

Contents

Preface xxix

Acknowledgments xxxiii

Chapter 1: Introduction	1
A. The Importance of Studying Federal Income Taxation	2
B. The Unique Value of the Federal Income Taxation Course	2
C. Taxation in World History	3
1. Taxation Throughout Ancient and Modern History	3
2. Taxation of the American Colonies and the American Revolution	5
3. Federal Revenue Needs and the Articles of Confederation	7
D. Taxation in the United States Today	8
1. The Constitutional Authority to Tax Income	8
2. The Department of the Treasury and the Role of the Internal Revenue Service	9
E. New Tax Statutes	10
1. The Origination Clause and the “Classic” Legislative Process	10
2. The Internal Revenue Code of 1986 (as Amended)	12
F. Other Sources of Tax “Law”	13
1. Treasury Regulations	13
2. IRS Pronouncements	14
3. Tax Cases	15
Chapter Summary	16
Applying the Rules	17
Federal Income Taxation in Practice	17

Chapter 2: Realization and the Notion of “Income”	19
A. The Concept of Realization	20
1. Realization Events Involving Cash; Critical Tax Vocabulary	20
<i>Conceptual Fundamentals</i>	20

<i>Special Tax Terminology</i>	21
<i>Crane v. Commissioner</i>	23
2. Non-Cash and Non-Transactional Realization Events	27
B. Realization Event vs. Nonrealization Event	27
C. The Evolving Notion of “Income”	29
<i>Commissioner v. Glenshaw Glass Co.</i>	29
D. The Tax Computation Process	33
Chapter Summary	38
Applying the Rules	39
Federal Income Taxation in Practice	40
Chapter 3: Specific Items Included in Gross Income	41
A. Specific Gross Income Items	41
1. In General	41
2. Cash Windfalls, Treasure Trove, and Similar Items	43
<i>Cesarini v. United States</i>	43
3. Illegal Income and Innocent Spouse Relief	48
<i>Eller v. Commissioner</i>	48
B. Loans and Income from the Discharge of Indebtedness	53
1. In General	53
2. The Insolvency Exception	56
3. Ascertaining Taxpayer “Assets”	58
<i>Hamilton v. Commissioner</i>	58
4. Caveat: Contested Liabilities	62
<i>McCormick v. Commissioner</i>	63
Chapter Summary	66
Applying the Rules	67
Federal Income Taxation in Practice	68
Chapter 4: Recovery of Basis and Certain Limited Exclusions	69
A. Recovery of Basis	70
B. Annuity Payments	70
C. Gain on Sale of a Principal Residence	73
1. Prior Law and Reasons for Change	74

2. Current Law	75
<i>In General</i>	75
<i>Gates v. Commissioner</i>	77
<i>Special Rules Under § 121: Deemed Ownership and Use</i>	86
<i>Special Rules Under § 121: Death of a Spouse</i>	86
<i>Special Rules Under § 121: Partial Exclusion Available in Certain Circumstances</i>	87
<i>Other Special Rules Under § 121</i>	88
<i>Food for Thought: Differential Impact of § 121</i>	89
Chapter Summary	89
Applying the Rules	90
Federal Income Taxation in Practice	91
 Chapter 5: Categorical Exclusions: Items Received by Gift, Bequest, Devise, or Inheritance	 93
A. Property Received by Gift	93
1. In General	93
<i>Commissioner v. Duberstein</i>	94
<i>Goodwin v. United States</i>	99
<i>Yang v. Commissioner</i>	103
2. Specific Rules Regarding Income from Gift Property or Gifts of Income	107
3. Donee Basis in Gifts and Transfers by Gift of Unrealized Gain or Loss	108
B. Property Received by Bequest, Devise, or Inheritance	109
1. In General	109
<i>Wolder v. Commissioner</i>	110
<i>Basis of Property Received from a Decedent</i>	114
2. Special Issues	115
<i>Basis in Community Property Received by Bequest, Devise, or Inheritance</i>	115
<i>Basis of Property Returned to Initial Donor of Appreciated Property After Death of Donee</i>	115
Chapter Summary	116
Applying the Rules	117
Federal Income Taxation in Practice	118

