**Russell Stanaland**

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**(415) 781-4000**

**russ@sfcpalaw.com**

**FEDERAL TAXATION OF PROPERTY DISPOSITIONS**

**Syllabus**

**COURSE DESCRIPTION:**

Federal Taxation of Property Dispositions is a course which examines the concepts and principles governing the federal income taxation of property dispositions, including: amount realized and basis, the treatment of liabilities, characterization of gains and losses, loss limitations, and nonrecognition transactions.

**REQUIRED COURSE MATERIALS:**

References to “FLLS” are to Freeland, Lathrope, Lind & Stephens, Fundamentals of

Federal Income Taxation (17th ed., 2013). Supplementary reading items are referred to by their

item number.

Internal Revenue Code & Regulations. Sections of the Internal Revenue Code and regulations should be reviewed as they are assigned in the syllabus and discussed in the Text. The Code and regulations may be accessed online at <http://taxanalysts.com>. The username is 81100 and the password is dltax2014.

**EXAMINATION AND GRADING:**

Your grade will be based on an anonymously graded examination that will be between two and three hours long. For the exam, you will be allowed to use the course materials and anything prepared by you (including class notes). A simple calculator may be used. I reserve the right to raise or lower your grade by one grade (e.g., from a B to a B+ or B-) for class participation and attendance.

**OFFICE:**

My office is at 180 Montgomery, Suite 1850. I can also be available for questions before and after class.

**FIRST ASSIGNMENT:**

For the first class, prepare the material under I.A. & B. (do not read Item 5).

1. **The Code’s Structure for Taxing Dispositions of Property**
2. **Introduction**

Code §§ 61(a)(3); 1001(a), (b) first sentence, (c); 1011(a); 1012(a); 1016(a)(1)

Regs. §§ 1.61-6(a); 1.1001-1(a)

FLLS 103-104

1. **“Realization”**

Code Skim §§ 475(a); 1256(a)(1), (b)(1)

Regs. § 1.1001-1(a) (first sentence), (c); Skim § 1.1001-3

FLLS 347-350

Item 1 (LTR 200411023), Item 2 (Rev. Rul. 81-292); ), Item 3 (Frank Lyon Co. v. United States), Item 4 (Rev. Proc. 2001-28), Item 5 (Cottage Savings Ass’n. v Commissioner)

1. **“Property”**

Code §§ 61(a)(3), 83(a), 1221(a) (introduction), 1231(b)(1) (introduction)

Regs. §§ 1.61-6(a) (second sentence), 1.83-3(e)

FLLS: 680-682 (pay close attention to the precedents cited in *Watkins*)

1. **Determination of Basis**
2. **Introduction**

Code §§ 1011(a), 7701(a)(42)-(44)

Regs. §1.1001-1(a)

1. **“Cost” as Basis**

Code: §§ 109, 263(a), 1011(a), 1012(a), 1016(a), 1019, 1234(a)

Regs. §§ 1.61-2(d)(2)(i), 1.1012-1(a)

FLLS 104-106

1. **Capitalization Issues**
2. **Introduction**

Code §§ 162(a), 212, 262, 263(a), 263A(a) & (b)

Regs. §§1.162-1(a); 1.212-1(a), (k) & (n); 1.263(a)-1(a)-(e); skim § 1.263(a)-1(f)

1. **Amounts Paid to Acquire or Produce Tangible Property**

Regs. §§ 1.263(a)-2; 1.263(a)-3(e)(1), (2)(i), (3)(i), (6) Example 8 & 9

FLLS 293-296

1. **Amounts Paid to Acquire or Create Intangibles**

Regs. § 1.263(a)-4

FLLS 302-310

1. **Basis Allocation and Identification Issues**

Reg. § 1.61-6(a)

FLLS 788-789 (regarding the *Inaja Land Co*. case); Item 6 (Rev. Rul. 68-291)

1. **Property Acquired by Gift**

Code §§ 102, 1015(a), 7701(a)(43). See §§ 1015(d)(1)(A), (4) and (6).

Regs. § 1.1015-1, 1.1015-5(c)

FLLS 108-113, 238-241, 247-251

1. **Property Acquired Between Spouses or Incident to a Divorce**

Code §§ 1041, 1015(e)

Regs. § 1.1041-1T(a)-(e)

FLLS 114-115, 189-196

1. **Property Acquired From a Decedent**

Code §§ 1014(a), (b)(1) and (6), (c), (e); 691(a)(1)-(3)

Regs. §§ 1.1014-3(a), 20.2031-1(b)

FLLS 116-117, 807-810

1. **The Amount Realized**
2. **Introduction**

Code § 1001(b)

Regs**.** §§ 1.1001-1(b)

FLLS 118-120, 659-662

1. **Treatment of Liabilities**

Code § 7701(g)

Regs. 1.1001-2

FLLS 121-135, Item 7 (Mayerson v Commissioner and Estate of Franklin v. Commissioner)

1. **Contingent and Deferred Payment Sales**

Code §§ 453(a)-(d)(1), (j)(2)

Regs. §§ 15a.453-1(d)(2)(iii)

FLLS 785-792

1. **Carve Outs and Bootstrap Sales**

Item 8 (Alstores Corp. v. Commisssioner--note the discussion in *Alstores* of the *McCulley Ashlock* case)

1. **Capital Gains and Losses**
2. **Introduction**

FLLS 635-639

1. **The Mechanics of Capital Gains**

Code §§ 1(c), (h); 1222, 1411. See §§ 1(a)-(e), (i)(3); 1201(a); 1202(a)-(e).

