## Contents

**Preface**  
xxix  
**Acknowledgments**  
xxxiii

### Chapter 1  AN INTRODUCTION TO THE INCOME TAX  
1

**A. The Goals of This Course**  
1

**B. Introductory Problem**  
2

**C. Some Basic Concepts and Issues**  
13

1. **Exclusions, Deductions, and Credits**  
13

2. **The Importance of Deferral**  
15

3. **Taxing Income, and the Elusive Concept of Ability to Pay**  
17
   
   David Foster Wallace, *The Pale King*  
   18

4. **The Tax Expenditure Budget**  
22

   Staff of the Joint Committee on Taxation, Estimates of Federal Tax Expenditures for Fiscal Years 2016–2020  
   22

5. **Sources of Tax Law and the Basics of Tax Litigation**  
29

<table>
<thead>
<tr>
<th>Cell: UNDERSTANDING TAX RATES: AVERAGE RATES, MARGINAL RATES, AND PHASEOUTS</th>
<th>32</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Average Rates and Marginal Rates</td>
<td>32</td>
</tr>
<tr>
<td>B. Phaseouts</td>
<td>36</td>
</tr>
<tr>
<td>Problems 1.1-1.2</td>
<td>40</td>
</tr>
<tr>
<td>C. Payroll Taxes and the Net Investment Income Tax</td>
<td>37</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cell: INFLATION AND THE INCOME TAX</th>
<th>40</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Bracket Creep</td>
<td>40</td>
</tr>
<tr>
<td>B. Inflation and Income Measurement</td>
<td>42</td>
</tr>
<tr>
<td><em>Hellermann v. Commissioner</em></td>
<td>43</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cell: COMPLIANCE AND ENFORCEMENT</th>
<th>48</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. The Case of Tips</td>
<td>48</td>
</tr>
<tr>
<td>Joint Committee on Taxation, General Explanation of the Revenue Provisions of the Tax Equity and Fiscal Responsibility Act of 1982</td>
<td>48</td>
</tr>
<tr>
<td>B. The Big Picture</td>
<td>52</td>
</tr>
<tr>
<td>Joel Slemrod &amp; Jon Bakija, <em>Taxing Ourselves</em></td>
<td>52</td>
</tr>
</tbody>
</table>
### Cell: TAX RETURN PREPARATION STANDARDS AND PENALTIES

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. ABA and Treasury Return Preparation Standards</td>
<td>60</td>
</tr>
<tr>
<td>American Bar Association Formal Ethics Opinion 85-352</td>
<td>60</td>
</tr>
<tr>
<td>B. Statutory Penalties for Inaccurate Tax Returns and Treasury Standards of Practice</td>
<td>64</td>
</tr>
<tr>
<td>Problem 1.3</td>
<td>65</td>
</tr>
<tr>
<td>C. Why Not a Higher Standard?</td>
<td>66</td>
</tr>
<tr>
<td>D. The Special Case of Tax Shelters</td>
<td>67</td>
</tr>
</tbody>
</table>

