

**UNIVERSITY OF BALTIMORE GRADUATE TAX PROGRAM/SCHOOL OF LAW
SPRING 2021**

General Information and Syllabus

Course: Fundamentals of Federal Income Tax II
LAWT/957/491; TAXA/678/185; LAW/957/512

Instructor: Prof. Walter Schwidetzky
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Office Hours: by appointment

Days/Time: Wednesday, 6:15 to 9 pm

Location: Online

Course Description:

Continuation of basic tax concepts including cash and accrual methods, capital gains and losses, 1231 transactions, recapture, original issue discount and imputed interest, below-market loans, installment sales, like kind exchanges, involuntary conversions, the at-risk rules, and passive loss rules.

I have not made a final decision on whether to offer the class synchronously, asynchronously, or a combination of both. To a large extent, this will be a function of the students' preferences. Feel free to contact me with your preference. All classes, however offered, will be recorded.

Required Course Materials:

JD students may use Bank and Stark, Selected Sections, Federal Income Tax Code and Regulations, Foundation Press, 2020-2021. ISBN: 9781684679768. It is also permissible to use the 2019-2020 edition. GTP students presumably already have the code and regs.

Freeland, Lathrope, Lind, and Stephens, Fundamentals of Federal Income Taxation (19th edition). ISBN 978-1-64020-852-0 You should be able to find this book used. I do not recommend using an older edition.

Student Learning Outcomes:

- Explain Federal income tax rules governing the timing and characterization of income and deductions.
- Make use of the policy underlying these rules.
- Identify legal issues related to the timing and characterization of income and deductions.
- Apply and analyze statutory and regulatory provisions governing the timing and characterization of income and deductions in the context of factual situations.

Grades:

To the extent there is a synchronous component, you will be given “push points” (up to a half-grade) for doing an especially good (or bad) job in class. The push points will include how well you do on brief multiple-choice quizzes given over the course of the semester (usually 1 or 2 questions per quiz). The quizzes will occur regardless of whether the course is synchronous, asynchronous, or a combination. Obviously, if the course is asynchronous, the push points will be based just on the quizzes. The law school recently changed its testing requirements, hence the graded quizzes. There will also be a 3-hour exam at the end of the semester. Your grade will be based on your performance on the final, plus or minus push points, if any. The final, which most likely will take place remotely, will consist of a series of problems; you may bring the following to the exam: Your memory, any book, a outline of your own authorship or authored with classmates, and a calculator.

Course Expectations:

American Bar Association Standards for Law Schools (for the students to whom it is relevant) establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class. Your mileage may vary—a lot. Partnership Taxation is generally considered to be the hardest course in the Graduate Tax Program, and the rest of the classes are not exactly walks in the park. Prepare and budget your time accordingly. If possible, take a lighter course load to compensate.

It is important to keep your class preparation current. Much of the course will be built on subjects previously discussed, and many statutes work in conjunction with one another. If you miss and/or do not prepare for one class, the next class may use terms and concepts you do not understand, which will compound the difficulty of understanding the area under discussion.

Attendance:

Don't miss classes! We cover too much in each class, and if you miss classes, remember what Khrushchev said to the west (“We will bury you.”) Okay, you are too young to remember who he is or his most famous quote. It was actually to some people at a party in Poland, he probably wasn't being serious, and some people think it is a bad translation from the Russian, but you get the idea. On to the boilerplate: Class attendance is a primary obligation of each student. Law students' (but not GTP students') right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. To the extent the class is synchronous, JD students to be given attendance credit must attend the synchronous class. **All students are required to use their real names and their ubalt email address in Zoom. If possible, I would prefer it if you have your camera on. The administration advises that if your camera is off, and you do not respond when I call on you, it could be considered an Honor Code violation.** A JD student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

Regular Semester Hours

Credit Hours	Meetings Per Week	
	1	2
2	2 absences	5 absences
3	2 absences	5 absences
4	--	5 absences

Student Course Evaluations

It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

SAKAI:

This course will have a Sakai page. It will contain links to this syllabus (via files directory), announcements, recordings of class, and other class materials. I will communicate with the class through messaging on Sakai. You should be automatically enrolled in Sakai for the class, but you should confirm this. I encourage you to take part in the Sakai training for students, though our use of it will tend to be on the simpler side. Initially, you need to understand the messages system, making sure you connect it with your email account, and the files directory. Down the road, you will need to know how to access Panopto recordings and take quizzes. I will give the assignments in class, but may also repeat them in the assignments tool.

