January 5th, 2014

Dear Tax I Students,

**Please note that the first day of my Income Tax I class will be January 15th. The class will NOT meet on January 8th or 9th.** Unfortunately, I need to be in Tokyo for a tax meeting from January 7th through January 13th that I could not reschedule.

I will schedule dates for makeup class sessions later in the semester, as soon as I learn when rooms will be available. For all of our class sessions—including the makeup class sessions— I will request that media services record the class sessions and post the recordings to the course website. I also plan to post copies of all of my lecture notes to the course website, as we complete each assignment.

Following this letter, please find the course syllabus. I will discuss the course syllabus on the first day of class. If you have questions before then, please e-mail me at dgamage@law.berkeley.edu, and I will do my best to respond. In any case, please note the first reading assignment on the syllabus (pages 1-12 of the casebook). If you have time, I recommend that you try to complete the first two assignments before the start of class on January 15th, so as to give yourself a head start on the reading. Again, please e-mail me if you have any questions.

**I look forward to seeing you in class on January 15th!**

Best,

DG

# Income Tax I
# Professor David Gamage
# Spring 2014

Units: 4
Meeting Time: Wednesdays and Thursdays, 3:35-5:25 pm
Meeting Location: room 132

Office: Simon Hall 889
Phone: 510-643-6116
E-mail: dgamage@law.berkeley.edu
Assistant: Hailey Anderson (handerson@law.berkeley.edu; 510-643-5005)

Office Hours: After class, Thursdays from 2-3 pm, or at other times by appointment; please e-mail me to schedule a meeting time.

## Course Materials

The casebook for this course is LIVINGSTON & GAMAGE, TAXATION: LAW, PLANNING, AND POLICY (2ND ed., LexisNexis, 2010). The casebook is available in either a hardbound version or a loose-leaf version (at 40% reduced price). You can download the Background and Basic Themes section and the first chapter of the casebook either from the course website or from SSRN (at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1855712). The publisher prohibits me from posting any more of the casebook for download.

In addition to the casebook, you will need a recent selection from the Federal Income Tax Code and regulations. I recommend WILLIAM KLEIN AND KIRK STARK, SELECTED SECTIONS: FEDERAL INCOME TAX CODE AND REGULATIONS (2014), as this selection is both significantly cheaper and easier to carry than its competitors. However, due to its slimness, the Klein and Stark selection does not contain all of the code sections and regulations we will use in this course. I will thus occasionally post supplemental code sections and regulations to the course website, or you can alternatively find them on Lexis or Westlaw.

Besides the casebook and codebook, I will assign a handful of supplemental readings. Any supplemental readings I assign will be available for downloading from the course website.

Please bring both your casebook and your codebook (or the relevant casebook pages, code sections, and regulations) to class every day. We will discuss questions from the casebook and parse code sections and regulations continually throughout the course. If you do not bring your books, you will find it difficult to follow the class discussions.

Beyond the required materials, if you would like an additional study aid, I recommend: EDWARD MCCAFFERY, THE OXFORD INTRODUCTIONS TO U.S. LAW: INCOME TAX LAW (2011). Of the available study aids that I have reviewed, McCaffery's comes the closest to emphasizing the same themes, materials, and concepts as we will cover in this course.

## Grading

Your grade will be based primarily on an in-class open-book final exam. Half of the exam will consist of a hybrid of multiple-choice and short-answer questions. The remaining half of the exam will consist of essay questions. I will post a sample exam to the course website for you to review.

Beyond the final exam, I may adjust borderline grades upward or downward based on exceptional or substandard class participation.

## On-Call System

I will expect you to select a seat using the seating chart system on the course website. I will use the seating chart in order to learn your names and also to call on you during class. I will generally only call on students in the order of the seating chart. Also, I will generally only call on students either to summarize assigned cases or to answer questions that were assigned in advance as part of the reading assignments. I will ask for volunteers to answer other questions.

