REQUIRED MATERIALS


INTERNAL REVENUE CODE (latest edition)

INCOME TAX REGULATIONS (latest edition)

VERY STRONGLY RECOMMENDED

Boris I. Bittker and Lawrence Lokken, FUNDAMENTALS OF INTERNATIONAL TAXATION (Student edition, Thomson Reuters, 2013-14)

OBJECTIVES

The aim of this course is to gain an understanding of the principal US tax rules that apply to investment and business activity in the United States by foreign persons (so-called “inbound taxation”). It is the first of a trilogy of courses that focus on the US tax rules that apply to international activities. The other courses address “outbound taxation”, i.e., the rules that apply to US persons who conduct activities abroad, and the issues that arise from cross-border corporate transactions (acquisitions and reorganizations).

We will examine initially the rules related to residence and related questions – when is a foreign person considered a resident of the United States for taxation purposes; under what circumstances may an individual renounce his US citizenship; we will touch briefly on the tax consequences of a US corporation migrating to another country.

The next major part of the course will require us to delve into the US tax treatment of a foreign person whose income consists of portfolio income (e.g., interest and dividends) and other income that is not connected with a US business. The critical issues here are identifying both the character and the source of the items of income. With respect to each category of income we will consider also the effect of treaties (i.e., whether, as a result of the application of an income tax treaty between the United States and the relevant county, the rate of US tax on US-source income is reduced to nil or to a rate that is lower than the regular US rate).
We will then address the US tax treatment of foreign persons whose income arises in a business context, including securities trading, real estate dispositions, the rendering of services and sales of goods. We consider also the viability of existing rules as they apply to more modern forms of commerce involving the use of intellectual property and electronic commerce. Here also we will consider the effect of relevant income tax treaties and focus particularly on treaty related issues such as treaty overrides, treaty shopping, discrimination and the use of so-called hybrid entities. Finally we will wrap up with a look at the US tax rules that attempt to mitigate advantages that may be gained by a foreign corporation operating in the United States through a branch as opposed to a subsidiary (the “branch tax” provisions of the Code).

**APPROACH**

The Syllabus (attached) sets out the assigned readings in the required materials. I have also set out the relevant sections in the Bittker & Lokken (“B&L”) treatise that you will find very useful to supplement the materials in Steines. There will be additional required and suggested readings for each of the topics. Some of the additional readings will be focused on tax policy issues – it is important that you grasp early on the foundations of international taxation and the policies that underlie the rules that we will be studying. Other readings will focus on recent legislative, regulatory and judicial developments. The readings will be posted on NYU Classes. You should be checking NYU Classes regularly for additional messages, changes in the syllabus, and questions to consider for the following session of the class, etc.

Many students find it useful to refer to leading treatises or study aids to deepen their understanding of what at times will appear to be most complex statutory provisions. In addition to the very strongly recommended Bittker and Lokken treatise, which can be purchased at the Bookstore, you may wish to consult the following (available in the Library):

**JOEL D. KUNTZ AND ROBERT J. PERONI, U.S. INTERNATIONAL TAXATION**
(Warren, Gorham & Lamont, looseleaf edition)


There are also a number of Bloomberg BNA Tax Portfolios on various aspects of US international taxation that you may wish to consult.

We will follow the traditional problem-method approach for dissecting the relevant materials. It is important to have read and digested the assigned materials and to have prepared answers to the problems before coming to class. Your participation in the discussions is extremely important. I generally call on students in the class to initiate and move along the discussion of a problem. I will be looking for both rigorous technical analysis and demonstration that we have considered the relevant policy issues.
EVALUATION

There will be an open-book, three-hour final examination at the end of the semester. The class meets on Tuesdays from 6:00 to 7:50 p.m. I will be posting office hours shortly and I will be available generally in my office (Room 615 Wilf Hall). I can be reached by e-mail at victor.zonana@nyu.edu and by telephone at (212) 998-6271 or at (917) 833-0035 (cell).
SYLLABUS

(as of August 17, 2013, subject to updating)

September 3

Introduction
Residence and Related Questions

Steines, I.A.
Steines, V (Notes only, pages 553-561)
B&L (Bittker and Lokken)
  65.1.1 to 65.1.4
  65.2.1 to 65.2.4 and 65.2.8
  65.3.1 and 65.3.2
  65.3.5 and 65.3.6

September 10

Residence and Related Questions (cont’d)
Portfolio Income – Debt Obligations

Steines, I.B.1
Steines, I.B.5
B&L 67.1
  67.2.1 and 67.2.2
  73.1 and 73.2
  67.4.1 to 67.4.4

Problem 1 and Problem 5

September 17

Portfolio Income – Debt Obligations (cont’d)
Portfolio Income – Dividends and Stock Dispositions

Steines, I.B.2
B&L 67.2.3 and 67.2.10
  73.3 and 73.6.1

Problem 2 and Problem 5

September 24

Portfolio Income – Dividends and Stock Dispositions (cont’d)

October 1

Portfolio Income – Substitute and Derivative Payments
Other Income (Royalties, Services, etc.)

Steines, I.B.3 and I.B.4
B&L 67.2.4; 67.2.5 and 67.2.8
  73.4.2 (paragraphs 1 and 2 only)
  73.5.1
  73.9 (paragraph 2 only)
Problem 3 and Problem 5
Problem 4 and Problem 5

October 8

Other Income (cont’d)
Effect of Treaties (review)

Steines I.B.V
B&L 67.2.9

October 15 & 22

Business Income – ECI, Real Estate Operations, Securities Trading
Treaty and Pass-Through Issues

Steines I.C.1
B&L 67.6.1 through 67.6.4
67.6.6
67.6.8 and 67.6.9

Problem 6

October 29

Business Income – Real Estate Dispositions

Steines, I.C.2
B&L 73.6.2
67.7

Problem 7

November 5

Business Income – Compensation for Services, Pensions, etc.

Steines, I.C.3
B&L 73.4.1 and 73.4.2

Problem 8

November 12

Business Income – Sale of Goods

Steines I.C.4
B&L 73.6.3 through 73.6.5

Problem 9

November 19

Income from Intellectual Property, Electronic Commerce, etc.

Steines, I.D
B&L 73.5.2
November 26  Treaty Override, Treaty Shopping, Discrimination, and Similar Activities

Steines, I.E
B&L  65.4 and 67.3

Problem 10

December 3  Branch Taxes

Steines, I.F
B&L  67.8

Problem 11