

Contact Information: wciesar@deloitte.com

Office Hours: Available by appointment – Immediately before/after class is difficult but please email and I will be happy to arrange another time that can work.

Textbooks and Materials:

- a) The required textbook for the class is: *United States International Taxation*, by Philip E. Postlewaite, Genevieve A. Tokic & Mitchell B. Weiss, **5th Edition**, Caroline Academic Press, 2023, (ISBN 978-1-5310-2473-4). This book will be available from the campus bookstore. **If ordering online from Amazon or Amazon Prime, please ensure you obtain the 5th Edition.** There is no supplement to the current 5th edition.
- b) You will also need access to either print, on-line or the library editions, to the U.S. Internal Revenue of 1986, as amended, and accompanying U.S. Treasury Regulations on Income Tax. Reading of the assigned IRC Sections and Treasury Regulations will better facilitate your ability to work through and solve assigned problems that are an integral part of this course. Citing to appropriate IRC Sections and Treasury Regulations are essential to successful final exam grades.
- c) Course Supplements. While the text noted above will be the primary source of course materials, further course materials will be made available by me throughout the semester, as applicable, to course topics.
- d) You may also consider as an excellent resource (but not required): *International Taxation in a Nutshell, 13th Edition* by Mindy Herzfeld, West Academic Publishing, 2023, (ISBN-13-1978- 1636590578). This is available for purchase online from Amazon and Amazon Prime.

SYLLABUS

Why take this course?

As you evaluate whether you should take this course, consider that international tax law is an unquestionably complex area of the law to master. Many lawyers spend their entire career practicing and mastering a single area of international tax law thereby becoming subject matter experts finding themselves in huge demand commanding copious amounts of fees and personal compensation.

Also consider that with today's technical improvements in communications, you have zoom calls involving client representatives from multiple countries around the world often taking place many times in a single day. Couple this fact with the explosive growth of the internet allowing business to be transacted regardless of what country one is located and what you have is a world that is smaller; truly a more global community. Meaning that dealing with cross-border tax issues is now no longer limited to only those lawyers who represent large multinational clients or large high net worth individuals. Instead, what you have is a demand for lawyers who can recognize tax issues and advise clients about potential tax exposure resulting from international commercial transactions of all types and sizes.

Therefore, if you plan to plan to specialize in tax law whether that be in a private law firm, the government or yes, even in an accounting firm or if you anticipate that your practice will involve representing clients participating in global commercial operations and/or business transactions where tax issues will most definitely arise, you should consider taking this upper-level tax course. Of course, any student interested in learning about tax law regardless of specific career plans is also welcome to join this course!

Course Overview

This course will focus on the international aspects of the U.S. income tax system. We will study the way:

- The United States taxes foreign business entities and foreign individuals on income tax earned in the United States – *referred to as “Inbound”* transactions;
- The United States taxes U.S. business entities and U.S. individuals on income earned abroad – *referred to as “Outbound”* transactions and to a lesser extent we will discuss the way in which a foreign country might also tax those same entities or individuals.

Course Objectives and Topics (not all inclusive)

By taking this course, you will not become an expert in international tax law as the time and complexities around international tax require that for this course, we use a survey approach. However, it is the expectation that upon completion of this course you should be well positioned to understand enough about the following topics to practically identify issues such that you can advise your clients about potential tax issues arising from:

- The residency classification rules;
- The source of income rules and allocation of deductions between taxing jurisdictions;
- Foreign Earned Income of United States Person;
- Overview of the Foreign Tax Credit and related limitations;
- The role of Tax Treaties;
- Transfer Pricing;
- Controlled Foreign Corporations (introductory concepts); and,
- Global Tax Policy through the OECD Framework and BEPs.

A word about that election!

