
A Student's Guide to Tax Courses at Wayne Law School (2006/07)

by Professor Michael J. McIntyre

1. Introduction

The study of taxation is an important element in the academic program of most law schools, here at Wayne and elsewhere. Tax is an important part of the business environment in which lawyers work. Here is what one court had to say about the importance of a knowledge of taxes for lawyers giving advice to businesses:

We recognize . . . that in today's business world the effects of tax laws are driving considerations in virtually all decisions. In this sense, a knowledge of the tax laws may well be a common denominator in various professions from legal practice as a tax lawyer, to the practice of tax accounting, to the business of asset management, and so on.

Hudgens v. Commissioner, T.C. Memo 1997-33

Wayne Law School currently has two full-time tenured faculty members teaching in the tax field, myself and Professor Alan Schenk. A third, Professor Linda Beale, will join the faculty in the Fall of 2006. All of us are reasonably well known in the tax community, in the United States and elsewhere. We all teach Taxation (LEX 7816), the introductory tax course at the Law School. This course typically is taught in the Fall Semester, one section in the day and the other in the evening. For the coming year, Professor Beale will also teach a section during the day in the Winter semester. Taxation is a prerequisite for all other tax courses. We believe that most law students, whether or not they expect to engage in practice relating to taxation, would benefit substantially from taking the Taxation course. Our view of the importance of an introductory course in taxation for a basic legal education is widely held among tax professors and among many academics in other areas of the law. Many potential employers would raise some question about a law school transcript that did not include a tax course.

In my view, a basic tax course is not only a good background for a legal career but is also an extremely useful course for understanding how law actually operates in a complex economy. I also believe that those who avoid tax because they want to avoid a challenge or feel they are weak in computational skills are making a major error. Tax is mostly not about numbers — it is about law. And those who seek to get through law school by avoiding challenges will not have gotten their money's worth. They will soon discover that they have obtained a law degree but not the top legal education that the degree is supposed to represent.

2. Course Offerings

In addition to Taxation, the regular tax faculty members teach several other tax courses in their areas of specialization. These courses are intended for students who are interested in tax as a possible career or who expect to need an understanding of tax for a career in some other area of the law. Obviously a student interested in a career in tax would want to take courses that gave an exposure to corporate taxation (*See Business Planning and Taxation of Corporations*) and taxation of partnerships. (*See Partnership Tax*). Two of the most dynamic areas of the tax law — areas in which many law firms, accounting firms, and government agencies are hiring — are State taxation and international tax.

International Aspects of U.S. Taxation (Int'l Tax) covers the international aspects of the tax system of the United States. It provides an overview of the tax treatment of American taxpayers earning income abroad and foreign taxpayers earning income in the United States. Planning problems are used extensively in the course. As a result, it is both a challenging analytical course and an important skills course, of value to students whether or not they end up practicing in the tax field. I have worked on international tax matters for many, many years and have written one of the leading treatises in the area. Additional information about the course and the materials I have developed for use in the course are available on my website. See <http://www.law.wayne.edu/mcintyre>.

Multistate Taxation deals with State corporate income taxes, State sales taxes, and various other State taxes. It does not deal with the property tax. Many of the cases used in the course are constitutional law cases, dealing primarily but not exclusively with the Commerce Clause. In teaching this course, I draw heavily on my work as consultant to various State governments and to the Multistate Tax Commission. I have also written extensively in the field. Michigan tax issues are given somewhat greater prominence than issues for other states, but the course is national in scope. Michigan, for example, does not have a corporate income tax.

Professor Beale will be teaching a course in partnership taxation in the Winter term. This course is an important part of the tax curriculum, although it has not been taught at Wayne State in some years. The course includes treatment of Limited Liability Corporations (LLCs) and Subchapter S Corporations, both of which are typically taxed as conduit entities. Professor Beale will also be teaching Corporate Tax I. This course is required for LL.M. students but is open to JD students as well.

For academic year 2006-07, Professor Schenk will be teaching an 8-credit course, Business Planning: A Transactional Approach, with Adjunct Professor Peter Sugar. The course covers, among other topics, corporate taxation and securities

regulation. The course takes a transactional approach to the teaching of business tax law.

Professor Schenk frequently teaches a course on consumption taxes that draws heavily on his academic writings and practical experience with the value-added tax (Consumption-Based Taxation). Under the auspices of the International Monetary Fund, Professor Schenk has provided technical assistance to a number of African countries on the design and implementation of a value-added tax. As Professor-in-Residence at the IRS, Professor Schenk worked on the portion of the landmark 1985 Treasury Department tax reform report dealing with the possible adoption of a value-added tax in the United States.