### Chapter 2  THE SCOPE OF GROSS INCOME

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Cash Receipts: Does Source Matter?</td>
<td>69</td>
</tr>
<tr>
<td>1. Generally, No</td>
<td>69</td>
</tr>
<tr>
<td>Commissioner v. Glenshaw Glass Co.</td>
<td>69</td>
</tr>
<tr>
<td>Cesarini v. United States</td>
<td>73</td>
</tr>
<tr>
<td>2. But Tax-Free Recovery of “Capital” Is Allowed</td>
<td>76</td>
</tr>
<tr>
<td>3. Source Matters When Congress Says Source Matters: Statutory Exclusions</td>
<td>79</td>
</tr>
<tr>
<td>a. Gifts and Bequests</td>
<td>79</td>
</tr>
<tr>
<td>Commissioner v. Duberstein</td>
<td>79</td>
</tr>
<tr>
<td>b. Damages on Account of Personal Physical Injuries</td>
<td>92</td>
</tr>
<tr>
<td>Amos v. Commissioner</td>
<td>95</td>
</tr>
<tr>
<td>Problems 2.1-2.4</td>
<td>100</td>
</tr>
<tr>
<td>c. Life Insurance</td>
<td>101</td>
</tr>
<tr>
<td>d. Other Source-Based Exclusions for Cash Receipts</td>
<td>107</td>
</tr>
<tr>
<td>B. Is It Taxable If It Isn’t Cash?</td>
<td>108</td>
</tr>
<tr>
<td>1. Generally, Yes, as Far as §61 Is Concerned</td>
<td>108</td>
</tr>
<tr>
<td>Rooney v. Commissioner</td>
<td>108</td>
</tr>
<tr>
<td>Rev. Rul. 57-374</td>
<td>112</td>
</tr>
<tr>
<td>Benaglia v. Commissioner</td>
<td>113</td>
</tr>
<tr>
<td>2. The Two Great Non-Statutory Exclusions of Non-Cash Economic Benefits</td>
<td>116</td>
</tr>
<tr>
<td>a. Imputed Income</td>
<td>116</td>
</tr>
<tr>
<td>Problems 2.5-2.7</td>
<td>119</td>
</tr>
<tr>
<td>This Week with David Brinkley</td>
<td>122</td>
</tr>
<tr>
<td>Problem 2.8</td>
<td>123</td>
</tr>
<tr>
<td>b. Unrealized Appreciation</td>
<td>123</td>
</tr>
<tr>
<td>Problem 2.9</td>
<td>123</td>
</tr>
<tr>
<td>3. Statutory Exclusions Based on the Non-Cash Nature of the Benefit, or on the Required Use of Cash</td>
<td>125</td>
</tr>
<tr>
<td>a. Employer-Provided Health Insurance</td>
<td>126</td>
</tr>
</tbody>
</table>
Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1986 128

b. Group-Term Life Insurance 130
c. Scholarships and Other Tax Benefits for Higher Education Expenses 132
   Rev. Proc. 76-47 133
   Problems 2.10-2.14 139

C. Income Inclusions as Mistake-Correcting Devices 140
   1. The Annual Tax Accounting Period 140
   2. The Uses of Hindsight 143
      a. Loans and Cancellation of Indebtedness Income 143
         United States v. Kirby Lumber Co. 143
      b. Proceeds of Embezzlement and Other Illegal Income 149
         Collins v. Commissioner 149
      c. Debt Relief Associated with the Disposition of Property 158
         Commissioner v. Tufts 161
         Rev. Rul. 90-16 170
      d. The Inclusionary Tax Benefit Rule 175
         Hillsboro National Bank v. Commissioner 175
         Rosen v. Commissioner 180
      e. A Final Note 182

| Cell: | THE LIMITS OF TAX-FREE RECOVERY OF CAPITAL | 183 |
|      | Garber v. United States | 183 |
| Cell: | DISTINGUISHING GIFTS FROM COMPENSATION FOR SERVICES | 193 |
|      | Goodwin v. United States | 193 |
| Cell: | ACCELERATED DEATH BENEFITS | 198 |
|      | Notice of Proposal Rulemaking, Qualified Accelerated Death Benefits Under Life Insurance Contracts | 198 |
| Cell: | THE PERPLEXING CASE OF THE EXTREMELY VALUABLE BASEBALL | 202 |
|      | Internal Revenue Service Press Release IR-98-56 | 202 |
| Cell: | FREE PARKING, SECTION 132, CONSTRUCTIVE RECEIPT, AND THE IRS | 205 |
|      | Charles Davenport, Being at the Top of the IRS Is Not So Taxing | 206 |
| Cell: | SECTION 132 FRINGE BENEFITS | 209 |
|      | Problems 2.15-2.28 | 209 |
| Cell: | FREQUENT FLIER MILES AND THE BETTER PART OF VALOR: A DE FACTO ADMINISTRATIVE EXCLUSION | 213 |
|      | Technical Advice Memorandum 9547001 | 213 |
|      | Lisa Miller and Tom Herman, IRS Plan to Tax Frequent Fliers Falters Again | 218 |
|      | Announcement 2002-18 | 220 |
Chapter 3  PROPERTY TRANSACTIONS  