At the outset of this course, the new administration will literally be walking in the door. Its unclear the extent to which tax laws will be impacted, if at all. However, if one considers what was said on the campaign trail (with a bit skepticism), some changes in tax law will occur especially in the international tax law arena. The instructor will do his best to monitor any such changes and will weave them into the curriculum as appropriate. Accordingly, it is possible that some course topics and assignments maybe adjusted and/or eliminated. Such changes/adjustments will be announced to the students as soon as practicable. Unless otherwise stated, please plan to proceed as set forth herein this syllabus.

Course Pre or Co-Requisite

Federal Income Tax is either is a pre-or requisite unless a student has prior tax experience which can provide the student with a broad overview of tax law.

Students should considier, but it is not required, to either have already completed and/or be currently enrolled in Corporate Income Tax and/or Accounting for Lawyers. Topics in these courses overlap with international tax laws.

Class Sessions, Participation and Attendance

To get the most out of class sessions, it is strongly recommended that you prepare in advance and be ready to participate in class. While many law classes employ the Socratic Method of teaching, that approach is not necessarily as useful for certain tax courses. I prefer for students not to be worried about “being called on” to recite but to freely participate by volunteering to recite a case or revenue ruling or by answering assigned problems. If no one is volunteering to participate in discussions, **the right to call upon students at random is reserved (but not desired).** *Significant class participation will have a positive impact on your grade.* Tied to class participation is class attendance which will be taken in every session. It is strongly recommended that you attend the

class sessions. The final exam will include topics from every session without exception. Absences will likely impact your final grade.

Class Logistics

Note that the text for this course, *United States International Taxation*, 5th edition, differs from the course books you have experienced in your law school career up to this point in that it is principally problems as opposed to cases. However, rest assured that we will cover those cases that are relevant to the course topic. Some additional cases will be discussed as we proceed through the course. That information will be provided in advance of the session.

Reading, problems, and case assignments are outlined below. Each class session will cover the assigned readings and problems as noted. In the event we do not fully cover the assignments in one session, students should be prepared to pick up the discussion in the next session in addition to the assigned readings and problems for that session. Please see below for additional information on readings and problems.

The use of personal laptops is permitted solely for the purpose of reviewing prepared notes for class and taking notes during class. In the interest of being courteous to fellow students, personal laptops should not be used for messaging and/or other distracting activities during class. I will be using power point presentations to deliver lectures. Once the section is completed, I may make certain parts of the presentations available but not necessarily answers to problems that may be included in a presentation.

The plan is that all classes will be presented in person on campus. Given that I do maintain substantive responsibilities on behalf of Deloitte, it is possible that some travel event may impact a class session. I will advise the class on such situations as they may arise but will try to avoid it if possible. Given the amount of material we need to cover, if the law school is closed due to inclement weather during the winter season, the class will revert to zoom instruction.

Assessments

The grade for this course will be based substantially (80%) on your final examination which will be administered pursuant to the regular examination schedule. However, as previously noted, your examination grade can be ***positively*** impacted by the depth/degree of class participation which I will record in each class. The practice of tax law “in real life” is not based on memorization (nor should it be!). In dealing with client issues, consulting the Internal Revenue Code, applicable Treasury Regulations and other applicable sources is part of the normal practice of tax law. In keeping with this “real life” approach, the examination for this course will be a take home exam subject to the Honor Code. I would suggest you plan nothing less than three hours to complete the exam. Student prepared outlines and class notes are acceptable tools to consult during the examination along with the class syllabus, required textbook, Internal Revenue Code and Treasury Regulations. Commercially prepared outlines are not allowed. See also below on Problem Sets which may also be referenced for exam

purposes. The exam may be taken as a 3-hour block anytime during the exam period at the conclusion of the semester **and will not address any issues not previously covered in class discussions/problems etc.**

Reading and Problem Assignment Sheet

Below is the class Reading and Problem Assignment Sheet. Each session identifies the topic along with assigned readings and problems. As noted, students should come to class prepared to discuss readings and problems. Also as noted this schedule is subject to change depending on how we move through the course. There are some “open” sessions near the end of the course which are reserved for further discussions on those sections we run over and/or for additional review purposes.