From time to time, I teach a course on International Tax Treaties, which draws on my extensive experience in that small corner of the tax law. In recent years, I have combined that course with a seminar on the same topic. The difference between the course and the seminar is that those taking the seminar must write a research paper. The seminar is listed, somewhat deceptively, as Tax Policy: Current Issues (LEX 8361). In effect, the “current issues” on the agenda of that seminar are issues relating to tax treaties. The course is listed more descriptively as International Tax Treaties (LEX 7416).

Tax Courses Taught by Full-Time Faculty		
Professor McIntyre	Professor Beale	Professor Schenk
International Aspects of U.S. Taxation (LEX 7401), 3 credits	Corporate Tax I (LEX 7146), 3 Credits	Business Planning: A Transactional Approach (LEX 7061), 8 credits
International Tax Treaties (course (LEX 7416)/seminar (LEX 8361)), 2/3 credits	Federal Income Taxation of Partnerships (LEX 7311), 2/3 credits	Consumption-Based Taxation (7131), 2 credits
Multistate Taxation in the Digital Age (LEX 7605), 3 credits	Taxation (LEX 7816), 4 credits	Taxation of Corporations (LEX 7821), 4 credits
Taxation (LEX 7816), 4 credits		Taxation (LEX 7816), 4 credits

All of the tax courses taught by the full-time tax faculty are open to both J.D. candidates and LL.M. candidates.

Professor Schenk frequently teaches a course in Accounting for Lawyers (LEX 7002). A course of the same name is occasionally taught by a member of the part-time faculty (Professor Rose for Winter 2006). Although that course is not a tax course, it provides a useful background for some advanced tax courses. It is typically taught by Professor Schenk as an intensive program during the two weeks preceding the Fall term. He will not be teaching that course in academic year 2006/07.

In the Winter Term 2006, I taught a course outside the tax area, titled Alternative Dispute Resolution (LEX 7016). I had never taught the course before and have not practiced in that area. I have been asked to do it again in the Winter Term 2007. Enrollment is limited.

Not all of the courses listed above are taught every year. I teach Int'l Tax and Multistate Taxation most years, typically in the Winter term. For the coming year, however, Multistate Taxation is scheduled for the Fall term.

My International Tax Treaties course/seminar is taught less frequently. It was taught in 1998, 2001, and 2003 but was not be taught in academic year 2005/06 and will not be taught in 2006/07. Professor Schenk typically does not teach Taxation of Corporations in years when he is teaching Business Planning.

Professor Schenk will teach the year-long Business Planning course (with Professor Sugar) in 2006/07. In Fall 2007, he expects to teach a 4-credit Business Planning course with Professor Sugar (pending faculty approval). The prerequisites for that 4-credit Business Planning course will be Taxation, Corporate Taxation (either Elements of Corporate Tax, or both Corporate Tax I & II), Corporations, and Securities Regulation. Anyone interested in taking 4-credit Business Planning course in the fall of 2007 must take the four prerequisites before the beginning of the 2007/08 academic year.

The tax courses taught by the full-time faculty are supplemented by offerings of the Part-Time (Adjunct) Faculty. For example, adjunct professors typically teach estate and gift taxation and various tax practice courses. A listing of the tax courses offered by the adjunct faculty for academic year 2006/07 is provided below. All of these courses are taught in the evening. This listing may be incomplete and will be updated as necessary. Only courses I could verify are actually being taught are listed.

Tax Courses Taught by Part-Time Faculty
Corporate Tax II (Indenbaum), Winter 2007, LEX 7151, 2 credits
Elements of Corporate Tax (Levine/Cook), Winter 2006, LEX 7203, 2 credits
Estate, Gift & Inheritance Taxation (Sweeney), Winter 2006, LEX 7241, 2 credits
Federal Tax Practice (Rose), Fall 2006, LEX 7316, 2 credits
State and Local Taxes (Gandhi), Winter 2007, LEX 7771, 3 credits

3. Picking Among Tax Courses

My expectation is that all students with any significant interest in the tax field (or in a good legal education) would take Taxation (LEX 7816). This expectation is shared by Professor Schenk and Professor Beale and by just about everyone teaching tax at a law school. The course generally is offered every year, with at least two sections—three for the coming academic year. Because Taxation is a prerequisite for most other tax courses, it generally is made available to students in the Fall of their Second Year. One section is scheduled in the day and the other in the evening. Professor Schenk generally teaches the day section one year and the evening section the next, and I generally do the same in the alternate years. Professor Beale will teach Taxation in the Winter term.

Students interested in corporate tax have several options open to them. One option, not always available, is the 8-credit hour Business Planning course. J.D. students normally would take that course in their third year. In their second year, they would take the two prerequisites: Taxation and Corporations. About half of the business planning course concentrates on corporate taxation. The Law School is not able to offer the Business Planning course ever year. It is being taught for academic year 2006/07 by Professors Schenk and Sugar.