A. The Realization Doctrine  
1. The Great Case of Eisner v. Macomber  
   Eisner v. Macomber  
2. Unrealized Appreciation, Stock Dividends, and Cash Dividends  
3. The Constitutional Issue  

B. Manipulation of the Realization Rules  
1. The Substance of a Sale Without Realization of Gain  
   Senate Report 105-33  
2. The Substance of Continued Ownership with Realization of Loss  
   Cottage Savings Association v. Commissioner  
   Problems 3.1-3.3  
3. “Cherry Picking” and the Capital Loss Limitations of §1211  

C. Nonrecognition  
1. The Concept of Nonrecognition  
2. Like-Kind Exchanges  
   Problems 3.4-3.7  
3. Involuntary Conversions  
   Problems 3.8-3.9  
4. Permanent Exclusion of Gain on the Sale of a Principal Residence  
   House Report 105-148  
5. Other Nonrecognition Provisions  

D. Installment Sales  
   Problem 3.10  

E. Annuities  
   Problems 3.11-3.12
F. Basis Rules for Property Transferred by Gift or Bequest 298
   1. Property Transferred by Inter Vivos Gift 298
      Problems 3.13-3.15 300
   2. Property Transferred at Death 300
      Problem 3.16 301
   3. Part Gift–Part Sale Transactions 302
      Problems 3.17-3.19 302

G. Basis Allocation: Piecemeal Asset Dispositions and Other Contexts 302
   Gamble v. Commissioner 302

Cell: DETERMINING THE AMOUNT OF A LOSS AND THE DEDUCTIBLE PORTION OF A LOSS 308
   A. Loss Limited to Basis 308
   B. No Deduction for Losses in Transactions Not Entered into for Profit 309
      Problems 3.20-3.21 310

Cell: A LIFE INSURANCE-ANNUITY COMBINATION 311
   Rev. Rul. 65-67 312

Cell: SELECTED TOPICS IN LIKE-KIND EXCHANGES 316
   A. Another Way of Determining the Basis of Qualified Property Received in an Exchange 316
   B. Two Ancillary Basis Rules 317
   C. Triangular Exchanges 319
      1. In General 319
      2. Deferred Exchanges 321
      3. Deferred Like-Kind Exchanges, Installment Sales, and Constructive Receipt 322
         Smalley v. Commissioner 322
      4. “Reverse” Deferred Exchanges 328
         Rutherford v. Commissioner 328
   E. Problems 334
      Problems 3.22-3.24 334

Cell: THE PERSONAL RESIDENCE GAIN EXCLUSION 335
   A. Fun and Games with §121 335
      1. Personal Residence Churning 335
      2. Section 121 as an Exclusion for Labor Income 336
   B. A Drafting Error and a Dilemma for the IRS 336