Included in the Reading Assignment Sheet are “Problem Sets” **Completed problem sets will be part of the final assessment. Each student should submit their respective completed Problem Set not later than 11:59 pm of the evening preceding the first date of the class discussion for that problem set.**

For example, Completed Problem Set 1 should be submitted not later than **Tuesday January 21, 2025**. at 1159 pm and so on.

International Taxation: Reading and Problem Assignment Sheet			
	Class Date (2025)	Topic	Reading Material & Problem Sets
1	Wednesday January 22	Introduction to International Tax & Residency Classification Rules	Postlewaite: Unit 1 - Residency Classification Rules - Pages 3-22; Please read IRC Secs & Treasury Regulations as noted on page 3. Problems for Class Discussion- 1-1 See Page 3. Problem Set 1.
2	Monday January 27	Residency Classification Rules (cont.)	Postlewaite: pages 19 & 20; <i>Cook v. Tait</i> , 265 U.S. 47 (1924); Revenue Rules 2004-77 2004-2 C.B. 119. Problems for Class Discussion – 1-2 – 1-5. See pages. 4 & 5. Problem Set 1.
3	Wednesday January 29	Source Rules	Postlewaite; Unit 2 - Source Rules – Pages 23-43; Problems for Class Discussion – 2-1 – 2-4 – See pages 23 & 24. Problem Set 2. Please read IRC Secs & Treasury Regulations as noted on page 23.
4	Monday February 3	Source Rules (cont.)	Postlewaite: Problems for Class Discussion – 2-4 – 2-8 See pages 24-25. Problem Set 2. Please read. <i>Boulez v. Commissioner</i> , United States Tax Court, 83 T.C. 684(1984); <i>Bank of America v. United States</i> , 680 F2d 142 (Ct. Cl. 1982); <i>Container Corp. v. C.I.R.</i> , 134 T.C. No. 5 (2010); Revenue Rule 2004-752004-C.B.109 See pages 38-43.
5	Wednesday February 5	Foreign Earned Income of United States Persons – Methods to Avoid Double Taxation	Postlewaite: Unit 3 – Foreign Earned Income of US Persons - Pages 45 – 64; Please read IRC Secs & Treasury Regulations as noted – See Page 45; Problems for Class Discussion 3-1 – 3.2 – See Pages 45 -46. Problem Set 3.
6	Monday February 10	Foreign Earned Income of United States Persons (cont.)	Postlewaite Unit 3: Notice 2006-87 2006 – 2 C.B. See page 57; <i>Jones v. Commissioner</i> , United States Court of Appeals, Fifth Circuit 927 F2d 849 (1991) See pages.57-64. Please read <i>Riley v. Commissioner</i> , 74 T.C. 414 , United States Tax Court. Problem Set 3 (continued from above)