Chapter 6: Categorical Exclusions: Certain Damage Recoveries 119

A. Recoveries for Specific Personal Injuries	119
1. Compensation for Physical Injury or Physical Sickness	121
<i>On-the-Job Personal Injury</i>	121
<i>Amos v. Commissioner</i>	121
<i>Devine v. Commissioner</i>	129
B. Damages Received to Compensate for Emotional Distress	135
1. In General	135
2. Discrimination with Emotional and Physical Consequences	136
<i>Beckett v. Commissioner</i>	136
Chapter Summary	140
Applying the Rules	140
Federal Income Taxation in Practice	141

Chapter 7: Categorical Exclusions: Specific Fringe Benefits, Life Insurance Proceeds, and Tax-Exempt Interest 143

A. Fringe Benefits and Other Items	143
1. Meals and Lodging Provided to Employees	145
<i>Benaglia v. Commissioner</i>	145
<i>Current Law</i>	149
2. No-Additional-Cost Services, Employee Discounts, and Other Fringe Benefits	151
<i>No-Additional-Cost Services</i>	151
<i>Reciprocal Agreements</i>	152
<i>Use by Family of the Employee</i>	153
<i>Qualified Employee Discounts</i>	153
<i>Working-Condition Fringe Benefits</i>	155
<i>De Minimis Fringe Benefits</i>	155
<i>Fringe Benefit Overlap</i>	156
<i>Notice 2011-72</i>	156
3. Cafeteria Plans	158
B. Life Insurance Contract Proceeds	160
1. “Life Insurance” and the Insurable Interest Requirement	161
<i>Atlantic Oil Co. v. Patterson</i>	163

C. Tax-Exempt Interest	165
1. In General	165
2. Private Activity Bonds and Qualified Bonds	166
Chapter Summary	167
Applying the Rules	168
Federal Income Taxation in Practice	169

Chapter 8: The Standard Deduction, Itemized Deductions, Tax Credits, and Deduction for Qualified Business Income

171

A. Progressivity, Marginal Rates, and the Pursuit of Horizontal and Vertical Equity	171
B. The Standard Deduction and the Itemized Deductions Alternative	174
C. Temporary Personal Exemption for Senior Citizens	175
D. Impact of Tax Credits	176
E. Defining “Dependent”	182
<i>Schoen v. Commissioner</i>	183
1. Children of Divorced, Legally Separated, or Non-Cohabiting Parents	186
F. Deduction with Respect to Qualified Business Income	187
Chapter Summary	187
Applying the Rules	188
Federal Income Taxation in Practice	189

Chapter 9: Extraordinary Medical Expenses

191

A. General Deductibility Rules	191
<i>Revenue Ruling 2003-57</i>	196
B. The Evolving Definition of “Medical Care”	199
1. Fertility-Related Expenses	200
<i>Private Letter Ruling 200318017</i>	200
<i>Magdalin v. Commissioner</i>	202
2. Treatment Related to Opioid Abuse, Nicotine Addiction, and Obesity	206
<i>Revenue Ruling 72-226</i>	208
<i>Revenue Ruling 2002-19</i>	209
<i>Revenue Ruling 99-28</i>	213