Cell: THE INSTALLMENT METHOD OF §453 339
   A. The Installment Method and Debt Relief 339
      Problem 3.25 342
<table>
<thead>
<tr>
<th>Cell:</th>
<th>ORIGINAL ISSUE DISCOUNT, §483 UNSTATED INTEREST, AND MARKET DISCOUNT</th>
<th>348</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>Original Issue Discount</td>
<td>348</td>
</tr>
<tr>
<td>1.</td>
<td>The Basic Idea</td>
<td>348</td>
</tr>
<tr>
<td>2.</td>
<td>A Little History</td>
<td>350</td>
</tr>
<tr>
<td>3.</td>
<td>Debt Issued for Hard-To-Value Property</td>
<td>351</td>
</tr>
<tr>
<td>B.</td>
<td>Section 483 Unstated Interest</td>
<td>353</td>
</tr>
<tr>
<td>C.</td>
<td>Market Discount</td>
<td>353</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cell:</th>
<th>CRYPTOCURRENCIES</th>
<th>355</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Notice 2014-21</td>
<td>355</td>
</tr>
<tr>
<td></td>
<td>United States v. Coinbase</td>
<td>358</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cell:</th>
<th>FEDERAL WEALTH TRANSFER TAXES</th>
<th>362</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>The Federal Estate Tax</td>
<td>363</td>
</tr>
<tr>
<td>B.</td>
<td>The Federal Gift Tax</td>
<td>364</td>
</tr>
<tr>
<td>C.</td>
<td>The Federal Generation-Skipping Transfer Tax</td>
<td>366</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter 4</th>
<th>PERSONAL DEDUCTIONS</th>
<th>369</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>Charitable Contributions Under §170</td>
<td>372</td>
</tr>
<tr>
<td>1.</td>
<td>The Rationale</td>
<td>372</td>
</tr>
<tr>
<td>2.</td>
<td>Contributed Services</td>
<td>373</td>
</tr>
<tr>
<td>3.</td>
<td>The Amount of the Deduction—Appreciated Property</td>
<td>373</td>
</tr>
</tbody>
</table>

  Lary v. United States                                                                 | 374 |

  Rolfs v. Commissioner                                                               | 376 |
| 4.        | Amount of the Deduction—Introduction to Quid Pro Quo Issues                     | 376 |
| 5.        | Eligible Recipients of Charitable Contributions                                  | 382 |
| 6.        | Limitations on Deductions and Carryovers                                         | 382 |
|           | Problems 4.1-4.4                                                                  | 384 |
| B.        | Interest Expense                                                                  | 385 |
| 1.        | History and Rationale                                                             | 385 |
2. Overview of the Interest Deduction Rules 387
   a. In General 387
   b. Qualified Residence Interest 387
      Problems 4.5-4.6 388
      Voss v. Commissioner 389
   c. Business Debt 395
      Redlark v. Commissioner 396
   d. Investment and Passive Activity Interest 400
   e. Educational Loan Interest 401
C. State and Local Taxes 402
   1. History and Rationale 402
   2. What Taxes Are Deductible? 403
   3. What Counts as Taxes? 404
   4. Who Can Claim the Deduction? 405
      Loria v. Commissioner 406
D. Casualty Losses 409
   1. History and Rationale 409
   2. Computing the Casualty Loss Deduction 411
      Problem 4.7 414
   3. Interpretive Issues: Notes on Developments in the Case Law and Elsewhere 414
   4. Theft Losses from Ponzi Schemes 414
      Rev. Rul. 2009-9 415
E. Medical Expenses 420
   1. History and Rationale 420
   2. What Is “Medical Care”? 421
      Commissioner v. Bilder 421
      O’Donnabhain v. Commissioner 426
   4. Health Savings Accounts and Health Flexible Spending Arrangements 434
F. Miscellaneous Itemized Deductions 436
G. Reduction of Itemized Deductions for High Income Taxpayers 436
H. Limiting Deductions 436
I. Personal Credits as a Legislative Alternative to Personal Deductions 437

Cell: RATIONALE FOR THE CHARITABLE CONTRIBUTIONS DEDUCTION 439
   Auten, Clotfelter & Schmalbeck, Taxes and Philanthropy Among the Wealthy 439
Cell: QUID PRO QUO ISSUES 448
   A. The College Football Saga 448
Chapter 5  BUSINESS EXPENSE DEDUCTIONS  

A. What Is an “Ordinary and Necessary” Expense?  

1. Necessary?  
   
   *Palo Alto Town & Country Village, Inc. v. Commissioner*  
   
   495

2. Ordinary?  
   
   *Commissioner v. Heininger*  
   
   497

B. What Is a “Trade or Business”?  

   *Commissioner v. Groetzinger*  
   
   501

C. Public Policy Limitations  

   *Tank Truck Rentals, Inc. v. Commissioner*  
   
   508

   *Californians Helping to Alleviate Medical Problems, Inc. v. Commissioner*  
   
   515

   *Mayo v. Commissioner*  
   
   521
## Contents

D. Lobbying Expenses 524  
   Geary v. Commissioner 525

E. Travel and Entertainment 529  
   1. Travel 529  
      Hantzis v. Commissioner 531  
      Problems 5.1-5.2 539
   2. Entertainment 540  
      Cohan v. Commissioner 540