For LL.M. and JD students, the Law School generally offers Corporate Tax I & II. These courses are required for students seeking an LL.M. in Taxation. They were designed some years back by the Graduate Committee to serve the goals of the LL.M. program. Those courses, nevertheless, are open to J.D. candidates under the current unified treatment of J.D. and LL.M. courses. JD students should find the courses to be useful and are most welcome to enroll. In the past, this series of courses was taught by an adjunct professor. For 2006/07, Corporate Tax I will be taught by Professor Beale.

Another option for J.D. students is Taxation of Corporations, a four-credit course taught from time to time by Professor Schenk. It generally is offered only

during the day and is not being offered in academic year 2006/07. For evening students, a less detailed course, Elements of Corporate Taxation, is frequently taught. It meets one evening a week for 2 credits. It is taught by a member of the part-time faculty. It was designed for LL.M. students not seeking an LL.M. in Taxation.

Students interested in Multistate Taxation or Int'l Tax may take those courses in their second or third year. State and Local Tax, which covers some of the same material as Multistate Taxation, is being offered in the evening during the Winter Term 2006 by a member of the adjunct faculty. Multistate Taxation was not offered in academic year 2005/06 but will be offered in Fall Term 2006. Int'l Tax will be offered in Winter Term 2007.

Because the International Tax Treaties course/seminar is not taught every year, students interested in that area of the tax law should take it whenever it is offered. It typically is offered in the Fall term. Because Taxation is a prerequisite, students generally take the treaty course/seminar in their third year or thereafter. The paper for the seminar satisfies the Law School's writing requirement. Professor Schenk's course, Consumption-Based Tax, will be offered in the Winter Term 2007.

Most of the advanced tax courses typically attract a mix of J.D. students and LL.M. students. Students who contemplate pursuing an LL.M. degree here at Wayne or elsewhere should consider taking courses such as Int'l Tax and Consumption-Based Tax, which are special features of this Law School and not offered at many other law schools.

4. Course Descriptions (Alphabetical)

Business Planning: A Transactional Approach

LEX 7061, 8 Credits (two terms)

Prereq. Corporations (LEX 7156) and Taxation (LEX 7816). Not open to students who have taken Business Planning and Taxation of Corporations and Shareholders (former JDC 728), Taxation of Corporations (LEX 7821), Securities Regulation (LEX 7761), Corporate Tax I (LEX 7146) or Corporate Tax II (LEX 7151).

Organizational problems for the closely held and the public corporation; operational problems such as stock distributions, issuance of new securities, constructive dividend problems and stock redemptions; corporate acquisitions, other reorganizations, contested take-overs, and liquidation and termination problems.

Consumption-Based Taxation

LEX 7131, 2 Credits

Prereq. Taxation (LEX 7816).

Economic, administrative, and legal aspects of consumption-based sales taxes with an emphasis on value-added tax. The course will cover the various forms of VAT adopted abroad and the proposals for a VAT in the United States. The course will concentrate on the American Bar Association's Model Statute for the United States, the rules pertaining to the harmonization of VAT in the European Community, the Japanese Consumption Tax, the Canadian Goods and Services Tax, and the legislative proposals for a VAT in the United States.

Corporate Tax I

LEX 7146, 3 Credits (LL.M. required course)

Prereq: Taxation (LEX 7816). Not open to students who have taken Taxation of Corporations (LEX 7821).

Taxation of Corporations as part of the LL.M. program. This course covers tax consequences of corporation formation, operating distributions of property or stock, redemptions and sales of stock between non-consolidated affiliates, and liquidations as well as some discussion of check-the-box rules, choice of entity, and anti-avoidance provisions.

Corporate Tax II

LEX 7151, 2 Credits (LL.M. required course)

Prereq: Taxation (LEX 7816,) and Corporate Tax I (LEX 7146). Not open to students who have taken Taxation of Corporations (LEX 7821)

Taxation of Corporations. In-depth study of taxable and non-taxable reorganizations, and the carryover of tax attributes.

Elements of Corporate Tax

LEX 7203, 2 credits

Prereq: Taxation (LEX 7816). Not open to students who have taken Business Planning: A Transactional Approach (LEX 7061), Corporate Tax I (LEX 7146), Corporate Tax II (LEX 7151), or Taxation of Corporations (LEX 7821).

Basic overview of the federal income taxation of corporations and their shareholders; choices among forms of business organization, problems relating to the formation, operation, reorganization and liquidation of a corporation, and distributions to shareholders.

