

International and Interstate Taxation - SPRING, 2019

ACC 384.6 (#02705)

Schedule: Tue and Thu, 2:00pm-3:15pm
Classroom: CBA 4.304
Office: CBA 6.304G.
Office Hours: 11:00am-11:45am, Tue and Thur and by appointment.
Instructor: Stuart R. Singer
Email: stuart.singer@mcombs.utexas.edu.

Purpose of Course:

The purpose of the class is to develop your ability to understand how U.S. tax law analyzes transactions involving more than one national jurisdiction. The core of the course is an understanding of how the United States, and to some extent, other countries, exercise their jurisdictions to tax income from international transactions. The course will also include an examination of the U.S. taxation of foreign-based income (foreign tax credits, Subpart F), the role of income tax treaties, determination of appropriate transfer prices between affiliated companies and the treatment of income from intellectual property.

Class Schedule

Thursday, March 7, will be HAT DAY. Everyone must wear a hat to class.

Part of the class on Tuesday, February 12, will be devoted to a session on preparing the Practice Memorandum assigned on Monday, February 11. This practice memo will be due on Thursday, February 14.

There will be no class on Thursday, January 31, 2019.

Course Materials

The course materials will consist of readings in Kuntz & Peroni, U.S. International Taxation, which is available in RIA-Checkpoint. Go to Table of Contents, then International Tax Library, then WG&L International Treatises, then Kuntz & Peroni. There will also be readings in Bittker & Eustice, *Federal Taxation of Corporations and Shareholders*, which is also available in RIA-Checkpoint. Go to Table of Contents, then Federal Library, then Federal Editorial Materials, then WG&L Federal Treatises, then Corporate Taxation, then B&E. The cases and other materials listed in the last column of this syllabus are collected in a packet which should be purchased at the COPY CENTER on the Third Floor in GSB. Finally, there are a few readings from the Hellerstein book, to be found in RIA, under the category "State Taxation" From time to time, there may also be other materials, including cases, regulations and rulings, all distributed to you on Canvas or by email.

Classroom Deportment

Cell phones must be turned off while you are in class. **You may NOT use laptops in class.** Beverages are OK, but no food in class.

Evaluation and Grades

I will determine your final grade on the basis of two factors: written assignments during the course (70%), and your participation in our discussions during class (30%). There will be no exams.

Reading Assignments

The tax issues involved in international transactions are difficult and complex, and even in a summary course such as this one the reading assignments are both detailed and long. Moreover, the knowledge in classes 1, 2

and 3 will form the base for understanding the material in classes 4, 5, and 6, and so on. You cannot fall behind in these assignments

Written Assignments

There will be three written assignments in the form which you, as professionals, would prepare for clients or employers. These may take the form of memoranda or drafting of sections of acquisition agreements. **The memorandum assignments will be given to you on Monday, February 25, Monday, April 8, and Monday, May 6, respectively, and you will have 3 days to turn them in.**

Class Participation

Just as I expect you to be able to communicate your analysis and conclusions in writing (in the memoranda discussed above), I also expect every student to participate regularly in our class discussion. **There will be no exceptions; you cannot succeed in this course unless you are prepared every day to recite in class.** It is far more important for each student to make efforts than to get the “right” answer. As professionals, all of the knowledge in the world will accomplish nothing unless it is coupled with the ability to express it clearly and to discuss it with your peers. I will grade each student each day on participation.

Missed Assignments and Attendance

You will be excused from turning in work timely if you are deceased or if you become a parent during the semester. I am willing to entertain other excuses, but don't get your hopes up. A similar policy applies to taking an “incomplete” for the course.

Scholastic Dishonesty--Departmental Policy on Scholastic Dishonesty. The Department of Accounting has no tolerance for acts of scholastic dishonesty. The responsibilities of both students and faculty with regard to scholastic dishonesty are described in detail in the department's Policy Statement on Scholastic Dishonesty. By teaching this course, I have agreed to observe all the faculty responsibilities described in that document. By enrolling in this class, you have agreed to observe all the student responsibilities described in that document. If the application of that Policy Statement to this class and its assignments is unclear in any way, it is your responsibility to ask me for clarification.

Memoranda: Each student is expected to complete the memoranda independently during the designated memorandum period. No student may refer to other students' memorandum solutions or discuss the memorandum with other students during the memorandum period.

Professional Conduct. The highest professional standards are expected of all members of the McCombs community. The collective class reputation and the value of the Texas experience hinges on this.

Students with Disabilities: The University of Texas at Austin provides upon request appropriate academic accommodations for qualified students with disabilities. For more information, you may call the Office of the Dean of Students at 471-6259, 471-4641 TTY.

NOTE: This schedule is tentative and may be changed during the semester due, among other things, to the need to add discussions on the latest changes to the Internal Revenue Code.

#	DATE	TOPIC	TEXT READING	CASES, REGS, CODE [May be supplemented or modified]
1	1-22	Use of Precedent. <u>First Jurisdictional Basis:</u> RESIDENCE & NATIONALITY	K&P: ¶B1.02[3], B1.03[1]	Excerpt from Saltzman, <i>IRS Practice & Procedure</i> <i>Mayo Foundation</i> <i>Cook v. Tait</i> , <i>Compagnie de Suez</i> , <i>Johansson</i>
2-3	1-24 & 1-29	<u>Second Jurisdictional Basis:</u> SOURCE	K&P: ¶1A2.03[1] & [2-a&b], 2.03[3a], 2.03[6a], 2.03[7a]	<i>Boulez</i> , <i>Paul Karrer</i> , <i>Rohmer</i>