I hope that you will not find being called on in class to be a stressful experience. You are welcome to pass in response to any on-call questions I ask you, and you are also welcome to let me know before class that you are not prepared and that I should not call on you.

## Assignments

I will post reading assignments to the course website and I will announce in class when I have posted a new set of reading assignments. Each reading assignment is designed to take up at least one class session, and we will typically devote between one and two class sessions to each reading assignment. In order to prepare for class, you should read one assignment beyond where we finished in the previous class.

In addition to the readings, each assignment consists of questions that you should try to answer before class. I highly recommend that you write down answers to the assigned questions, even if you do so only by making brief notes to yourself in the margins of your casebook. You will find it much easier to learn the material if you attempt to answer the assigned questions on your own before class and then use our class discussions to check your answers.

In addition to the regular assigned questions, I will occasionally assign “clicker questions”. Clicker questions will be indicated by the words “clicker questions” in parenthesis following the list of assigned questions. Clicker questions will be answered in class using audience response software – a.k.a., “clickers.” Prior to the class sessions in which I assign clicker questions, I will post PowerPoint slides to the course website showing possible multiple-choice answers for each clicker question. You will not be graded on your answers to the clicker questions. We use clicker questions solely as a mechanism for you to evaluate how well you understand the material as compared to your fellow students and so that I have a sense of how well the class as a whole understands the material.

I have asked media services to record all class sessions and to post the recordings to the course website. You are also very welcome to record class sessions on your own as a backup.

Additionally, I am planning to post edited versions of my lecture notes to the course website after we complete each assignment. This is an experiment, however, and I may cease posting my lecture notes if class participation declines notably from prior years.

The final page of this syllabus shows the first four assignments for the course. I will send out additional assignments as the semester progresses.

Again, each assignment is designed to take up between one and two class sessions, with the exception of the first assignment, which is designed to take up only a single class session. I thus expect that we will begin Assignment 2 on the second day of class.

"CB" indicates assigned readings in the casebook. The instruction "skim" indicates that you are to look over the relevant Code sections or regulations, but that you do not need to read them in detail.

| Assignment | Topic | Readings |
|---|---|---|
| 1 | Introduction and Course Overview | -CB, pp. 1-12<br>(The Background and Basic Themes section and the first chapter of the casebook can be downloaded from the course website or from SSRN at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1855712). |
| 2 | I. What is Income?<br>Employer-Provided Meals and Lodging | -CB, pp. 25-42<br>-Code Secs. 61 & 119<br>-Skim Treas. Reg. 1.119-1<br>-Answer the "Understanding" questions on pages 30-31, "Politics and Policy" questions 1 and 2 on pages 31-32, "Understanding" question 1 on pages 41, and "Law and Planning" question 1 on page 42. |
| 3 | I. What is Income?<br>Windfalls, Prizes, and Gifts | -CB, pp. 44-68<br>-Code Secs. 74(a) & 102<br>-Treas. Reg. 1.102-1<br>-Answer the "Understanding" and "Law and Planning" questions on pages 47-48, "Understanding" question 1 on page 51, "Understanding" questions 1 and 2 on pages 55, "Using the Sources" questions a, b, c, d, and e on page 55, and "Understanding" questions 1 and 2 on page 67. Then answer the "Using the Sources" questions and the "Law and Planning" questions on pages 74-75. |
| 4 | I. What is Income?<br>Damages, Fringe Benefits, and Psychic, Imputed, and Incidental Income | -CB, pp. 75-81, 91-96, & 125-127<br>-Code Secs. 104(a) & 132<br>-Skim Treas. Reg. 1.132-6<br>-Answer the "Using the Sources" questions, the "Law and Planning" questions, and the "Politics and Policy" questions on pages 80-81.<br>-Then answer the multiple-choice versions of "Using the Sources" questions 1.a, 1.b, 1.c, 1.d, 1.h and 1.i on pages 95-96—please download the slides for the multiple choice questions from the course website (clicker questions). |