3. Meaning of “Disease” and “Treatment”	214
<i>O’Donnabhain v. Commissioner</i>	215
Chapter Summary	233
Applying the Rules	234
Federal Income Taxation in Practice	235
Chapter 10: Casualty, Theft, and Other Losses	237
A. General Rules	237
B. Timing the Deduction of Losses	238
1. Requirement That Losses Be “Sustained” During the Taxable Year	238
2. Special Timing Situations: Theft and Disaster Losses	239
3. Subsequent Recoveries	240
C. Losses of Individuals	241
1. General Rules	241
2. Limitations Generally Applicable to Personal Casualty Losses of Individuals	242
3. Special Issues	243
4. Defining “Casualty”	244
<i>Popa v. Commissioner</i>	244
5. Basis Determinations	250
6. Gross Negligence and Public Policy Limitations	251
<i>Blackman v. Commissioner</i>	251
<i>Rohrs v. Commissioner</i>	256
Chapter Summary	262
Applying the Rules	263
Federal Income Taxation in Practice	264
Chapter 11: Interest, Taxes, Tips, and Overtime Compensation	265
A. Purchasing a Home	265
1. Preliminary Matters	266
2. Starting the Mortgage Application Process	267
3. Managing the Process and Closing the Deal	269
B. The Deduction for the Payment of Certain Mortgage Interest	272
1. Acquisition Indebtedness	274

2. Grandfather Rules for Certain Acquisition Indebtedness	276
3. Special Issue: Deducting Mortgage Interest as the Legal or Equitable Owner of Property	277
<i>Jackson v. Commissioner</i>	277
4. Special Issue: Applying Statutory Limits on a Per-Taxpayer or Per-Residence Basis	281
<i>Voss v. Commissioner</i>	282
C. The Deduction for Interest Paid on Education Loans	291
D. The Deduction for the Payment of Certain Passenger Vehicle Loan Interest	291
E. The Deduction for the Payment of Certain Taxes	293
F. The Deduction for Qualified Tip Income	294
G. The Deduction for Qualified Overtime Compensation	296
Chapter Summary	296
Applying the Rules	297
Federal Income Taxation in Practice	298

Chapter 12: Charitable Contributions and Tax-Exempt Entities **301**

A. Deduction for Charitable Contributions	301
1. General Rules	301
2. Quid Pro Quo Contributions	305
<i>Hernandez v. Commissioner</i>	306
B. Tax-Exempt Entities	315
1. General Rules	315
2. Public Policy Restrictions	315
<i>Bob Jones University v. United States</i>	316
3. The Private Inurement Prohibition	326
<i>Freedom Church of Revelation v. United States</i>	326
Chapter Summary	332
Applying the Rules	333
Federal Income Taxation in Practice	334

Chapter 13: Ordinary and Necessary Business Expenses **337**

A. “Ordinary” and “Necessary” in the Tax Arena	337
<i>Welch v. Helvering</i>	338

B. Personal Expenses Remotely Connected to Business Activity	342
<i>Gilliam v. Commissioner</i>	342
C. “Carrying On” a “Trade or Business”	348
1. The “Carrying On” Requirement	348
2. Defining “Trade or Business”	350
<i>Commissioner v. Groetzinger</i>	350
D. Specific Deduction Prohibitions and Relevant Exceptions	357
1. Illegal Bribes/Kickbacks, Fines, Etc.	357
2. Client Entertainment	357
<i>Notice 2018-76</i>	358
3. Lobbying	361
4. Sale of Certain Controlled Substances	361
<i>Olive v. Commissioner</i>	362
Chapter Summary	368
Applying the Rules	368
Federal Income Taxation in Practice	369

Chapter 14: Capital Expenditures, Depreciation, and Amortization **371**

A. Overview	372
B. Current Expense vs. Capital Expenditure	375
<i>Midland Empire Packing Co. v. Commissioner</i>	376
<i>Norwest Corp. v. Commissioner</i>	381
<i>INDOPCO, Inc. v. Commissioner</i>	390
C. Depreciation and Amortization	395
1. In General	395
2. Depreciation	395
3. Amortization	396
D. Inventory	399
Chapter Summary	401
Applying the Rules	402
Federal Income Taxation in Practice	403

