

**FOREIGN TAXATION**  
**General Information and Syllabus**

**Professor Walter Burford**  
**Office: N/A**  
**Telephone: TBA**  
**Email: TBA**

**University of Baltimore**  
**Spring Semester, 2014**  
**Thursday, 6:15 to 9:00 pm**  
**Room: AL 403**

**Course Description:**

Analysis of the federal income tax provisions applying to US inbound and outbound transactions and investments. Course covers US resident status, source-of-income rules, graduated tax on effectively connected income, withholding tax on FDAP income, branch profits tax, FIRPTA, tax treaties, foreign tax credit, foreign earned income exclusion, subpart F, and transfer pricing.

**Required Materials**

Taxation of International Transactions (Fourth Edition) By Gustafson, Peroni, and Pugh  
("G, P, & P")  
Internal Revenue Code ("Code")  
Regulations ("Regs")

With regard to the Code and the Regs, **you may use either the complete versions of these authorities or a selected sections version**, the latter being Peroni, International Income Taxation: Code and Regulations -- Selected Sections.

**TWEN Site**

You are required to register for this course on TWEN, and you must use your UBALT address as your TWEN e-mail address as per University Policy. You are responsible for all information posted on or disseminated from TWEN.

**Class Preparation**

You are responsible for the assigned reading in G, P & P and the assigned sections of the Code and Regs. This course involves very difficult tax rules and concepts, and thus it is very important that you prepare for class, which includes working through the assigned problems in the textbook. It is important to keep your class preparation current. Much of the course will be built on subjects previously discussed, and the various Code and Regs sections 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 this complex area of the tax law. Moreover, as discussed below, part of your grade will be based on class participation.

Please be sure to raise any unaddressed questions you still have after class, or by appointment, or through e-mail: [TBA] or by phone: [TBA].

### **Exams/Grading**

There will be one time pressured, three hour exam given at the end of the semester. The exam will be completely open book, and is currently scheduled for [TBA]. Ninety percent of your grade will be based on the final exam. Ten percent of your grade will be based on class participation; this will include my evaluation of your preparedness when called upon (either very prepared, prepared, or unprepared), along with your responses when you volunteer to answer questions.

### **Attendance Policy for J.D. Students**

Class attendance is a primary obligation of each J.D. student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A J.D. student who exceeds the maximum allowed absences may be compelled to withdraw from the course, or may be barred from sitting for the final exam. J.D. students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). In this course, J.D. students are allowed a maximum of two absences. Attendance will be taken at the beginning of each class.

While LL.M. and M.S. students should endeavor to attend each class, there is no attendance policy applying to these students.

### **Computers**

Students may use laptop computers for class related purposes, as well as on the exam (with the School-provided exam software).

### **Class Cancellation**

If I must cancel a class, notices will be sent to students via the University of Baltimore e-mail system and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web page or call the University's Snow Closing Line at (410) 837-4201. If the University is not closed, students should presume that classes are running on the normal schedule.

### **Academic Integrity**

LL.M. and M.S. students must adhere to the University of Baltimore's Academic Integrity Policy, which can be found at

[http://www.ubalt.edu/campus-life/student-handbook.cfm#Academic\\_Integrity](http://www.ubalt.edu/campus-life/student-handbook.cfm#Academic_Integrity).

J.D. students must adhere to the School of Law Honor Code, which can be found at [http://law.ubalt.edu/academics/policiesandprocedures/honor\\_code/index.cfm](http://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm).

## **Disability Policy**

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director for Student Support in the Office of Academic Affairs at 410-516-5623 or via email at lmetzger@ubalt.edu.

## **Learning Outcomes**

- Obtain knowledge and understanding of U.S. tax rules (including those set forth in treaties) applying to cross-border business and investment activities.
- Obtain knowledge and understanding of policies underlying these rules.
- Develop proficiency in reading, analyzing, and applying Code and Regs provisions.
- Develop proficiency in Code and Regs “mechanics,” *i.e.*, working with, and applying, verbal formulas that make up the tax rules.
- Develop proficiency in problem solving.

## **Course Outline**

- I. Basic Principles of U.S. International Taxation
- II. The Role of Income Tax Treaties in International Law
- III. U.S. Persons and Foreign Persons
- IV. Source Rules
- V. Foreign Persons: U.S. Trade or Business Income
- VI. Foreign Persons: Nonbusiness U.S.-Source Income
- VII. Branch Profits Tax
- VIII. Dispositions of U.S. Real Property Interests
- IX. Earnings Stripping Provision
- X. Foreign Tax Credit and Other Methods for Mitigating Double Taxation of U.S. Persons
- XI. Controlled Foreign Corporation Provisions

## XII. Transfer Pricing

### **First Class Assignment**

Please complete all of the assignments under Parts I and II of the Syllabus.