Computers:

You may use laptop computers for class related purposes, including on the exam. That said, a number of studies have concluded that students who take handwritten notes retain more information and do better in the class.

Class Cancellation:

If I must cancel a class, notices will be sent to you via email and, in the very unlikely event part of the class is in person, and posted on the classroom door. Again, in the unlikely event we are partially in person, if there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule. Don't get your hopes up. I have an off-road capable Jeep. I never miss a class because of weather.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and

technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Title IX Sexual Misconduct and Nondiscrimination Policy:

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University's facilities, please contact the Office of Academic Affairs, at ublawaacadaff@ubalt.edu or (410) 837-4468.

First Class Assignment

Code: 441(a)-(e), 442, 446, 451(a), 461(a), (g)

Regs: 1.446-1(a)-(c)(1), 1.451-1(a), -2, 1.61-2(d)(4), 1.461-1(a)(1), 1.263(a)-4(d)(3), (f)(1)

Freeland: pp. 587-613 (before *Cathcart*)

Problems: pp. 617-618, # 1(a), (b), (c), (d), (g), # 2(a)-(c)

Syllabus

I. Fundamental Timing Principles

Code: §§ 441(a)-(e), 442, 446, 451(a), 461(a), (f), (g), (h), 448(d)(5),
267(a)(2), (b), (c), (*skim* §§ 448, 455, 456)

Regs: §§ 1.446-1(a)-(c)(1), 1.451-1(a), -2, 1.61-2(d)(4), 1.461-1(a), -4(a),
(e), (g)(3), -5(a), (b), 1.263(a)-4(d)(3), (f)(1)

Freeland: pp. 587-613 (before *Cathcart*), 619-647 (before *Section 467*)

Problems: pp. 617-618, # 1(a), (b), (c), (d), (g), # 2(a)-(c); pp. 645-646, # 1, #
2(a), (b), (c), (d), # 3; p. 649, # 1

II. Capital Gains and Losses

Code: 1(h), 1222, (*skim* 1201, 1202, 1061), 1211(b), 1212(b)(1),
(2)(A)(i), (*skim* 1211(a), 1212(a)), 1221(a)(1)-(4), (*skim* (a)(5),
(a)(6)) 1234(a) (*skim* 1234(b), (c), 1236, 1237), 1241, 1221(a)(7),
(a)(8), (b)(2), (b)(3), 1271(a)(1), (b), (*skim* 1234A, 1235, 1253),
1223(1), (2), (9), (*skim* 1014(a), 1015(a)), read 1061 gently.

Freeland: pp. 683-735, 745 (starting with H. Statutorily Created ...) - 750
(before Section 1231 Characterization)

Problems: pp. 695-696, ## 1(a) and (b) (assume taxpayer in 33% tax bracket),
2 (assume taxpayer in maximum tax bracket), 3; p. 701, # 1; p.
717, # 1; pp. 722-723, ## 1, 2, pp. 735-736, ## 1, 3.

III. Characterization Under 1231

Code: 1231, 197(f)(7)
Freeland: pp. 750-761
Problems: pp. 761-763, ## 1, 3

IV. Characterization Under 1239

Code: 1239, 267(c), (*skim 267(b)(3), (10), (11), (12), 318(a)(3)(B)(i)*)
Freeland: pp. 765-771
Problems: p. 771, # 1

V. Recapture of Depreciation on the Sale of Depreciable Property

A. Section 1245

Code: 64, 1245(a), (b)(1), (2), (d), 1016(a)(2)
(*skim 1041*)
Regs: 1.1245-1(a)(1), (b), (d), -2(a)(1)-
(3)(i), (7), -6(a)
Freeland: pp. 771-777
Problems: p. 777, ## 1, 2

B. Section 1250

Code: 1(h)(1), (3), (6), 1250(a)(1)(A),
(B)(v), (b)(1), (3), (5), (c), (d)(1), (2),
(h), (*skim 291(a)(1)*)
Freeland: pp. 778-780

VI. Installment Sales

Code: §§ 453 (*omit (h), (l)(2), (l)(3)*), 453A, 453B(a)-(c), (g), 1001(a)-(d)