F. Patrolling the Business-Personal Borders 545  
   1. Hobby Losses 546  
      Keanini v. Commissioner 546  
      Problem 5.3 554
   2. Education Expenses 555  
      Namrow v. Commissioner 555  
      Problem 5.4 560  
      Allemeier v. Commissioner 560
   3. Work-Related Clothing 565  
      Pevsner v. Commissioner 565

G. Qualified Business Income Deduction 569

<table>
<thead>
<tr>
<th>Cell:</th>
<th>REASONABLE COMPENSATION</th>
<th>572</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Exacto Spring Corp. v. Commissioner</td>
<td>574</td>
</tr>
<tr>
<td></td>
<td>Mulcahy, Pauritsch, Salvador &amp; Co. Ltd. v. Commissioner</td>
<td>581</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cell:</th>
<th>VACATION HOMES</th>
<th>586</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>The §280A Remedy</td>
<td>588</td>
</tr>
<tr>
<td>B.</td>
<td>Use as a Residence</td>
<td>588</td>
</tr>
<tr>
<td>C.</td>
<td>The Limitations on Deductibility</td>
<td>589</td>
</tr>
<tr>
<td></td>
<td>Bolton v. Commissioner</td>
<td>589</td>
</tr>
</tbody>
</table>

Chapter 6   CAPITALIZATION AND COST RECOVERY 599

A. Capitalization and Depreciation: The Basics 599  
   Problems 6.1-6.6 607

B. What Is Depreciable? 607  
   1. Nondepreciable Assets 607  
      Problem 6.7 608
   2. Section 197 Intangibles 608
   3. Depletion 609

C. What Costs Must Be Capitalized? 610  
   1. Self-Produced Property 610  
      Commissioner v. Idaho Power Co. 610
Chapter 7  TAX ACCOUNTING  647

A.  Cash and Accrual Accounting  647
   1.  The Basic Methods  647
      Problem 7.1  648
   2.  Mandatory Accrual Accounting  648
   3.  Inventory Accounting  648
      Problems 7.2-7.3  651
      Thor Power Tool Co. v. Commissioner  651

B.  The Cash Method: Selected Topics  658
   1.  Constructive Receipt  658
      Staff of the Joint Committee on Taxation, General
      Explanation of Tax Legislation Enacted in 1998  659
   2.  Prepaid Expenses  660
      Problem 7.4  660

C.  The Accrual Method: Selected Topics  661
   1.  The All Events Test, Clear Reflection of Income,
      and Economic Performance  661
      Ford Motor Co. v. Commissioner  661
      Problem 7.5  668
   2.  Early Cash Receipts of Accrual Method Taxpayers  668
      Schlude v. Commissioner  668
   3.  Later Events Inconsistent with Accruals  672
      Problems 7.6-7.8  673
Chapter 8  TAX PREFERENCES, TAX SHELTERS, AND THE ALTERNATIVE MINIMUM TAX 679

A.  Tax Preferences and Implicit Taxes: The Case of Municipal Bonds 680
   1.  The Economics of the Exclusion 680
   2.  What Qualifies as a Municipal Bond? 682
      United States Trust Co. of New York v. Anderson 683