4	2-5	Foreign Corps and Nonresident Aliens and FDAPI	K&P ¶¶C1.03 [1], [2] [c] [i] [ii] [iii], [h] [i], [j], [3] [a] [4], [5], [6], [9] [a] [13], [15]	§§871(a), (b), (h)(1)-(3) & 881(a), (b) (c). Fernando Barba, Warwick Housden Rev Rul 80-362
5	2-7	Withholding Rules and FATCA	K&P ¶¶ C2.01, 2.02 [1], [2],[3] [4][c][i], [6][a], [7],&[8][c].	A. C. Monk PLR 9252004 Rev Ruls. 71-142, 73-419, 83-177
	2-11	Assignment PRACTICE MEMO		
6-7	2-12 & 2-14	<u>Third Jurisdictional Basis: : BUSINESS ACTIVITY</u>	K & P ¶¶ C1.04[1], [2], [4-a], [5-c]	Pinchot, Evelyn Neill, Jorge Pasquel, Elizabeth Herbert Piedras Negras Broadcasting
8-9	2-19 & 2-21	Doing Business in the U.S. Effectively Connected Income. BEAT.	K&P ¶¶ C1.04: [5] [c] [i] & [ii]; [5] [d] [i] & [ii]	Code §§ 871(d), 872, 882 and 884(a) & (b). Rev Ruls. 70-424, 72-280, 75-253, 81-78 (with 84-17), 86-154. Notice 87-56, Vitale v. Comm.
10	2-26	Recognition and Blockage Issues		Rev Ruls. 55-62, 74-351, 81-290 Anderson Clayton, Sanford Berman Phanor Eder, Warner Bros.
	2-25	Assignment MEMO #1		
11-	2-28	Indirect Exporting: Definition of Entity, Choice of Entity, Foreign Derived Intangible Income	K&P ¶¶ B2.02	Moline Properties, National Carbide, Perry Bass, In Re Frazier Johnson Bronze, Lloyd Noonan
12	3-5	Foreign Tax Credit: Part 1 Taxes on Income	K&P ¶¶ B4.01, B4.02 [1], [2], [5], [6], [8], B4.03[1], [3][a]&[b], [5][a]&[b], & [6]; B4.05[1]-[6]	Regs. §1.901-2 excerpt Rev Rul 57-516, American Metal Company Rev Rul 72-346 Rev Rul 69-653, Dubitzky
13	3-7	Foreign Tax Credit: Part 2: Who is the Taxpayer? Timing and Realization.	K&P ¶¶ B4.07, B4.09[1] and [2][a] & [b]	Arundel Corp. Rev Rul 69-468 Regs. §1.903-1 Excerpt. Amoco Corp.
	3-7	HAT DAY		
14	3-12	Foreign Tax Credit: Part 3: Limitations, Matching issues. Allocation and Apportionment of Expenses	K&P ¶¶ B4.16[1], [2], [10], [15], &18[a].	Section 909, Badger, Rev Rul 2003-8 Rev Ruls 76-215, 78-410, , Section 904(a), (b), (c) and (d)(1)
15	3-14	Tax Treaties	K&P ¶¶ C4.01 [1] - [3], C4.03,C4.04[1], [2], C4.05[1]-[4] C4.12[1]-[3]	Rev Ruls 55-617, 72-301, 79-28, 79-199, 2000-59, 2004-3, 2004-76 Ismat Abeid
16	3-26	Section 911: The Ultimate Tax shelter	K&P ¶¶ B1.04 [2][b][i],[ii], [iv],[v]; [c] [i], [ii], [iii].	Rev Ruls 67-158, 80-254. Brewster v. Comm. Vogt v. US., Cook v. US
17-18	3-28 & 4-2	SubPart F: General, Participation Exemption	K&P ¶¶ B3.02[a]&[b], B3.03[1]	Koehring
	4-8	Assignment MEMO #2		
19-20	4-4 & 4-9	SubPart F: Foreign Base Company Income, GILTI Tax. Investments in US Property	K&P ¶B3.05[1]. [2][a], [b][i], [c][i], [d], [e], [g], [k]- ¶B3.05[3][a]&[d] ¶B3.05[8]	Ashland Oil Dave Fishbein Rev. Rul. 76-125, Ludwig v. Comm AOD 1978-139, PLR 8042001
21-22	4-11 & 4-16	§482: Part One: General Rules; Interest	K&P ¶¶ A3.03 [1]-[6], A3.04 [1], [3], [4], [5], [6]	Local Finance, First Security Bank of Utah Rev Rul 74-566, GCM 38545
23-24	4-18 & 4-23	§482: Part Two: Services, Tangible Property	K&P ¶¶ A3.05[1]-[4], A3.08 [2][a], [b], [d], [e], [f], [3], [4], [5], [6]	Diefenthal Rev Rul 78-83 Lufkin Foundry U.S. Steel

25-26	4-25 & 4-30	§482: Part Three: Intangibles, CSAs, Advance Pricing Arrangements.	K&P ¶¶ A3.07 [2][d], [e] [f], [g] & [h] A3.07 [5][b], [c], [d], [e] A3.09, A3.10	Ciba-Geigy Proctor and Gamble.
27	5-2	<u>International Reorganizations</u> -367 and 1248.	B&E ¶¶ 15.81, 15.82, 15.63 & 15.83	Code §§367 & 1248(a) and (b). Rev Ruls 67-192, 69-156, 72-421, 74-60, 81-32, <i>Dupont</i>
	5-6	Assignment Memo #3		
28-29	5-7 & 5-9	State Tax: Jurisdiction and Coverage	Hellerstein Part IV, Chap. 6, ¶¶ 6.01, 6.02, 6.03, 6.05, 6.06, 6.10, 6.15	Complete Auto Transit Wayfair Geoffrey, Inc. Cerro Copper Products America Online