# Law 260.1: Tax Policy and Public Finance

This seminar will meet Tuesdays in Room 107 from 3:35 to 5:25, beginning on August 30. It requires a paper, a preliminary version of which must be presented during one of the last two meetings of the seminar. The completed paper is due December 6, the last day before the final examination period. URLs provided are accessible from within the UC Berkeley IP domain.

### Outline and Readings

### August 30

### 1. Introduction

Overview of the US tax system: what is taxed, and how has this changed over time? How are income and other tax bases defined? What criteria should be used to evaluate tax polices?

Tax Policy Center,

Total Tax Receipts as a Percentage of GDP, 1929-2010.

http://taxpolicycenter.org/taxfacts/Content/PDF/historical\_receipt\_comp\_chart.pdf

OECD Taxes as Share of GDP 1999-2008.

http://taxpolicycenter.org/taxfacts/Content/PDF/oecd\_tax\_gdp.pdf

OECD Composition of Taxes 1999-2006.

http://taxpolicycenter.org/taxfacts/Content/PDF/oecd\_source.pdf

#### September 6

#### 2. Basic Welfare Economics

What is the role of government in the economy? How should we measure the impact of government intervention?

Joseph Stiglitz, *Economics of the Public Sector*, 2nd ed., Norton, 1988, 61-68, 71-84, 112-114.

Joint Committee on Taxation, *Methodology and Issues in Measuring Changes in the Distribution of Tax Burdens* (JCS-7-93), June 14, 1993; 20-40. http://www.jct.gov/publications.html?func=startdown&id=2857 Law 260.1, Fall 2011 Page 2

# September 13

# 3. Measuring the Distributional Effects of Taxation

What is the distributional burden of the U.S. tax system? How has the progressivity of this burden changed over time?

Congressional Budget Office, *Effective Tax Rates: Comparing Annual and Multiyear Measures*, January 2005. <a href="http://www.cbo.gov/ftpdocs/60xx/doc6051/01-06-">http://www.cbo.gov/ftpdocs/60xx/doc6051/01-06-</a>
<a href="LongitudinalTaxRates.pdf">LongitudinalTaxRates.pdf</a>; also see Congressional Budget Office, *Data on the Distribution of Federal Taxes and Household Income*, April 2009.
<a href="http://www.cbo.gov/publications/collections/taxdistribution.cfm">http://www.cbo.gov/publications/collections/taxdistribution.cfm</a>

### September 20

# 4. Tax Expenditures

What are the major deviations from a comprehensive income tax? What are the effects of these deviations on behavior and progressivity?

Joint Committee on Taxation, *A Reconsideration of Tax Expenditure Analysis* (JCX-37-08), May 12, 2008; 2-6; 18-38. http://www.jct.gov/publications.html?func=startdown&id=1196

# 5. *Tax Treatment of the Family*

What are the problems inherent in a progressive income tax with respect to the equitable treatment of different family units?

Congressional Budget Office, For Better or for Worse: Marriage and the Federal Income Tax, June 1997, 1-56. http://www.cbo.gov/ftpdocs/0xx/doc7/marriage.pdf

# September 27

# 6. Deficits and Budget Rules

What are the economic effects of budget deficits? What role can budget rules play in controlling them?

Alan J. Auerbach and William G. Gale, "Tempting Fate: The Federal Budget Outlook," 132 *Tax Notes* 375, July 25, 2011 (available through **LEXIS**; prepublication version available at <a href="http://elsa.berkeley.edu/~auerbach/temptingfate.pdf">http://elsa.berkeley.edu/~auerbach/temptingfate.pdf</a>).

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Alan J. Auerbach, "Federal Budget Rules: The U.S. Experience," *Swedish Economic Policy Review* 15, 2008, 57-82. <a href="http://www2.hhs.se/personal/floden/SEPR/15\_1\_3.pdf">http://www2.hhs.se/personal/floden/SEPR/15\_1\_3.pdf</a>

George K. Yin, "Temporary-Effect Legislation, Political Accountability, and Fiscal Restraint," *NYU Law Review* 84, 2009. http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1172102##

#### October 4

7. Environmental Policies and the Control of Externalities

How can tax policy be used to pursue environmental objectives? How do tax-based solutions differ from other approaches in their effects on distribution and efficiency?

Gilbert E. Metcalf, "Market-based Policy Options to Control U.S. Greenhouse Gas Emissions" Journal *of Economic Perspectives* 23(2), Spring 2009, 5-27. http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.23.2.5

### October 11

8. Consumption Taxes (including "Flat" Taxes and Value Added Taxes)

What are they? How do they differ from income taxes with respect to fairness, simplicity, and impact on economic performance?

