



Syllabus

Content



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Introduction

Welcome to Professor Infanti's International Tax class! This is a survey course covering the U.S. federal tax rules governing cross-border flows of capital and labor.



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Class Meeting Times

This class meets from 10-10:50 AM on Mondays, Tuesdays, and Wednesdays in Room G13.



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Course Description

Calling this course "International Tax" is a bit of a misnomer. There is no truly "international" set of tax rules. Rather, each country creates its own set of tax rules for dealing with cross-border movements of capital and labor. These different sets of national rules can--and do--conflict with each other. Coordination among these different sets of national rules is achieved in two primary ways: (1) spontaneously, through changes to domestic tax laws to conform to perceived international norms; and (2) concertedly, through the negotiation of (typically, bilateral) tax treaties. There are some who argue that these two methods of coordination have operated to create an "international tax regime" that constrains countries in their choice of rules for dealing with cross-border movements of capital and labor. There are others who argue to the contrary, asserting that each country is unfettered in its choice of rules for dealing with cross-border movements of capital and labor.



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Against this background, this course will provide an introduction to the choices that the United States has made in taxing the cross-border flow of capital and labor. At the most basic level, we will explore the distinction, both for income and for estate and gift tax purposes, between a U.S. and a foreign person. We will then compare and contrast the manner in which U.S. and foreign persons (including tax expatriates) are subject to income tax. We will also cover the special tax regimes applicable to investments made by U.S. persons in foreign corporations (i.e., the controlled foreign corporation and passive foreign investment company regimes) as well as an introduction to the foreign tax credit rules. Throughout the course of the semester we will consider the potential impact of tax treaties on the rules in the Internal Revenue Code.



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Course Rationale

This is an advanced tax course that builds upon the foundation of the basic Federal Income Tax course. From the perspective of those practicing in the international tax area, this course provides but the briefest (and simplest) of introductions to one of the most complicated subspecialties in the tax field. From the perspective of a student, however, this course will likely prove quite challenging. We will often be engaged in the analysis and interpretation of complicated sections of the Internal Revenue Code and Treasury Regulations. We will also often be forced to confront the complexities that stem from the layering of three separate sets of rules (i.e., the U.S. domestic tax rules, the U.S. international tax rules, and U.S. tax treaties) one atop the other. Accordingly, this course will primarily be of interest to students with a very strong interest in tax.



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Course Goals

This course is intended not only to provide you with knowledge of substantive international tax rules, but also to provide you with training in the research and drafting of the most typical and ubiquitous form of writing engaged in by tax lawyers--the office memorandum. Thus, at the end of this course you should be able to:

- Identify the tax rules that are relevant to a given international tax problem;
- Interpret those rules and analyze the tax consequences of the given problem in light of them; and
- Research and draft a memorandum that:
 - identifies the issue to be analyzed for a client,
 - identifies the facts relevant to a legal analysis of that issue,
 - identifies the relevant U.S. international tax rules,



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- analyzes those rules in light of the facts, and
- provides the client with a legal conclusion and/or advice for addressing the client's goals in light of the legal analysis.



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Course Outline

I hope to cover the following topics during the course of the semester (with parenthetical references to the corresponding chapter in the textbook): (i) introduction (chapter 1), (ii) source rules (chapter 2), (iii) foreign persons' trade or business income (chapter 3), (iv) foreign persons' nonbusiness income (chapter 4), (v) antiferral regimes (chapter 6), and (vi) the foreign tax credit (chapter 5). Material may be added or deleted as the semester progresses.



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Course Materials

Required Reading

Charles H. Gustafson et al., *Taxation of International Transactions: Materials, Text and Problems* (4th ed. 2011) (“Casebook”)

International Income Taxation: Code and Regulations (CCH, Robert J. Peroni editor, 2011–2012 edition) (“Statutory Supplement”)

Optional Reading

Joseph Isenbergh, *International Taxation* (3rd ed. 2010).



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Course Requirements and Grading

The grade for the course will be based on a series of research and drafting projects. The first project is a purely research project that is designed to introduce students to researching tax issues, with a particular focus on international tax research. The following three projects take the form of short memoranda from an associate to a partner at a law firm, each providing an analysis of an



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international tax issue. Each of the four projects follows, and is keyed into, a module of the course. Each of the projects is weighted equally in calculating the final grade for the course.



Course Policies

Attendance Policy

As specified in the Law School's [attendance policy](#), regular and punctual attendance at class is required. In terms of punctuality, if, for whatever reason, you arrive at class more than ten minutes late or leave class more than ten minutes early, you cannot sign the attendance sheet (or, if you have signed the attendance sheet, will nonetheless be marked absent). Regular attendance is defined as attendance and preparation at not less than 80% of the classes for the semester. To be clear, if you are unprepared for class, you will be marked absent even if you are physically present in class. Failure to satisfy these attendance requirements will result in the student being certified out of the course with a grade of "U" (Unsatisfactory).

