**Tax Short Outline**

1. **GROSS INCOME**
   1. **§ 61:** “gross income means *all income from whatever source*”—money, property, services. Read broadly. (*Cesarini*)
   2. **Fringe Benefits (§ 119):** Meals and lodging for convenience of employer.
   3. **Other Fringe Benefits (§ 132):** No add cost, emp. discount, de minimis, transporation, moving, retirement plans.
   4. **Employer-Provided Coverage (§ 106(a)):** get to buy health insurance with pre-tax dollars.
   5. **Cafeteria Plans (§ 125):** does not apply to highly compensated and key employees.
   6. **Imputed Income:** NOT included in GI.
   7. **Damage Payments (§ 104):** GI excludes physical damages, workmen’s comp, insurance $$, pension/disability.
   8. **Annuities (§ 72):** GI includes annuity, endowment, or life insurance payments, but not return-to-basis part.
   9. **Life Insurance (§ 101):** Benefits NOT taxable unless annuity. If employer-provided above 50K, included in GI.
   10. **Realization?** When picked off tree 🡪 fruit (*Eisner*). If used as deduction 🡪 taxable (*Haverly*).
       1. **Simple Bond:** pay tax on yearly interest.
       2. **OID Bond:** pay tax on year’s “return” as if it had been realized.
       3. **Deferral Prob:** (i) Interest-free loan. (ii) Reduced tax rate. (ii) Gov as invest. partner. (iv) Exempt. return.
   11. **Gifts (§ 102):** Gifts/inherited property NOT included in GI, and NOT deductible by giver. But interest is.
       1. **Basis** in gift is carried over, except if greater than FMV, then for losses, it is FMV (**§ 1015**).
       2. **Step Up Basis** at death (**§ 1014**).
       3. Look at intention of giver, looking at the totality of circumstances. (*Duberstein; Stanton*)
   12. **Prizes & Awards (§ 74):** Included in GI.
   13. **Scholarships & Fellows (§ 117):** NOT included. But room/board and compensation amounts *are* included.
   14. **Social Welfare Payments (§ 85):** Unemployment compensation is included. But NOT intra-family support.
   15. **Discharge of Indebtedness (§ 61):** Included in GI, but NOT if bankruptcy proceeding or purchase price reduction.
   16. **Illegal Income:** Included in income. (*Collins*)
   17. **Tax Exempt Interest (§ 103)**
2. **DEDUCTIONS**
   1. **§ 262:** No general deduction for personal, living, or family expenses. Narrowly construed.
   2. **Ordinary & Necessary Business (§ 162):** Necessary = appropriate/helpful. Ordinary = common/accepted. (*Welch*)
      1. **Salary:** Indirect market test (*Exacto*), and no deduction above $1m for public companies (**§ 162(m)**).
      2. **Against Public Policy:** Only disallowed if would frustrate sharply defined national/state policies. (*Tellier*)
      3. **Fines & Penalties (§ 162(f)):** No deduction.
      4. **Lobbying (§ 167(e)):** No deduction except for local lobbying.
   3. **Capital Expenditures (§ 263):** NOT required unless ***“separate and distinct asset.”*** Future benefit? (*INDOPCO*)
   4. **Capital Recovery** 
      1. **Losses (§ 165):** realized when sold, exchanged, or disposed. Manufactured losses (*Fender*; **§ 267**)
      2. **Bad Debt (§ 166):** Bad business debt deducted in full as ordinary loss. NOT investment debts.
      3. **Depreciation (§ 167):** MACRS (**§ 168**). Intangibles 🡪 15 yr straight line (**§ 197**).
      4. **Depletion (§ 611):** Mines, oil/gas wells, other natural deposits, and timber. Cost v. percentage depletion.
   5. **Business/Personal Borderline**
      1. **Clothing:** Needs (1) specifically required, (2) NOT adaptable to general usage; (3) not worn. (*Pevsner*)
      2. **Child Care (§ 21/129):** *Credit* based on phased out percentage based on income. 6k max (2+), 3k max (1).
      3. **Travel (§ 162) & Moving Expenses (§ 217):** For travel 🡪 <1 year, overnight, and away from home.
      4. **Entertainment (§ 274):** Must be directly related T/B or directly following/preceding T/B discussion.
      5. **Home Office (§ 280A):** Must be exclusively used on regular basis. (*Popov*)
      6. **Gambling (§ 165(d)) & Hobby (§ 183) Losses:** Allowed only to extent of gain. Nine factors. (*Storey*)
      7. **Education:** NOT deductible if qualify for *new* trade or business. (*Wassenaar*)
      8. **Job Seeking (RR 75-120):** Deductible if seeking new employment in same trade/business.
   6. **Personal Deductions**
      1. **Interest (§ 163):** Deductible EXCEPT for personal interest (except mortgages < $1m) and shams.
      2. **Taxes (§ 164(a)):** Deduction for state/local taxes and *credit* for international taxes paid (**§ 163(b)(3)**).
      3. **Casualty Losses (§ 165(c)(3)):** Fire, storm, shipwreck, theft, or other casualty. > $100 and over 10% AGI.
      4. **Medical Expenses (§ 213):** Only if NOT compensated by insurance/employers. 10% above AGI.
      5. **Charitable Contributions (§ 170):** Limited to 50% AGI and corporations 10% AGI.
3. **CHOICE OF TAXPAYER**
   1. **Marriage:** tax rate for singles is capped so as to be relatively close to couples.
   2. **Divorce (§ 71):** Payer deducts alimony payments, but is taxed on child support.
   3. **Assignment of Income:** Taxable to earner or owner of property. Property (tree) v. income (fruit). (*Earl*)
   4. **Interest-Free Loans (§ 7872):** Forgone interest is taxed as interest income to lender.
4. **TIMING**
   1. **Constructive Realization (§ 1259):** If there is constructive sale of appreciated financial position 🡪 taxed at FMV.
   2. **Deferred Payments (§ 243 Installment Method)**
   3. **Nonrecognition:** Sale of principle residence (**§ 121**), like-kind exchanges (**§1031**), and involunt. conver. (**§ 1033**)
   4. **Leverage and Deferral:** *Crane* and *Tufts*.
   5. **Deferred Compensation:** Qualifield/non-qualified plans. IRA and Roth IRA.
5. **CAPITAL GAINS AND LOSSES**
   1. **§ 1222:** LT gain means (i) sale/exchange of (ii) capital asset (iii) held for more than 1 year.
   2. **§ 1221 Capital Asset Defined**
   3. **Capital Asset?** 
      1. *Hort/P.G. Lake* – Not CA if just prepayment of future interest or substitute for ordinary income.
      2. *Ferrer* – Capital asset if you have equitable (property) interest.
      3. *Lattera* – “Family Resemblance” Test.