# ACC 384.6 International and InterstateTaxation - SPRING, 2013

Schedule: Tue-Thu, 3:30-4:45pm (#02860)

Classroom: CBA 4.332

Office: CBA 6.304G or, if the weather is pleasant, in the patio at the

21st St Entrance to GSB.

Office Hours: Tue-Thu, 5:00pm to 6:00pm and by appointment.

**Instructor**: Stuart R. Singer

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# **Purpose of Course:**

The purpose of the class is to develop your ability to understand how U.S. tax law analyzes transactions involving more than one national jurisdiction. The core of the course is an understanding of how the United States, and to some extent, other countries, exercise their jurisdictions to tax income from international transactions. The course will also include an examination of the U.S. taxation of foreign-based income (foreign tax credits, Subpart F), the role of income tax treaties, determination of appropriate transfer prices between affiliated companies and the treatment of income from intellectual property.

#### **Course Materials**

The course materials will consist of readings in Kuntz & Peroni, U.S. International Taxation, which is available in RIA-Checkpoint. Go to Table of Contents, then International Tax Library, then WG&L International Treatises, then Kuntz & Peroni. There will also be readings in Bittker & Eustice, *Federal Taxation of Corporations and Shareholders*, which is also available in RIA-Checkpoint. Go to Table of Contents, then Federal Library, then Federal Editorial Materials, then WG&L Federal Treatises, then Corporate Taxation, then B&E. The cases and other materials listed in the last column of this syllabus are collected in a packet which should be purchased at the COPY CENTER on the Third Floor in GSB. Finally, there are a few readings from the Hellerstein book, to be found in RIA, under the category "State Taxation" From time to time, there may also be other materials, including cases, regulations and rulings, all distributed to you on Blackboard or by email.

# **Classroom Deportment**

Cell phones must be turned off while you are in class. Beverages are OK, but no food in class.

#### **Evaluation and Grades**

I will determine your final grade on the basis of two factors: written assignments during the course (70%), and your participation in our discussions during class (30%). There will be no exams.

## Reading Assignments

The tax issues involved in international transactions are difficult and complex, and even in a summary course such as this one the reading assignments are both detailed and long. Moreover, the knowledge in classes 1, 2 and 3 will form the base for understanding the material in classes 4, 5, and 6, and so on. You cannot fall behind in these assignments

## Written Assignments

There will be three written assignments in the form which you, as professionals, would prepare for clients or employers. These may take the form of memoranda or drafting of sections of acquisition agreements. The first two memorandum assignments will be given to you on Monday, February 25 and Monday April 8, respectively, and you will have 3 days to turn them in. The third assignment will be given on the last day of class and you will have 2 days to turn it in.

# Class Participation

Just as I expect you to be able to communicate your analysis and conclusions in writing (in the memoranda discussed above), I also expect every student to participate regularly in our class discussion. There will be no exceptions; you cannot succeed in this course unless you are prepared every day to recite in class. It is far more important for each student to make efforts than to get the "right" answer. As professionals, all of the knowledge in the world will accomplish nothing unless it is coupled with the ability to express it clearly and to discuss it with your peers. I will grade each student each day on participation.

## **Missed Assignments and Attendance**

You will be excused from turning in work timely if you are deceased or if you become a parent during the semester. I am willing to entertain other excuses, but don't get your hopes up. A similar policy applies to taking an "incomplete" for the course.

#### Non-Tax Issues

In some instances, you will determine that the tax issues under discussion raise certain non-tax issues, such as accounting treatment or simply sound business practice. You should feel free to add these to our discussion in class or in your written work --- bonus points may be available for these.

Scholastic Dishonesty--Departmental Policy on Scholastic Dishonesty. The Department of Accounting has no tolerance for acts of scholastic dishonesty. The responsibilities of both students and faculty with regard to scholastic dishonesty are described in detail in the department's Policy Statement on Scholastic Dishonesty. By teaching this course, I have agreed to observe all the faculty responsibilities described in that document. By enrolling in this class, you have agreed to observe all the student responsibilities described in that document. If the application of that Policy Statement to this class and its assignments is unclear in any way, it is your responsibility to ask me for clarification.

