" section: one dealing with recapture of section 174 research and development costs and the other dealing with recapture of section 181 TV and film production costs.

Chapter 20: The Charitable Contribution Deduction

The 6th edition adds a new "Planning Pointer," which includes citation to a recent case, highlighting the importance of complying with applicable regulations in substantiating charitable contributions.

Chapter 22: Residential Real Estate

The new edition asks the students to think about whether the subsidy for home ownership is distributed fairly among homeowners (i.e., is there a rational reason for favoring home owners over renters?). In the final "Related Matters" bullet, the new edition expands on the home office deduction safe harbor, clarifying that a benefit is that all mortgage interest and property taxes can be claimed on Schedule A, and depreciation deductions taken on the home office do not have to be recaptured when the home is sold.

Chapter 24: Like Kind Exchanges

The 6th edition adds a new "Related Matters" bullet at the end of the chapter dealing with "Qualified Opportunity Zones" added by the Tax Cuts and Jobs Act in section 1400Z-1 and 1400Z-2.

Chapter 26: Installment Sales

The 6th edition adds a new "Related Matters" bullet at the end of the chapter dealing with the use of installments sales in estate planning.

Chapter 27: Limitations on Deductions

The 6th edition notes in the "Related Matters," with reference to two cases, that courts have held that limited liability company (LLC) interests are not subject to section 469(h)(2). Members of an LLC can deduction LLC losses if they can prove that they materially participated in the LLC under the general rule of section 469(h)(1).

Chapter 28: Intellectual Property Development and Acquisitions

The 6th edition highlights that section 174, as amended by the Tax Cuts and Jobs Act of 2017, requires amortization of R&D costs, including software development costs, over five years beginning in 2022. The new edition also notes that Congress recently expanded “bonus depreciation” for qualified film, television, and live theatrical productions costs—so, there are currently two options for expensing such costs (section 181 and section 168(k)). Both are temporary provisions.

Chapter 33: Education Benefits and Costs

The 6th edition notes that Congress expanded temporarily the type of educational assistance an employee can exclude from gross income under section 127, and it highlights that Congress recently expanded the discharge of indebtedness exclusion for student loans discharged in 2021 through 2025. The new edition also provides the 2022 inflation adjusted phase outs for the section 221 student loan interest deduction, as well as reflects updated income thresholds for the education credits. The new edition also notes that Congress recently repealed section 222, which had provided an above the line deduction for up to \$4,000 of qualified tuition and related expenses. The 6th edition also provides updates to section 529 qualified tuition programs.

Chapter 34: Personal Injury Recoveries and Punitive Damages

The new edition includes discussion of a recent case and recent private letter ruling dealing with this involving and confused area of the law. Additional references to commentary are included in an effort to help explain and resolve the confusion.

Chapter 35: Attorney’s Fees

The 6th edition notes that a strict reading of section 162(q) indicates the limitation on the deduction of attorney’s fees applies to the payee as well as the payor of a sexual harassment settlement. However, it is noted that the IRS has stated on its website (without issuing an official ruling) that the provision does not apply to plaintiffs.

Chapter 36: Retirement Resources and Deferred Compensation

The new edition provides the 2022 updated inflation adjusted amounts for Social Security (e.g., maximum earned income and average monthly benefit and maximum monthly benefit).

Chapter 37: Overview of Entity Taxation

The 6th edition adds discussion of the corporate minimum tax added by the Inflation Reduction Act of 2022. Specifically, wealthy corporation with more than \$1 billion in profits (reported to shareholders on financial statements) are subject to a new 15% alternative minimum tax. In the

material dealing with section 199A, the new edition references Rev. Proc. 2019-38 (providing a safe harbor under which a real estate enterprise will be treated as a “trade or business” solely for purposes of section 199A), and provide updated taxable income thresholds for 2022 under section 199A. In the “Related Matters” section at the end of the chapter, the 6th edition adds two new bullets. One bullet discusses the Net Investment Income TA under section 1411. The other bullet summarizes a number of environmental credits for businesses, enacted as part of the Inflation Reduction Act of 2022.

Chapter 39: Partnership Formations

The 6th edition adds a new bullet in “Related Matters” dealing with carried interests. The bullet notes that an initial draft of the Inflation Reduction Act Of 2022 included a revised carried interest provision, but notes that the provision was cut from the act at the last minute.

Chapter 40: Overview of International Income Taxation

The 6th edition expands the discussion on transfer pricing. The new edition also adds a “Related Matters” bullet on so-called patent boxes or innovation boxes, popular in Europe, and an expanded bullet on efforts by the OECD to help nations address the problems of income shifting.

Chapter 41: Overview of Estate and Gift Taxation

The 6th edition provides the inflation-adjusted figures for the wealth transfer taxes. In addition, the new edition adds two new bullets in “Related Matters.” One bullet deals with rights of publicity and discusses two recent cases involving deaths of celebrities and the valuation of postmortem rights of publicity for estate tax purposes. The other bullet deals with income tax planning. Specifically, the TCJA’s increased inflation-adjusted estate tax basic exemption amount to \$10 million has major crossover impact on income tax planning. For many clients, tax planning strategies will shift from federal estate tax avoidance to federal income tax reduction.