Please complete the following assignments under Part III of the Syllabus:

Code: sections 7701(b), 7701(a)(4), (a)(5), (a)(30), (a)(31)  
Regs: sections 301.7701(b)-2(c), (d), (skim -3, -4)  
G, P, & P: paragraphs 1170-1185, 1205-1225  
Problems: G, P, & P paragraph 1190 (problems 2, 4, and 5)

### **Syllabus**

#### **I. Basic Principles of U.S. International Taxation**

G,P,&P: ¶¶ 1140-1165

#### **II. The Role of Income Tax Treaties in International Taxation**

Code: §§ 894(a), 7852(d)

G,P,&P: ¶¶ 1235-1295, skim United States Model Income Tax Convention of November 15, 2006 [“U.S. Model Treaty”] (set forth in Appendix A)

#### **III. U.S. Persons and Foreign Persons**

Code: §§ 7701(b), 877(a)(2), (e)(2), (skim the rest of 877), 877A, 7701(a)(4), (a)(5), (a)(30), (a)(31), (a)(50), 6039G

Regs: §§ 301.7701(b)-2(c), (d), (skim -3, -4)

G,P,&P: ¶¶ 1170-1225

Problems: G,P,&P ¶¶ 1190 (problems 2, 4, and 5), 1200

#### **IV. Source Rules**

Code: §§ 861(a), 862(a), 7701(a)(9), 861(c), 884(f)(1), 865, 863(b), (c), (d), (e),

1248(a), 861(b), 862(b), 863(a), 864(e)(2)

Regs: §§ 1.861-4(b)(1), (b)(2)(i), (ii)(A), (ii)(E), 1.861-7(c), 1.863-3 (omit (f), (g)), 1.861-18(a), (b), (c), (d), (e), (f) (except (f)(3)), (g), 1.861-8(a), (b), (c), (e)(9), -8T(c), -9T(a), (skim (d), (e) and (f)), (g)(1), (g)(2)(i), (g)(2)(iii), (g)(3), -10T(a), (b)(1), (b)(2), (c), -17(a)(1), (a)(2), (a)(4), (b)(1), (c)(1), (d), (e)

G,P,&P: ¶¶ 2000-2050, 2070, 2095-2170, 2055-2065, 2175-2205, 2211, 2220-2245

Problems: G,P,&P ¶¶ 2215, 2235

## V. Foreign Persons: U.S. Trade or Business Income

Code: §§ 871(b), 882(a), 872(a), (skim 872(b) and 883), 882(b), 864(b), 875, 871(d), 882(d), 864(c), 873, 874, 882(c), 864(e)(2), (skim 887)

Regs: §§ 1.864-2(e), -4(c)(1), (c)(2), (c)(3), (c)(4), (c)(5)(ii), (c)(5)(iii), (c)(6), -5(a), -6(b)(1), (b)(2)(iii), -7(d)(3),(e), (review 1.861-8(a) and -8T(c)), 1.882-5(a)(1)(i), (a)(2), (b)(1)(i), (c)(1), (c)(2)(i), (c)(4), (d)(1), (4), (5), (e)(1)

G,P,&P: ¶¶ 3000-3120, 3135-3170, 3180-3185, 3188-3200, 3210-3220, U.S. Model Treaty Articles 7, 5, 14, (set forth in Appendix A)

Problems: G,P,&P ¶¶ 3155 (problems 1(a), (b), (c), (d), (e)), 3225 (problems 1, 4-6)

## VI. Foreign Persons: Nonbusiness U.S.-Source Income

Code: §§ 871(a), (skim (g)), (h), (i), (l), 881(a), (c), (d), 884(e)(3)(A), 1441(a), (b), (c)(1), (c)(2), (c)(5), (c)(8), (c)(9), (c)(10), 1442(a), 1461, 7701(a)(16), 7701(l), 1446(a), (b), (e), (skim 1471, 1472, 1473)

Regs: §§ 1.1441-1(b)(1), (b)(2)(i), (b)(3)(i), (c)(1), (c)(2), (c)(6), -2(b)(1), (b)(2), (c), 1.1441-4(a)(1), (a)(2)(i), (b)(1), (skim -6)

G,P,&P: ¶¶ 4000-4020, 4027-4047, 4110-4140, 4155-4160, 4170-4182, 4050-4065, 4075, 4090-4102, 3240, U.S. Model Treaty Articles 10, 11, 12, 22 (set forth in Appendix A)

Problems: G,P,&P ¶¶ 4280 (problem 1), 4105 (problems 1, 3, 4, 7)

## VII. Branch Profits Tax

Code: § 884 (skim (e))  
Regs: §§ 1.884-1(d)(1), (e)(1), (e)(3), -4(a)(1), (a)(2), (b)(1)  
G,P,&P: ¶¶ 3230, U.S. Model Treaty Article 24, 10, 11 (set forth in Appendix A)  
Problems: G,P,&P ¶ 3235 (problems 1, 3, and 4).