Chapter 15: Timing and Related Issues	405
A. The Time Value of Money	405
B. Annual Accounting and Its Impact	407
<i>Kim v. Commissioner</i>	408
1. Section 172 and Net Operating Losses	412
2. Claim of Right Doctrine	414
<i>McKinney v. United States</i>	415
3. Tax Benefit Rule	420
C. Deferred Compensation	420
1. In General	420
2. Section 83 and the § 83(b) Election	421
D. Original Issue Discount	423
Chapter Summary	424
Applying the Rules	425
Federal Income Taxation in Practice	426

Chapter 16: Methods of Accounting	427
A. Cash Method of Accounting	428
1. Taxable Year of Income Inclusion	428
<i>In General</i>	428
<i>Warren v. United States</i>	428
<i>Nice v. United States</i>	432
<i>Constructive Receipt</i>	438
<i>Economic Benefit</i>	439
<i>Old Colony Trust Co. v. United States</i>	439
2. Taxable Year of Deduction	443
3. Limitation on Use of Cash Receipts and Disbursement Method of Accounting	443
B. Accrual Method of Accounting	443
1. Taxable Year of Income Inclusion	443
<i>In General</i>	443
2. Taxable Year of Deduction	444
3. Cash Receipts or Payments of Accrual Method Taxpayers	445
<i>Westpac Pacific Food v. Commissioner</i>	446
C. Installment Method	451

D. Prioritization: Method of Accounting and Rules of Specific Applicability	452
Chapter Summary	452
Applying the Rules	453
Federal Income Taxation in Practice	454

Chapter 17: Nonrecognition and Tax Impact Deferral 455

A. Like-Kind Exchanges of Real Property	456
1. Transactions Involving Taxpayer Receipt of Solely Like-Kind Real Property	457
2. Transactions Involving Taxpayer Receipt of Like-Kind Real Property and Cash Boot	458
3. Transactions Involving Taxpayer Receipt of Like-Kind Real Property and Non-Cash Boot	461
4. Transactions Involving Taxpayer Transfer of Like-Kind Real Property and Non-Like-Kind Real or Personal Property	463
5. Deferred Like-Kind Exchanges of Real Property	464
<i>Blangiardo v. Commissioner</i>	465
B. The “Like Kind” Requirement	469
<i>Private Letter Ruling 9601046</i>	470
<i>Private Letter Ruling 201706009</i>	473
C. Involuntary Conversions	476
1. Involuntary Conversion of Property Solely into Similar Property	477
2. Involuntary Conversion of Property into Similar Property and Cash	478
3. Involuntary Conversion of Property into Money (With and Without Reinvestment)	478
D. Certain Corporate Transactions	479
Chapter Summary	481
Applying the Rules	482
Federal Income Taxation in Practice	483

Chapter 18: Assignment of Income and Income Splitting 485

A. Tax Rate Progressivity and the Notion of Anticipatory Assignment of Income	485
B. Assignment of Income from Services	486
1. Allocation by Private Contract	486
<i>Lucas v. Earl</i>	486

2. Allocation by Operation of Law	489
<i>Poe v. Seaborn</i>	490
3. Joint Filing, Marriage Penalties, and Marriage Bonuses	494
C. Assignment of Income from Property	495
1. Transfer of Property That Produces Income	495
<i>Blair v. Commissioner</i>	495
2. Transfer of Income from Retained Property	499
<i>Helvering v. Horst</i>	499
Chapter Summary	503
Applying the Rules	503
Federal Income Taxation in Practice	504

Chapter 19: Transfers Incident to Marriage, Separation, and Divorce **505**

A. Property Transfers Between Spouses and Former Spouses (Excluding Alimony and Child Support)	505
<i>Balding v. Commissioner</i>	507
B. Treatment of Alimony and Child Support Under Divorce and Separation Instruments Executed After December 31, 2018	510
C. Delineating Alimony, Child Support, and Property Settlements for Non-Amended Divorce and Separation Instruments Executed on or Before December 31, 2018	511
1. In General	511
2. Alimony vs. Property Settlement	513
<i>Mehriary v. Commissioner</i>	513
3. Alimony vs. Child Support	517
<i>Johnson v. Commissioner</i>	518
Chapter Summary	522
Applying the Rules	523
Federal Income Taxation in Practice	524