**Memoranda**: Each student is expected to complete the memoranda independently during the designated memorandum period. No student may refer to other students' memorandum solutions or discuss the memorandum with other students during the memorandum period.

**Professional Conduct.** The highest professional standards are expected of all members of the McCombs community. The collective class reputation and the value of the Texas experience hinges on this.

**Students with Disabilities:** The University of Texas at Austin provides upon request appropriate academic accommodations for qualified students with disabilities. For more information, you may call the Office of the Dean of Students at 471-6259, 471-4641 TTY.

DATE	<u>TOPIC</u>	TEXT READING	CASES, REGS, CODE
			[May be supplemented and modified]
1-15	Precedent:		Excerpt from Saltzman, IRS Practice & Procedure
	Statutory,		
	Administrative and		
	Judicial		
1-17	Jurisdictional Basis:	K&P:¶1A2.03[1]	Kimble Glass
	Source	& [2-a&b],	Boulez
		2.03[3a], 2.03[6a],	Paul Karrer
		2.03[7a]	Rohmer
1-22 &	Jurisdictional Basis:	K&P ¶B1.03[1].	Cook v. Taut
1-24	Residence &	B1.02[3]	St. Louis Union Trust Co.
	Nationality		Matheson, Kronenberg
			Constantine
1-29 &	Jurisdictional Basis:	K&P¶¶	Evelyn Neill
1-31	Business Activities	C1.04[1], [2],	Elizabeth Herbert
		[4-a], [5-c]	Jorge Pasquel
			Piedras Negras Broadcasting, Pinchot
			Rev Ruls 73-522 & 90-80
2-5 & 2-7	Foreign Corps,	K&P ¶¶C1.03 [1],	Code Sections 871(a), (b), (h)(1)-(3) & 881(a), (b) (c).
	Nonresident Aliens	[2] [c] [i] [ii] [iii],	Fernando Barba, Central de Gas
	and FDAPI	[h] [i], [j]	Warwick Housden
		[3] [a],	SDI Netherlands
		[4], [5], [6],	Notice 94-39
		[9] [a]' [13], [15]	Rev Ruls, 74-63, 80-362.
2-12-&	Nonresident Aliens	K&P ¶¶ C1.04:	Code §§ 871(d), 872, 882 and 884(a) & (b).
2-14	and Foreign Corps	[5] [c] [i] & [ii];	Rev Ruls. 70-424, 72-280, 75-253,
	Doing Business in	[5] [d] [i] & [ii];	81-78 (with 84-17), 86-154.
	the U.S.	[5] [e]; C1.05 [2],	Notice 87-56
		[3]	Vitale v. Comm.
2-19	Tax Treaties	K&P ¶¶ C4.01 [1]	Rev Ruls 55-617, 72-301, 73-278,
		- [3], C4.03,	79-28, 79-199, 2000-59,
		C4.04[1], [2],	2004-3, 2004-76
		C4.05[1]-[4]	Ismat Abeid
		C4.12[1]-[3]	
2-21	Withholding Rules	K&P ¶¶ C2.01,	A. C. Monk
		2.02 [1], [2],[3]	PLR 9252004
		[4][c][i], [6][a],	Rev Ruls. 71-142,
		[7],&[8][c].	73-419, 83-177, 2004-109
		<u> </u>	