Alan J. Auerbach, "The Choice between Income and Consumption Taxes: A Primer," in A. Auerbach and D. Shaviro, eds., *Institutional Foundations of Public Finance: Economic and Legal Perspectives*, Harvard University Press, 2008, Chapter 2, 13-46. <a href="http://www.nber.org/papers/w12307.pdf">http://www.nber.org/papers/w12307.pdf</a>

#### October 18

9. Capital Gains Taxation

What are the distributional and behavioral effects of taxing gains on realization and at a favorable rate? What would be the impact of a reduction in capital gains taxation? What alternative changes in the capital gains tax might be considered?

Thomas L. Hungerford, *The Economic Effects of Capital Gains Taxation* Congressional Research Service, March 4, 2009. http://assets.opencrs.com/rpts/R40411\_20090304.pdf

#### 10. Estate and Inheritance Taxes

What is the rationale for the current treatment of estates and inheritances? What alternatives are there?

Joint Committee on Taxation, *History, Present Law, and Analysis of the Federal Wealth Transfer Tax System*, JCX-108-07, November 13, 2007. http://www.jct.gov/x-108-07.pdf

Louis Kaplow, "A Framework for Assessing Estate and Gift Taxation," in W. Gale, J. Hines, and J. Slemrod, *Rethinking Estate and Gift Taxation*, Brookings Institution, 2001, Chapter 4, 164-204. <a href="http://www.nber.org/papers/w7775.pdf">http://www.nber.org/papers/w7775.pdf</a>

## October 25

#### 11. Taxation and Financial Innovation

How have financial innovations affected our ability to tax income? What are the potential tax policy responses to recent activities of the financial sector?

Alvin C. Warren, Jr., "US Income Taxation of New Financial Products, *Journal of Public Economics* 88(5), April 2004, 899-923.

http://www.sciencedirect.com/science?\_ob=MImg&\_imagekey=B6V76-4B3MV40-1-D&\_cdi=5834&\_user=4420&\_orig=search&\_coverDate=04%2F30%2F2004&\_sk=9991\_19994&view=c&wchp=dGLbVlW-

zSkzV&md5=93c6e2a0a30df234c8cf00038ff8d3e0&ie=/sdarticle.pdf

Douglas A. Shackelford, Daniel N. Shaviro, Joel B. Slemrod, "Taxation and the Financial Sector," *New York University Public Law and Legal Theory Working Papers*, 2010. http://lsr.nellco.org/cgi/viewcontent.cgi?article=1199&context=nyu\_plltwp

Peter R. Orszag, "The Taxation of Carried Interest," Testimony before the Committee on Finance, United States Senate, July 11, 2007 <a href="http://www.cbo.gov/ftpdocs/83xx/doc8306/07-11-CarriedInterest\_Testimony.pdf">http://www.cbo.gov/ftpdocs/83xx/doc8306/07-11-CarriedInterest\_Testimony.pdf</a>

#### November 1

#### 12. Corporate and Personal Income Taxes and their Integration

What is the rationale for the corporate tax? What are its behavioral effects? Who bears its burden? How might the individual and corporate income taxes be coordinated?

Michael J. Graetz and Alvin C. Warren, Jr., "Integration of Corporate and Individual Income Taxes: An Introduction to the Issues," 84 *Tax Notes* 1767, 1999 (available

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through **LEXIS**); also in Graetz and Warren, *Integration of the U.S. Corporate and Individual Income Taxes: The Treasury and American Law Institute Reports*, Tax Analysts, 1998, 3-33.

Alan J. Auerbach, "Who Bears the Corporate Tax? A Review of What We Know," in J. Poterba, ed., *Tax Policy and the Economy* 20, 2006, 1-40. <a href="http://www.nber.org/chapters/c0065.pdf">http://www.nber.org/chapters/c0065.pdf</a>

# November 8

# 13. Taxation of Multinational Enterprises

How does the United States tax foreign source income? What norms should apply in evaluating the taxation of international investment?

Hugh J. Ault and David F. Bradford, "Taxing International Income: An Analysis of the U.S. System and Its Economic Premises," in A. Razin and J. Slemrod, eds., *Taxation in the Global Economy*, 1990 (Chicago: University of Chicago Press), 11-46. http://www.nber.org/chapters/c7203.pdf

Dhammika Dharmapala, C. Fritz Foley, and Kristin J. Forbes, "Watch What I Do, Not What I Say: The Unintended Consequences of the Homeland Investment Act," *Journal of Finance*, forthcoming. http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1337206

Alan J. Auerbach, *A Modern Corporate Tax*, Paper jointly released by The Center for American Progress and The Hamilton Project, December 2010. http://www.americanprogress.org/issues/2010/12/pdf/auerbachpaper.pdf

#### November 15

#### 14. Transition Problems and the Tax Reform Process

How should taxpayers be treated in transition from one tax system to another? Should such transitions be announced in advance?

Louis Kaplow, "Transition Policy: A Conceptual Framework," *Journal of Contemporary Legal Issues* 13(1), 2003, 161-209. http://lsr.nellco.org/cgi/viewcontent.cgi?article=1200&context=harvard\_olin

# <u>November 22 & 29</u>

Class presentations