B.  Tax Shelters 685
   1.  A Hypothetical Debt-Financed Shelter Using Municipal Bonds 685
   2.  Beyond Municipal Bonds: Tax Shelters Based on Other Tax Preferences 688
   3.  The Passive Loss Rules of §469 690
      Staff of the Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1986 690
      Hardy v. Commissioner 700
      Problems 8.1-8.5 705
   4.  Excess Business Loss Limitation 706
   5.  Judicial Anti-Abuse Doctrines 707
      Knetsch v. United States 707
      Rice’s Toyota World, Inc. v. Commissioner 712
   6.  Post-1986 Tax Shelters 718
      ACM Partnership v. Commissioner 720
      IES Industries, Inc. v. United States 724
   7.  Codification of the Economic Substance Doctrine 727
      Staff of the Joint Committee on Taxation, Technical Explanation of the Revenue Provisions of the “Reconciliation Act of 2010,” as Amended, in Combination with the “Patient Protection and Affordable Care Act” 728

C.  The Alternative Minimum Tax 732
    Klaassen v. Commissioner 733
Chapter 9  TAXATION OF THE FAMILY 739

A.  Tax Allowances for Family Responsibilities 739
1.  Allowances for Child Care Expenses 739
   a.  Child Care as a Business Expense 739
   b.  The §21 Child Care Credit 740
       Problems 9.1-9.8 741
   c.  The §129 Dependent Care Assistance Exclusion 742
       Problems 9.9-9.11 743
2.  Child Tax Benefits Not Based on Expenditures 744
   a.  Exemptions 744
   b.  The Child Credit 744
       Problems 9.12-9.13 746
   c.  Head-Of-Household Status 746
B.  The Income Tax Treatment of Marriage 748
   Lucas v. Earl 748
   Poe v. Seaborn 749
   Boyter v. Commissioner 753
C.  The Income Tax Consequences of Divorce 759
   1.  Who Gets the Child Tax Credit? 759
   2.  Transfers of Property Between Spouses and Former Spouses: §1041 759
       Problems 9.14-9.16 759
D.  Tax Issues Relating to Unmarried Couples 760
   Reynolds v. Commissioner 761
E.  The Earned Income Tax Credit 766
   1.  An Idealized Version of the Credit 766
   2.  The Real Thing 767

Cell:  A COMPARATIVE PERSPECTIVE ON CHILD CARE AS A BUSINESS EXPENSE 769
       Symes v. Canada 769
Cell:  FAMILY INCOME-SPLITTING BY STATUTE 782
Cell:  INCOME TAX MARRIAGE PENALTIES: CAUSES AND CURES 785
   A.  The Dilemma 785
   B.  The Cure? 787
       1.  Return to 1948 788
       2.  Optional Separate Filing 789
       3.  A Two-Earner Deduction 789
       4.  Mandatory Separate Returns 790
       5.  A Truly Flat Tax 790
       6.  Significant Marriage Penalty Relief 791
   C.  The Stacking Effect 791
   D.  Other Marriage Penalties 793
<table>
<thead>
<tr>
<th>Cell: WHEN IS A TRANSFER “INCIDENT TO THE DIVORCE”?</th>
<th>794</th>
</tr>
</thead>
<tbody>
<tr>
<td>Craven v. United States</td>
<td>794</td>
</tr>
<tr>
<td>Cell: ALIMONY</td>
<td>800</td>
</tr>
<tr>
<td>A. Alimony: The Basic Strategy</td>
<td>800</td>
</tr>
<tr>
<td>B. Fun and Games with the Alimony Deduction?</td>
<td>802</td>
</tr>
<tr>
<td>Problems 9.17-9.18</td>
<td>802</td>
</tr>
<tr>
<td>C. Distinguishing Alimony from Other Transfers</td>
<td>802</td>
</tr>
<tr>
<td>Problems 9.19-9.22</td>
<td>803</td>
</tr>
<tr>
<td>Cell: THE EARNED INCOME TAX CREDIT AND PROBLEMS OF ANTI-POVERTY PROGRAM DESIGN</td>
<td>806</td>
</tr>
<tr>
<td>A. The EITC and Marginal Tax Rates</td>
<td>806</td>
</tr>
<tr>
<td>Problems 9.23-9.24</td>
<td>807</td>
</tr>
<tr>
<td>B. The Accuracy of EITC Delivery: Cheating and Nonparticipation</td>
<td>809</td>
</tr>
<tr>
<td>Treasury Inspector General for Tax Administration, Without Expanded Error Correction Authority, Billions of Dollars in Identified Potentially Erroneous Earned Income Credit Claims Will Continue to Go Unaddressed Each Year</td>
<td>809</td>
</tr>
<tr>
<td>Problem 9.25</td>
<td>811</td>
</tr>
<tr>
<td>C. The EITC and Marriage Penalties and Bonuses</td>
<td>811</td>
</tr>
<tr>
<td>Problems 9.26-9.27</td>
<td>812</td>
</tr>
<tr>
<td>D. The Excessive Investment Income Rules</td>
<td>812</td>
</tr>
<tr>
<td>Problem 9.28</td>
<td>812</td>
</tr>
<tr>
<td>E. Alternatives to the EITC: Four Basic Models of Cash Transfer Programs</td>
<td>812</td>
</tr>
</tbody>
</table>