Estate, Gift & Inheritance Taxation

LEX 7241, 2 Credits

Prereq: Taxation (LEX 7816). Not open to students who have taken Estate & Gift Tax & Estate Planning Workshop (LEX 7246).

Federal and state transfer taxes and income taxation of fiduciaries and beneficiaries.

Federal Income Taxation of Partnerships

LEX7311, 2 or 3 Credits

Prereq.: LEX 7816 Taxation

Covers the tax treatment of partnerships (including multiple-member LLCs); topics include transfers of property to partnerships, operation of a partnership, distributions of property, transactions between partners and partnerships, transfers of interests in partnerships, and termination of partnerships; some coverage also given to taxation of Subchapter S corporations, partnership agreement provisions, and related topics.

Federal Tax Practice

LEX 7316, 2 Credits

Prereq.: Taxation (LEX 7816).

Procedure, both administrative and judicial, involved in the conduct of federal tax controversies.

International Aspects of U.S. Taxation

LEX 7401, 3 Credits

Prereq.: Taxation (LEX 7816). Not open to students who have taken ACC 7400

This course addresses two major topics in international tax: (1) the taxation by the federal government of foreign persons operating within the United States and (2) the taxation by the federal government of U.S. citizens, resident aliens, and U.S. corporations on income derived outside the United States. Subtopics covered include: residence rules, taxation of foreign persons, source of income and deduction, transfer pricing, foreign tax credit, tax haven operations, and more. The emphasis is on the taxation of the multinational corporation.

International Tax Treaties

LEX 7416, 2 Credits

Prereq.: Taxation (LEX 7816).

International income tax treaties based on the OECD and UN Model Treaties. Topics include taxation of business income, permanent establishment rules, taxation of employees and independent contractors on their personal services income, taxation of investment flows, arrangements for administrative cooperation and dispute settlement, and special rules for some international transportation industries.

Multistate Taxation In the Digital Age

LEX 7605 Cr. 3

Prereq: Taxation (LEX 7816). Not open to students who have taken State and Local Taxes (LEX 7771).

Sales and use taxes and corporate and personal income taxes imposed by states and other subnational governments, including Indian tribes. Extensive treatment is given to the constitutional limitations on cross-border taxation under the Due Process Clause and the Commerce Clause. Methods for apportioning income among jurisdictions are covered from a theoretical and practical perspective. The course addresses the special income tax and sales tax issues that arise from electronic commerce.

State and Local Taxes

LEX 7771, 3 Credits

Prereq: Taxation (LEX 7816). Not open to students who have taken or are taking Multistate Taxation in the Digital Age (LEX 7605).

An introduction to state and local taxation. The course will address constitutional limitations on state and local taxation, multistate taxation and the problems of multistate taxpayers, ad valorem property taxation, and Michigan's state taxes. The Michigan taxes addressed will include the single business tax, the individual income tax, sales and use tax, and other miscellaneous state taxes, as well as the local property tax.

Taxation

LEX 7816, 4 Credits

This course is designed to provide students with an understanding of the fundamentals of the taxation of personal income in the United States. An understanding of those fundamentals is essential for students who hope to practice tax law or to pursue areas of the law where an understanding of taxation is important. The U.S. tax laws attempt to give specific answers to a substantial percentage of the tax questions generated by a complex and diversified economy. These answers are found in the Internal Revenue Code, in the Treasury regulations, in the various administrative determinations, and in the vast case law which has been generated since 1913. The answers to many of the questions that arise in the practice of law cannot be found in the existing tax laws. Those answers must be worked out by applying various principles of taxation drawn from existing law and from tax theory. This course shows how various policy goals are reflected in the Tax Code and how those policy goals affect the interpretation of that Code.

Taxation of Corporations

LEX 7821, 4 Credits

Prereq: Taxation (LEX 7816). Not open to students who have taken Business Planning: A Transactional Approach (LEX 7061), Corporate Tax I (LEX 7146), Corporate Tax II (LEX 7151), or Elements of Corporate Tax (LEX 7203).

A detailed exploration of the federal income tax problems of corporations and their investors; an analysis of the statutory rules governing transactions between corporations and their shareholders, including tax-free incorporations, property and stock distributions, constructive dividend problems, stock redemptions; corporate reorganizations with a focus on corporate recapitalizations, dispositions of the assets of a corporation or of investor's interests in a corporation; liquidation problems; and the impact of judicial doctrines on corporate tax planning.

Tax Policy: Current Issues

LEX 8361, 3 Credits

Prereq: Taxation (LEX 7816).

In recent years, this seminar has been taught in conjunction with a course, International Tax Treaties. It is the same as that course except that a paper is also required. An examination is given to all students at the end of the course/seminar.