2-26	Foreign Tax Credit:	K&P ¶¶ B4.01,	Regs. §1.901-2 excerpt
	Part 1 Taxes on	B4.02 [1], [2], [5],	Rev Rul 57-516
	Income	[6], [8],	American Metal Company
		B4.03[1], [3][a]&[b],	Rev Rul 72-346 Bank of America
		[5][a]&[b], & [6];	Rev Rul 69-653
		B4.05[1]-[6]	Dubitzky
2-28	Foreign Tax Credit:	K&P ¶¶ B4.07,	Arundel Corp.
	Part 2: Who is the	B4.09[1] and	Rev Rul 69-468
	Taxpayer? Timing	[2][a] & [b]	Regs. §1.903-1 Excerpt.
	and Realization. Indirect Credit.		Amoco Corp., Goodyear
3-5	Foreign Tax Credit:	K&P ¶¶ B4.16[1],	Guardian,
	Part 3: Limitations,	[2], [10], [15],	Section 909
	Matching issues,	&18][a].	Badger
	Misc. issues		Rev Rul 2003-8
			Rev Ruls 76-215, 78-410
ı			Section 904(a), (b), (c) and (d)(1)
3-7	Allocation and	K&P ¶¶ A2.05[1],	Rev. Rul. 80-288
	Apportionment of	-[3], -[4], -[5] [a],	Perkin-Elmer Corp.
	Expenses by Source	[c] & [d][i], - [7], -[8][9].	
3-19	Section 911: The	K&P ¶¶ B1.04	Rev Ruls 67-158, 80-254.
	Ultimate Tax shelter	[2][b][i],[ii],	Brewster v. Comm.
		[iv],[v]; [c] [i], [ii],	Vogt v. US.
		[iii].	Cook v. US
3-21 &	Introduction to	K&P¶¶ B1.05A	Moline Properties,
3-26	Indirect Exporting:	[1]-[4], 2.02	National Carbide,
	Definition of Entity,		Perry Bass
	Choice of Entity,		In Re Frazier
	Capitalization, US Production Income.		Johnson Bronze Lloyd Noonan
3-28	Recognition and		Rev Ruls 55-62, 74-222,
	Blockage Issues		74-351, 81-290
			Anderson Clayton, Sanford Berman
			Phanor Eder, Warner Bros.
4-2	SubPart F: General	K&P¶¶	Garlock
		B3.02[a]&[b],	CCA
		B3.03[1]	Koehring
4-4	SubPart F: Foreign	K&P ¶B3.05[1].	Ashland Oil
	Base Company	[2][a], [b][i], [c][i],	Dave Fishbein
	Income	[d], [e], [g], [k]-	
		¶B3.05[3][a]&[d]	
		11-7&   [4];¶B3.05[8]	
4-9	Subpart F:	K&P ¶¶ B.3.06[1],	Rev. Rul. 76-125, Ludwig v. Comm
	Investments in US	[2] [a]-[d],	AOD 1978-139, PLR 8042001
	Property.	B3.06[3][e]&[g],	Sherwood Properties
		B3.08[1]	FSA 200216022
4-11	§482: Part One:	K&P ¶¶ A3.03 [1]-	Asiatic Petroleum
	General Rules;	[6], A3.04 [1], [3],	Local Finance, First Security Bank of Utah
	Interest	[4], [5], [6]	Rev Rul 74-566
			GCM 38545

4-16	§482: Part Two:	K&P ¶¶ A3.05[1]-	Diefenthal
	Services, Tangible	[4],	Rev Rul 78-83
	Property	A3.08 [2][a], [b],	Lufkin Foundry
		[d], [e], [f], [3],	U.S. Steel
		[4], [5], [6]	
4-18	§482: Part Three:	K&P ¶¶ A3.07	Ciba-Geigy
	Intangibles,	[2][d], [e] [f], [g]	Proctor and Gamble
	Advance Pricing	& [h]	
	Arrangements	A3.07 [5][b], [c],	
		[d], [e]	
		A3.09, A3.10	
4-23	<u>International</u>	B&E ¶¶ 15.81 &	Code §367
	Reorganizations-	15.82	Rev Ruls 67-192, 69-156
	Intro and 367(a) and		Dupont
	(d) Transactions		
4-25	<u>International</u>	B&E ¶¶15.63 &	Code § 1248(a) and (b)
	Reorgs- 367(b) and	15.83	Rev Ruls 72-421, 74-60, 81-32, 87-47
	(e) Transactions		
4-30 &	State Tax:	Hellerstein Part	Complete Auto Transit
5-2	Jurisdiction and	IV, Chap. 6, ¶¶	Quill Corporation
	Coverage	6.01, 6.02, 6.03,	Geoffrey, Inc.
		6.05, 6,06, 610,	Cerro Copper Products
		6.15	America Online