Chapter 10 IDENTIFYING THE PROPER TAXPAYER 815
A. Introduction 815
B. Earned Income 817
1. The Basic Rules 817
2. Exploring the Limits of the Doctrine: The Case of Contingent Attorneys’ Fees 818
   Commissioner v. Banks 818
   Commissioner v. Banaitis 818
3. The Effect of the Taxpayer’s Inability to Receive Income He Earns 825
   Teschner v. Commissioner 825
   Problem 10.1 829
C. Income from Property 829
1. Unrealized Appreciation in Gifted Property 829
   Taft v. Bowers 829
2. Income Streams from Income-Producing Property 831
a. In General 831
  Problems 10.2-10.5 833
b. Stripped Bonds 833
c. Labor Embodied in Property 834
d. The “Kiddie Tax” 834
e. Interest-Free Gift Loans and §7872 835
  Problems 10.6-10.8 836
f. Grantor Trusts 836
g. Controlled Corporations 838

Cell: INTEREST ON CLIENT TRUST ACCOUNTS: OF
TECHNICAL RULES AND PUBLIC RELATIONS 840
  General Counsel Memorandum 38374 840
  Rev. Rul. 81-209 845

Chapter 11  RETIREMENT SAVINGS AND CONSUMPTION
TAXATION 849
A. Individual Retirement Accounts and Qualified Plans 849
  1. Individual Retirement Accounts, Deductible and Roth 849
     Problems 11.1-11.3 852
  2. Income Tax or Consumption Tax? 852
  3. Employer-Sponsored Retirement Savings 854
  4. Limiting Consumption Tax Treatment to
     Retirement Savings 855
B. “Nonqualified” Deferred Compensation 856
   Albertson’s, Inc. v. Commissioner 858

Chapter 12  CAPITAL GAINS AND LOSSES 867
A. Introduction 867
B. Mechanics of Net Capital Gain Computation 872
  1. Capital Gain: The Long and Short of It 872
  2. Netting of Long and Short Gains and Losses 873
  3. The Several Capital Gains Rates 875
  4. Netting the Special Rate Categories 877
C. Limitations on Deductions of Capital Losses 877
  1. Rationale 877
  2. The Capital Loss Limitation Rule 877
  3. A Big Exception for Small Business Stock 878
  4. Capital Loss Carryback and Carryover 878
     Problems 12.1-12.5 878
D. Definition of a Capital Asset

1. Property Held for Sale to Customers

   United States v. Winthrop

   Problem 12.6

2. Property Used in a Trade or Business

   Corn Products Refining Co. v. Commissioner

   Arkansas Best Corp. v. Commissioner

E. Substitutes for Future Ordinary Income

   Hort v. Commissioner

   United States v. Maginnis

Table of Cases 909
Table of Internal Revenue Code Sections 913
Table of Treasury Regulation 923
Table of Revenue Rulings 925
Table of Miscellaneous IRS Pronouncements 927
Index 929