
Preface

Many tax professors and not a few practitioners have long considered William D. Andrews's *Basic Federal Income Taxation* to be the most insightful, policy-oriented, and coherent treatment of the field. The prospect of losing such a remarkable tool upon retirement was not a happy one, but fortunately Professor Andrews decided to update the book with the assistance of a coauthor. Under such circumstances the role of a coauthor is to be a faithful steward, not an innovator; the cardinal rule of revision is, do no harm. With Professor Andrews's input and oversight, I trust that this sixth edition of *Basic Federal Income Taxation* achieves that goal, updating a classic while preserving its distinctive attributes.

The style of the book has been retained, with its focus on cases and tax policy. Its basic organization is the same, but users of the prior edition will notice two significant changes in ordering. First, the materials on alimony, child support, divorce property settlements, and the kiddie tax, which appeared in scattered locations throughout the fifth edition, have been collected in a new chapter, titled "Taxation and the Family," where they are presented in conjunction with the cases on interspousal income attribution and the treatment of the marriage penalty and bonus. (Although placed as Chapter 17, the material on taxation and the family could be taken up at any time after Chapter 4 on gifts.) Second, Chapter 6, titled "Return of Capital and Timing Issues," provides a conceptual overview of return of capital alternatives (basis recovery techniques) and gathers together the many important issues relating to accounting methods (constructive receipt, original issue discount, prepayments, security deposits, inventories, etc.). This consolidated approach to tax timing includes a number of advanced topics from earlier editions, and so instructors may want to be selective. (We suspect that many instructors will cover Chapter 6A-C only, then skip to Chapter 7 on loans.)

The passage of ten years since publication of the fifth edition has of course occasioned many changes to reflect new developments, both legislative and judicial. Among the most notable developments are the 2001 and 2003 tax and capital gains rate reductions (Chapters 1, 8, 19, and pervasively throughout); taxing qualified dividends at capital gain rates (Chapter 5);

the D.C. Circuit's *Murphy* decision concerning the taxation of damages for nonphysical injuries (Chapter 3B); and the increasingly threatening specter of the alternative minimum tax (Chapter 16D). More attention is given to the tax treatment of health care (including health savings accounts, Chapter 3C), and the proliferation of tax benefits for education (Chapter 12H). The 2005 proposals by the President's Advisory Panel on Federal Tax Reform for changes in the tax treatment of home ownership have been included (Chapter 10C). Overall, the last decade has seen the continued unraveling of the grand compromise of the Tax Reform Act of 1986 (lower rates for a broader base), as both the Clinton and Bush Administrations have sought to advance contested policy priorities piecemeal through tax incentives. Viewed at large, Congress seems engaged in a halting semi-conscious (intermittently candid?) conversion of the federal revenue system from a realization-based income tax to a covert personal consumption tax.

Some observations from the preface to the fifth edition remain apt:

We are teaching students for a career at the bar, not just a season, and one of the challenges is to sort out and focus on things that are likely to be of lasting importance. I try to think what students will most need to know and understand ten years from now. From this perspective the main objective is to teach students about persistent underlying problems, to which current legislation may be only an ephemeral response. But ephemeral or not, it is the authoritative text through which the persistent problems are currently revealed.

Cases, text, and problems — this book has all of these. What appears to distinguish it now is more cases and less text than some other books. For students just coming to the subject, selected cases often represent by far the most efficient way to arouse interest and define the problems with which the statute and administrative authorities must deal. Even cases that turn closely on superseded provisions offer a good base for evaluating subsequent legislative provisions, actual and potential. In a sense, cases provide a proxy for the actual experience seasoned professionals will bring to bear in studying the statute. There may be other proxies, but good law students respond to judicial opinions in a lively, interactive way that is hard to duplicate with any other materials.

A note about conventions: Where footnotes from excerpted material (cases, committee reports, etc.) are reproduced, the original numbering is retained. Authors' footnotes are numbered consecutively within each chapter, except that authors' footnotes added to excerpted material are indicated with an asterisk (*) and the notes appear in square brackets with an indication of source (— EDS.). All section references in this book, unless otherwise indicated, are to the Internal Revenue Code of 1986, which is Title 26 of the United States Code. References to Treasury regulations, which are in Title 26 of the Code of Federal Regulations, are given as "Reg. §".

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I am very thankful for Peter Wiedenbeck's indefatigable energy, consummate skill, and patient good spirits in producing this new edition, and delighted with the result.

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