Special Accommodations

If you have a disability for which you are or may be requesting accommodation, you should contact both the office of the Associate Dean of Students in the Law School (Dean Kevin Deasy; deasy@pitt.edu) and the [University Office of Disability Resources and Services](#), 216 William Pitt Union, (412) 648-7890/(412) 383-7355 (TTY), as early as possible in the semester. DRS will verify your disability and determine reasonable accommodations for this course. The Associate Dean of Students will oversee the implementation of accommodations.

Academic Integrity

All students should familiarize themselves with the Law School's [Standards of Academic Integrity](#). The basis for grading this course is a series of research and drafting assignments. Even though students are permitted to discuss the assignments with each other, the assignments are neither group nor collaborative in nature. Accordingly, the final work product submitted for grading by each student should be the student's own work.



Podcasting of Classes

I podcast all of my classes (barring, of course, the unforeseen technical difficulties that do sometimes arise). You can access the class recordings on iTunesU. To access the recordings, you must first log onto the Law School's [extranet](#) and then click on the iTunesU link that you find there. Once connected to iTunesU, you should see a link with my name. Click on that link, and



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then click on the link for “ International Tax.” I normally upload each class within one to two days. All recordings are listed by the date of the class meeting.

Naturally, the podcasts are in no way meant to be a replacement for attending class (see the Law School's [attendance policy](#)), but are intended as a resource for those who wish to review a class discussion and for those who missed a class.



Course Schedule

Introduction

Jan. 9-10, 2012

Casebook, pp. 1-36

Reuven S. Avi-Yonah, [International Tax as International Law](#), 57 Tax L. Rev. 483 (2004)

Please come to class prepared to discuss the Industria Project (Casebook pp. 9-16), paying particular attention to answering the questions posed on pp. 11-12 in ¶ 1055

Jan. 11 & 17, 2012

(No class on January 16th)

Casebook, pp. 36-48

Prepare answers to problems 2-5 on pp. 47-48

Jan. 18, 2012

Research session with Lexis and BNA

Jan. 23, 2012

Research session with Westlaw and hard copy sources

Jan. 24-25, 2012

Casebook, pp. 49-60

Prepare an answer to the problem on p. 56 (analyzing the problem under both versions of § 877 and under § 877A)



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Jan. 30-31, 2012

Casebook, pp. 62-75

Prepare an answer to the problems on pp. 70-71

Source Rules

Feb. 1, 2012

Casebook, pp. 76-81

Prepare answers to problems 1, 2, 4, and 5 on pp. 128-29

Feb. 6-7, 2012

Casebook, pp. 81-99

Prepare an answer to problem 3 on p. 129

Feb. 7-8, 2012

Casebook, pp. 99-111

Prepare answers to problems 6 and 12 on pp. 129-30

Feb. 13-14, 2012

Casebook, pp. 111-16 and 131-34

Prepare an answer to problem 7 on p. 129

Foreign Persons: U.S. Trade or Business Income

Feb. 15, 2012

Casebook, pp. 141-65

Feb. 20, 22, & 27-28, 2012

Casebook, pp. 166-76

Prepare and answer to problem 1 on pp. 180-81

Feb. 29, 2012



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Casebook, pp. 176-79

Prepare an answer to the problem on p. 179

March 5-9, 2012

No class: Spring break

March 12, 2012

Casebook, pp. 181-95

March 13, 2012

Casebook, pp. 195-221

Prepare answers to problems 1, 3, 4, and 5 on pp. 220-21

Foreign Persons: Nonbusiness U.S.-Source Income

March 14, 2012

Casebook, pp. 228-49

March 15, 2012

Make-up Class: Room 109 from 9:30 to 10:20 AM

Casebook, pp. 249-61

Prepare answers to problems 1-4 on pp. 259-60

March 19-20, 2012

Casebook, pp. 262-77

Prepare answers to problems 1-3 on p. 292

March 21 & 26, 2012

Casebook, pp. 277-92

Prepare answers to problems 5-8 and 12-15 on pp. 292-95



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Antideferral Regimes

March 27-28 & Apr. 2, 2012

Casebook, pp. 485-505

Prepare answers to the problems on pp. 504-05

April 3-4, 2012

Casebook, pp. 530-56

Prepare answers to problems on p. 537 (disregarding any foreign tax credit implications) and parts (a)-(e) of problem 1 on p. 581

April 9, 2012

Casebook, pp. 556-81

Prepare answers to parts (f)-(i) and (o)-(s) of problem 1 on pp. 581-83

April 10, 2012

Casebook, pp. 584-87 and 603-08

Prepare an answer to the problem on pp. 608-09

April 11, 2012

Casebook, pp. 611-26

Prepare answers to problems on pp. 626-27

Foreign Tax Credit

April 16, 2012

Casebook, pp. 302-24

Prepare an answer to the problem on p. 324

April 17-18, 2012

Casebook, pp. 324-62

Prepare answers to problems 1-7 on pp. 362-64

April 23, 2012

Casebook, pp. 406-28

Prepare answers to problems 1-2 on pp. 428-29



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