### **VIII. Dispositions of U.S. Real Property Interests**

Code: §§ 897 (skim (h), (j)), 1445 (skim (d), (e)), (skim 6039C)  
Regs: §§ 1.897-1(b)(1), (d)(1), (d)(2)(i), (o)(2)(i), (o)(2)(iii), -2(e)(4), 1.1445-1(f)(1), (g)(5), (skim -3)  
G,P,&P: ¶¶ 4185-4225, 4235-4260, U.S. Model Treaty Article 13 (set forth in Appendix A)  
Problems: G,P,&P ¶ 4280 (problems 12-16)

### **IX. Earnings Stripping Provision**

Code: §163(j) (omit (7)-(9))  
G,P,&P: ¶¶ 4265-4275, 4290-4295  
Problems: G,P,&P ¶ 4280 (problem 17)

### **X. Foreign Tax Credit and Other Methods for Mitigating Double Taxation of U.S. Persons**

#### **A. Creditable Taxes, etc.**

Code: §§ 27(a), 901(a), (b)(1), (skim 901(b)(2)-(5), 906), 901(i), (skim 901(j)), 903, (skim 909)  
Regs: §§ 1.901-2(a)(1), (2)(i), (ii)(A),(3), -2(b)(1), (skim -2(b)(2)-(4),-2(c)(1), 2(d)(1), -2(e)), 1.903-1(a), (b)(1)  
G,P,&P: ¶¶ 5000-5025, 5050, 5060, 5070-5080, 5090-5095, 5105-5110, 5120 (notes 1, 2), 5125  
Problem: G,P&P ¶ 5130 (##1, 2, 3, 5, 6)

## **B. Indirect Credit on Dividend Income**

Code: §§ 902, 78  
G,P,&P: ¶¶ 5135, 5145-5155, 5185, 5205  
Problem: G,P&P ¶ 5180 (#1)

## **C. Credit Limitations**

Code: §§ 904(a), (c), (d), (f) (skim (3), omit (4)), (g), (k), (skim 904(b), (h)),  
905, 164(a), 275(a)(4), 901(k), (l), (skim (m))  
Regs: §§ 1.904-4(a), (b), 1.954-2(c)(1)  
G,P,&P: 5215-5235, 5245-5275, 7000-7010, 7020, 7030-7035, 7045-7145, 7160-  
7165, 5133, 5315  
Problems: G,P,&P ¶¶ 5260, 5280

## **D. Exemption for Certain Taxpayers Living Abroad**

Code: § 911  
G,P,&P: ¶¶ 5325-5335, 5345-5355, 5365-5370

## **E. Role of Treaties**

G,P,&P: 5380, 5390, U.S. Model Treaty Articles 1(4), 1(5), 23 (set forth in  
Appendix A)

## **XI. Controlled Foreign Corporation Provisions**

Code: §§ 951(a), (b), 952(a), (b), (c)(1)(A), (skim 952(c)(1)(B), (c)(1)(C),  
(c)(2)), 953(a), 954(a), (b), (c) (omit (4), (5)), (d), (e), (g), (skim (h), (i)),  
956(a), (b)(1), (skim 956(c)), 957(a), 7701(a)(30), 958(a), 958(b), 959(a),  
(c), (d), (f), 960(a), 961(a), (b), (skim 962, 1248)  
Regs: §§ 1.954-3(a)(4)(i), (ii), (iii) (omit examples), -4(b)(1)  
G,P,&P: ¶¶ 1100, 6000-6030, 6065, 6075-6175, 6200-6205, 6240-6245, 6255,  
6060, 10,088  
Problems: ¶¶ 6035 (#1, #2, #3), 6070, 6195 (## 1(a), (b), (c), (d), (e), (f), (g), (h), (i),  
(j), (k), (l), (o), (p), (q), (r), (s))

## **XII. Transfer Pricing**

Code: § 482

G,P,&P: ¶¶ 8000-8020, 8040-8060, 8075-8080, 8115, 8122, 8130, 8140-8190