FLLS 640-646, 867-869

1. **The Mechanics of Capital Losses**

Code §§ 1211; 1212(a)(1), (b); 1222(10). See §§ 165(c), (f)

1. **The Meaning of “Capital Asset”**

Code § 1221, 1236

FLLS 652-658, Item 9 (Endicott v. Commissioner)

1. **The Sale or Exchange Requirement**

Code § 1222. See §§ 165(g)(1), 1235, 1241, 1253, 1271

FLLS 659-666

1. **The Holding Period**

Code § 1223. See §§ 1014(a), 1015(a), 1041(b)(2), 1222, 1233, 1259.

FLLS 667-671

1. **Judicial Gloss on the Statute**

1. **“Income” Property**

Code §§ 102(b), 273, 1001(e), 1241

Regs. §§ 1.1014-5, 1.1015-1(b)

FLLS 672-682, 242-243

1. **Correlation with Prior Transactions**

FLLS 683-686, 690-691

1. **Statutorily Created Capital Gain and Loss Consequences**

Code: 165(g), 166(d), 1222, 1234, 1234A, 1235, 1236, 1237, 1241, 1253, 1271

FLLS 691-696

1. **§ 1231 Recharacterization**

Code § 1231

FLLS 696-702

1. **Methods of Cost Recovery**

Code §§ 167 (note § 167(b)), 168, 179, 197, 1016(a)(2); Skim §§ 174, 195, 263(c), 280F,

616, & 617.

Regs. §§ 1.167(a)-2, -3; 1.167(b)-0(a), -1(a), -2(a); 1.167(g)-1; 1.179-1(e); 1.165-9(b)(2),

1.212-1(h)

FLLS 369-400, 402-404; 426-428; Skim Item 10 (Rev. Proc. 87-56); read Item 11 (Rev.

Proc. 87-57) and Item 12 (Rev. Rul. 2001-60)

1. **Depreciation Recapture**

Code §§ 1016, 1245, 1250. See §§ 179(d)(10), 1239, 1252, 1254

Regs. §§ 1.179-1(e), 1.1245-6(a)

FLLS 713-717, 718-720

1. **Nonrecognition Provisions**
2. **Introduction**

FLLS 823-824

1. **Like Kind Exchanges**

Code §§ 1001(c), 1031, 1223(1). See §§ 121(d)(1), 1245(b)(4), 1250(d)(4)

Reg. §§ 1.1001(a)-1, -2; 1.1031(b)-1, -2; 1.1031(c)-1; 1.1031(d)-1, -2; 1.1031(j)-1.

Skim § 1.1031(k)-1.

FLLS 825-841, Item 13 (Rev. Rul. 84-121), Item 14 (Rev. Rul. 72-456)

1. **Involuntary Conversions**

Code §§ 1033, 1223(1). See §§ 1245(b)(4), 1250(d)(4)

Regs. §§ 1.1033(a)-1, -2; 1.1033(b)-1; 1.1033-1(g)-1

FLLS 843-851

1. **Other Nonrecognition Provisions**

Code: §§ 121, 1038

Regs. §§ 1.121–1 through -4

FLLS 206-210, 852-855, Item 15 (§ 1038 Example)

1. **Loss Limitations**

Code §§ 465; 469; . Skim 165(a)-(h); 166; 172(a); 183(a); 267(a)(1), (b), (c), (d) & (g);

280A(a) & (c); 542(a)(2); 544; 1091; 1211; 1212

Regs. §§ 1.165-1, -5; 1.166-1; 1.465-8, -20, -27; 1.469-1T(a) through (e)(3), (e)(6), (f),

(g)(1) through (4); 1.469-2T(a) through (c)(4), (c)(7), (d)(1) through (d)(6), (d)(8), (e)(1), (f)(1) through (f)(3), (f)(7); 1.469-4; 1.469-5T; 1.469-9

Prop. Regs. §§ 1.469-1 though -7, -9, -11 through -13, -22 through -25, -38, -41, -66

FLLS 474-477, 491-502

1. **Sale of a Business**

Code §§ 197, 1060, 6721

Regs. §§ 1.197-2(a)-(f), (g)(1) & (2), (k) Examples1-10; 1.1031(j)-1(a); 1.1060-1. Skim

§ 1.469-4.

FLLS 702-705, 398-399, Item 16 (Peco Foods inc. v. Commissioner)