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7	Wednesday February 12	The Dividends Received Deduction (“DRD”)	Postlewaite; Unit 4 – The 245A Dividends Received Deduction - Pages 65-82; Please read IRC Secs & Treasury Regulations as noted on page 65. Problems for Class Discussion – 4.1 & 4.2 See Page 65 Problem Set 4 . Also, read and be prepared to discuss <i>United States v. Moore</i> , 1444 S. Ct. 1680 (2024).
8	Monday February 17	The DRD (cont.) Foreign Tax Credit;	Postlewaite; Unit 5- Problems for Class Discussion 4.3 – 4.5 See Page 65 & 66. Problem Set 4 . Please read Joint Committee on Taxation, Background and Selected Policy Issues on International Tax Reform JCX -45-
		(Overview)	17 (September 28, 2017) See page 78. Postlewaite; Unit 5 Foreign Tax Credit; Overview – Pages 83-100; Problems for Class Discussion 5.1 – See Page 83. Problem Set 5 . Please read IRC Secs and Treasury Regulations as noted on page 83.
9	Wednesday February 19	Foreign Tax Credit (cont.) Foreign Tax Credit – Limitations	Postlewaite; Problems for Class Discussion 5.2-5.4 – See Pages 83 & 84. Problem Set 5 . Please read <i>Wada v. Commissioner</i> , United States Tax Court T.C. Memo 1995-241. See page 99. Postlewaite; Unit 6 – Foreign Tax Credit: The Section 904 Limitations – Pages 101-119. Problems for Class Discussion – 6.1 – 6.2 See pages 101 102. Problem Set 6 . Please read IRC Secs and Treasury Regulations as noted on page 101.
10	Monday February 24	Foreign Tax Credit – Limitations/ Domestic Partners of International Partnerships	Postlewaite; Problems for Class Discussion -6.3 – 6.5 Pages 101-103. Problem Set 6 . Revenue Ruling 62-67 1962 C.B. 128 See Page 117. Postlewaite; Unit 7 Domestic Partners – International Partnerships Pages 121-135. Problem Set 7 -Problems for discussion: 7.1-7.3.

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	Wednesday February 26	Treatment of Foreign-Owned United States Investment Income	Postlewaite; Unit 8 – Treatment of Foreign – Owned United States Investment Income - Pages 137-150.; Problems for Class Discussion – 8.1 Page 137 – 138. Problem Set 8. Please read IRC Secs and Treasury Regulations as noted on page 137.
12	Monday March 3	Treatment of Foreign Owned United States Investment Income (cont.)	Postlewaite; Problems for Class Discussion - 8.2-8.3 See Page 138. Problem Set 8. Please read Joint Committee on Taxation, General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984; (H.R. 4170, 98 th Congress, Public Law 98-369), JCS-41-84 December 31, 1984. See Pages 145-150.
13	Wednesday March 5	Treatment of Foreign-Owned United States Business Income	Postlewaite; Unit 9 – Treatment of Foreign Owned United States Business Income - Pages 151-180. Problems for Class Discussion – 9.1- 9.2 See pages 151 – 152. Problem Set 9. Please read IRC Secs and Treasury Regulations as noted on page 151.
14	Monday March 17	Treatment of Foreign Owned United States Business Income (cont.)	Postlewaite; Problems for Class Discussion – 9.3 – 9.5. Problem Set 9. See Pages 152. Please read. Revenue Ruling 88-3 1988 C.B. 268. See Page 168. Please read: <i>United States v. Balanovski</i> , United States Court of Appeals, Second Circuit 236 F.2d 298 (1956) See Pages 171-174; <i>Scottish American Investment Co. LTD. V Commissioner</i> , United States Tax Court 12 T.C. 49 (1949). See Pages 174-180; Please read <i>InverWorld v. Comm’r T.C.</i> Memo. 1996-301 (1996).
15	Wednesday March 19	Taxation of Branch Profits, Investments in United States Real Property, and the Base Erosion Anti-Abuse Tax	Postlewaite; Unit 10 – Taxation of Branch Profits, Investments in United States Real Property, and the Base Erosion Anti-Abuse Tax - Pages 181-197. Problems for Class Discussion 10-1 -10.3 See pages 181-182. Problem Set 10. Please read IRC Secs and Treasury Regulations as noted on page 181.