Chapter 20: Capital Gains and Losses **525**

A. Overview	525
B. Basic Treatment of Capital Gains and Losses	527
C. Mechanical Rules for Calculating Capital Gains, Capital Losses, and Net Capital Amounts	529

D. Treatment of Capital Gains	532
E. Treatment of Capital Losses	533
F. Special Rules Regarding Gain or Loss Character	536
1. Section 1231 Gain and Loss	536
2. Recapture of Net Ordinary Losses Under § 1231(c)	538
3. Section 1245 and Depreciation Recapture; <i>Arrowsmith</i> Doctrine	539
G. Definition of “Capital Asset”	540
<i>David Taylor Enterprises, Inc. v. Commissioner</i>	541
H. The “Sale or Exchange” Requirement	551
<i>Kenan v. Commissioner</i>	551
I. Defining “Property” in the Capital Asset Context	556
<i>Womack v. Commissioner</i>	557
Chapter Summary	561
Applying the Rules	562
Federal Income Taxation in Practice	564
 Chapter 21: Tax Avoidance and Tax Shelters	 567
A. In General	568
B. Passive Activity Losses	568
<i>Almquist v. Commissioner</i>	570
C. At-Risk Limitation	576
<i>Revenue Ruling 83-133</i>	578
D. Economic Substance	582
<i>Knetsch v. United States</i>	584
Chapter Summary	589
Applying the Rules	590
Federal Income Taxation in Practice	590
 Chapter 22: The Alternative Minimum Tax	 591
A. Overview	591
B. Calculating Alternative Minimum Taxable Income	593
C. Ascertaining the Alternative Minimum Tax	594
D. Exploring the Issues	595
<i>Kamara v. Commissioner</i>	595

Chapter Summary	598
Applying the Rules	599
Federal Income Taxation in Practice	599

Chapter 23: Federal Withholding, Estimated Tax Payments, and Worker Classification **601**

A. Federal Withholding on “Wages”	602
1. In General	602
<i>Background and Current Statutory Framework</i>	602
<i>Exploring the Meaning of “Wages” in the Withholding Context</i>	602
<i>Central Illinois Public Service Co. v. United States</i>	603
2. Employment Taxes	608
<i>In General</i>	608
<i>Old Age, Survivors, and Disability Insurance</i>	608
<i>Medicare</i>	609
<i>Employment Taxes and the Self-Employed</i>	610
<i>Exploring the Meaning of “Wages” in the Employment Tax Context</i>	611
<i>University of Pittsburgh v. United States</i>	612
3. Worker Classification: Employee vs. Independent Contractor	620
<i>Overview</i>	620
<i>Section 530 Relief</i>	624
<i>Other Forms of Relief and Accommodation</i>	625
<i>Exploring the Issues</i>	626
<i>Keller v. United States</i>	626
B. Estimated Tax Payments	634
C. Specific Tax Penalties and the Imposition of Interest on Tax Obligations	634
Chapter Summary	636
Applying the Rules	636
Federal Income Taxation in Practice	637

Appendix: Tax Controversy and Litigation: A Brief Overview **639**

A. The Notion of Assessment	639
1. “Self-Assessment” by Taxpayer	640

<i>Offers in Compromise</i>	640
<i>Installment Agreements</i>	640
2. Assessment by the IRS	640
<i>Rev. Rul. 81-269</i>	641
B. Controversy and Litigation	643
1. In General	643
<i>Closing Agreements</i>	644
2. Resolving Disputed Issues	644
3. Typical Scenarios	646
C. Ethics in Tax Practice: Circular 230	648

Glossary 649

Table of Cases 657

Table of Internal Revenue Code Sections 661

Table of Treasury Regulations 667

Table of Revenue Rulings 669

Table of Miscellaneous IRS Pronouncements 671

Index 673