Regs: §§ 1.453-9(a), (b), 15A.453-1(a), (b)(1)-(3)(i), (4), (5), Examples (1)-(3), -1(c)(1), (c)(2)(i)(A), (c)(3)(i), (c)(4), 1.453-12(a), (d) (example 1), 1.1001-1(a), (g)(1), (3), (4)

Freeland: pp. 835-850

Problems: pp. 850-853, # 1(a)-(j), (m), # 3, # 2;
p. 858, # 1 (answer with numbers assuming open transaction reporting applies, without numbers if it does not); p. 921, # 1 (since there is adequate interest, focus on stated principal amount)

VII. Original Issue Discount and Imputed Interest (*give up all hope ye who enter here*)

Code: §§ 1272(a) (omit (a)(6), (a)(7)), (d)(2), 1273(a), (b), 163(e)(1), (e)(2), (e)(4), 1274, 1274A, 1275(a)(1), 483 (*skim 1258, 1271, 1275(b), (c), 1276, 1277, 1278, 1281, 1282, 1283*), 467(a), (b), (*skim (c)*), (d), (e)

Regs: §§ 1.1272-1(a), (b)(1), 1.1273-1(a), (b), (c)(1), -2(a), (b), (c), (d), 1.1274-1(a), (b)(1), (c) (ex. 1, ex. 3), -2(a), (b), (c), 1.483-1(a), (b)(1), -2(a), (b), 1.446-2(a), (b), (c), (d), (e)(1), (h)

Freeland: pp. 861-870, 646-649 (*Section 467*)

Problem: OID Problems (available on TWEN).

VIII. Below-Market Interest Loans

Code: § 7872 (*skim (g), (h)*)

Regs: §§ 1.7872-5(a), 1.7872-5T(c)(3), (*skim 1.7872-5T(b)*)

Freeland: pp. 478-486

Problems: pp. 494-495, ## 1, 2

IX. Non-recognition Provisions

Code: §§ 1001(c), 1031 (*skim (f), skim (g), (h)*), 1223(1), 357(d)(1), 1033(a), (b)(1), (2), (g)(1), (2), (4), 121(a), (b)(1), (b)(2), (d)(5), (*skim 1033(i), 1038, 1044, 1045*)

Regs: §§ 1.1031(a)-1, -2(a), 1.1031(b)-1(b), Example (1), -1(c), 1.1031(d)-1, -2, 1.1031(k)-1(a), (b), (c)(1), (4)(i), (f), 1.1033(b)-1(b), 1.121-4(d)

Freeland: pp. 895-898959 (before *Leslie Co.*), 906 (starting with Three-Cornered Exchanges) – 926

Problems: pp. 912-914, ## 2, 4, 5; pp. 923-924, ## 1, 2, 3, 4

X. Disallowance of Losses

Code: §§ 267(a)(1), (b), (c), (d), (g), 1091(a), (d), 1223(3)

Regs: §§ 1.267(d)-1(a), (c)(3), 1.1091-2

Freeland: pp. 883-891

Problems: pp. 889-890, ## 1 and 4

XI. At-Risk Rules

Code: § 465(a), (b), (c)(1), (2), (3), (d), (e)

Freeland: pp. 524-527

Problems: pp. 527-528, ## 1, 2

XII. Passive Activity Limitations and 461(l)

Code: § 469(a), (b), (c)(1), (2), (4), (7), (d), (e)(1), (2), (3), (f), (g), (h), (i)(1)-(3)(A), (6), (j)(1), (2), (6), (8), 172, 461(l)

Regs: §§ 1.469-4(a)-(c), (e), (f), (g), -5T(a), (b)(2)(ii), (iii), (c), (d), (e), (f)(2), (4), -5(f)(1)

Freeland: pp. 5528-541, 677-679

Problems: pp. 541-542, ## 1(except g), 2,3,4, 6, 7 and Bonus 469

Question

XIII. NOLs, Bad Debts, Worthless Securities

Code: §§ 172, 166, 165(g)

Regs: §§ 1.166-1(c), (d)(1), (e)-(g), -2(a) and (b), -5(a) and (b).

Freeland: pp. 677-679, 783-796

Problems: pp. 796-797 ## 1 and 2

XIV. IRC 199A

Code: § 199A (skip “g”)

Regs: Skim final 199A Regs

Freeland: pp. 941-944

Problems: pp. 944-945 ## 1 and 2