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18	Monday March 24	Taxation of Branch Profits (cont.) Tax Treaties – Overview	Postlewaite; Unit 10 - Problems for Class Discussion 10.4-10.5 See Pages 182-183. Problem Set 10 Postlewaite; Unit 11 – Tax Treaties – Overview - Pages 199-199-221. Problems for Class Discussion – 11.1-11.2 See page 199. Problem Set 11. Please read IRC Secs and Treasury Regulations as noted on page 199.
19	Wednesday March 26	Tax Treaties – Overview (cont.) Tax Treaties and Investment Income	Postlewaite; Problems for Class Discussion 11-3-11.4 See Pages 19-9-200; Revenue Ruling 2004-76 2004-2 C.B. 11 See Pages 208-211. Problem Set 11 Postlewaite; Unit 12 – Tax Treaties and Investment Income - Pages 213-221. Problems for Class Discussion 12.1 – 12.2 See Pages 213-214. Problem Set 12. Please read United States – Canada Tax Treaty, Articles 4, 6, 10-13 See Page 398.
20	Monday March 31	Tax Treaties and Investment Income (cont.) Tax Treaties and Business Income	Postlewaite; Problems for Class Discussion – 12.2-12.3 See page 214. Problem Set 12. Postlewaite; Unit 13 – Tax Treaties and Business Income - Pages 223- 258. Problems for Class Discussion 13.1-13.2 See Pages 223-224. Problem Set 13. Please read Articles 5, 7, and 15 of the United States – Canada Treaty and accompany relevant portions of the Technical Explanation of the United States – Canada Tax Treaty – See page 398.
21	Wednesday April 2	Tax Treaties and Business Income (cont.)	Postlewaite; Problems for Class Discussion 13.3-13.4 See Pages 224-225, Problem Set 12. Please read Revenue Ruling 58-63 1958-1 C.B. 624 and Revenue Ruling 72-418 1972 C.B. 661 & <i>Unger v. Commissioner</i> , United States Court of Appeals, District of Columbia Circuit 936 F2d 316 (1991). See pages 241- 246.

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21	Monday April 7	Tax Treaties and Business Income	Postlewaite; Problems for Class Discussion 13.5 See Pages 224-225. Problem Set 12. Please read <i>Pei Fang Guo v. Commissioner</i> , 19 No. 14 (2017) – See pages 247-251.
		(cont.)	Revenue Ruling 58-63 1958-1 C.B. 624. See pages 241-242; Revenue Ruling 72-418 1972 C.B. 661 See Pages 242-44 & <i>Unger v. Commissioner</i> , United States Court of Appeals, District of Columbia Circuit 936 F2d 316 (1991) see pages 244-246.
22	Wednesday April 9	Introduction to Controlled Foreign Corporations (“CFC”)	Postlewaite; Unit 15 –Introduction to Controlled Foreign Corporations- Pages 281-293. Problems for Classroom Discussion 15.1-15.2 See Pages 281-282. Problem Set 13. Please read IRC Secs and Treasury Regulations as noted on page 281.
23	Monday April 14	Introduction to CFC (cont.) CFCs – Subpart F Inclusions	Postlewaite; Unit 15 - <i>Framatome Connectors USA, Inc. v. Commissioner</i> , United States Tax Court, 118 T.C. 32 (2002) See Pages 288-292. Postlewaite; Unit 16 – Controlled Foreign Corporations = Subpart F Inclusions - Pages 293- 321; Problems for Classroom Discussion – 16.1 – 16.2 See Pages 293-294 Problem Set 14. Please read IRC Secs and Treasury Regs as noted on Page. 293.
24	Wednesday April 16	CFCs – Subpart F Inclusions (cont.)	Postlewaite; Problems for Classroom Discussion 16.3 -16.4 See Pages 294-295. Problem Set 14; Notice 2007-13 2007 1 C.B. 410. See Pages 317 – 321.
25	Monday April 21	Passive Investment Companies	Postlewaite; Unit 17 – Passive Foreign Investment Companies - Pages 323-338. Problems for Classroom Discussion 17.1 & 17.2 See Pages 323-324. Problem Set 15. Please read IRC Secs and Treasury Regulations as noted on page 323.

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26	Wednesday April 23	International Tax – OECD	Materials provided in advance
27	Thursday April 24	Open	

****NOTE:** We will cover the topic of Transfer Pricing in one of the sessions. The exact date will be announced along class materials in advance of the session. For this topic of Transfer Pricing, we will have Deloitte’s leading Subject Matter Expert in the area as our in-class instructor. More to come on this later.