This is a basic tax treaty course that will cover fundamental tax treaty concepts such as residency, permanent establishment, business profits, limitation on benefits, and relief from double taxation (including operation of the U.S. foreign tax credit rules). There will be an overview of treaty provisions that apply to investment income and income from the performance of services. In addition, students will learn about the interaction of tax treaties with U.S. internal tax law, the role of international organizations in interpreting tax treaties, procedures for resolving tax treaty disputes through the competent authority process, and strategies for researching tax treaties. This course is designed for students with little or no background in tax treaties. However, students will be expected to have a basic understanding of the U.S. tax rules that apply to foreign persons who receive income from the United States and U.S. persons who receive income from abroad. The course will be based primarily on the United States Model Income Tax Convention, together with selected case law and administrative authority. We will also look at selected provisions of the OECD Model Tax Convention.

Strongly Recommended: Prior or concurrent enrollment in a course in international taxation.

There are no required textbooks. Course materials will be posted on TWEN.

Class 1 (Sept. 9, 2015)

Assignment:
- Articles 1 and 4 of US model (and corresponding portions of model TE) [available on TWEN course site]
- Revenue Rulings 84-17, 2000-59, and 2004-76
- Code sections 894 and 7852(d)
- Skim Opening Statement of Robert B. Stack, Treasury Deputy Assistant Secretary (International Tax Affairs), Senate Committee on Foreign Relations, June 19, 2014 [available on TWEN course site]
Class Discussion:
- Background (purpose, negotiation, ratification)
- Locating treaties and related documents
- Model treaties (US, OECD)
- Technical explanations, OECD commentary
- Residence
- Saving clause
- Interaction with domestic law

Class 2 (Sept. 16, 2015)

Assignment:
- Articles 3, 5, 7, and 9 of US model (and corresponding portions of model TE)
- Article 5 of OECD model [available on TWEN course site]
- Skim OECD Commentary to Article 5 [available on TWEN course site]

Class Discussion:
- Definitions
- Permanent establishments
- Business profits
- Associated enterprises

Class 3 (Sept. 23, 2015)

Assignment:
- Articles 6, 10-13, and 21 of US model (and corresponding portions of model TE)
- Skim Treas. Reg. § 1.894-1(d)

Class Discussion:
- Dividends
- Interest
- Royalties
- Gains
- Income from real property
- Other income

Class 4 (Sept. 30, 2015)

Assignment:
- Articles 14-20 of US model (and corresponding portions of model TE)
• Article 20 of 1994 US-France income tax treaty (and corresponding portion of TE)

Class Discussion:
• Personal services (dependent and independent)
• Government services
• Pensions and social security
• Pension funds
• Entertainers and sportsmen
• Students and teachers

Class 5 (Oct. 7, 2015)

Assignment:
• Aiken Industries v. Commissioner, 56 T.C. 925 (1971)
• Rev. Rul. 84-152
• Johansson v. United States, 336 F.2d 809 (5th Cir. 1964)
• Code section 7701(l) and Treas. Reg. § 1.881-3
• Article 22 of US model (and corresponding portion of model TE)
• Skim Action Plan on Base Erosion and Profit Shifting [available on TWEN course site]
• Skim Revised discussion draft, BEPS Action 6: Prevent Treaty Abuse, 22 May 2015 – 17 June 2015 [available on TWEN course site]

Class Discussion:
• Treaty abuse
• Limitation on benefits

Class 6 (Oct. 14, 2015)

Assignment:
• Articles 2 and 23-25 of US model (and corresponding portions of model TE)
• Rev. Proc. 2015-40

Class Discussion:
• Treaty abuse (continued, if necessary)
• Double taxation
• Non-discrimination
• Overview of mutual agreement procedure

Class 7 (Oct. 21, 2015)

Assignment:
• Articles 25-26 and 28-29 of US model (and corresponding portions of model TE)
• Forms W-8BEN, 8802, 8833
  • Skim Treas. Reg. § 301.6114-1

Class Discussion:
• Mutual agreement procedure (continued)
• Arbitration
• Exchange of information
• Collection assistance
• Entry into force
• Effective dates
• Termination
• Claiming treaty benefits

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There will be a take-home exam to be administered approximately two weeks following the last class.