TABL5515
TAXATION OF CAPITAL GAINS

Course Outline
Semester 1, 2015
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**About the lecturers**

Kalmen Datt
BComm LLB (Rand) M Tax S (1st Hons) (Auckland)Grad Cert
ULT(UNSW) PhD (UNSW)

Kalmen Datt joined Atax as a lecturer in 2004. Kalmen was previously a barrister in South Africa and a solicitor/barrister in New Zealand. He has practiced in courts of first instance and appeal for more than 20 years. Kalmen has extensive experience in the procedures adopted by all courts and other tribunals in the resolution of disputes and the rules of evidence. He has completed courses in mediation and has appeared in mediations and arbitrations as counsel.

Prior to emigrating to Australia, Kalmen was a solicitor with Inland Revenue in New Zealand advising on tax issues. He assisted the School of Business at the University of Auckland in the teaching of tax and GST.

In addition, Kalmen has successfully completed the Common Professional exams in the UK.
Gordon Cooper
AM, BSc(Econ) NUU, FCA, FTI (Life), FAICD, CTA, TEP

Gordon Cooper is an Adjunct Professor in the School of Taxation and Business Law at UNSW.

He is a chartered accountant in sole practice as a tax consultant.

He has a particular emphasis on capital gains tax and is the co-author (with Chris Evans) of the *Australian CGT Handbook* which is published by Thomson Reuters.

He is a frequent speaker at seminars and a regular contributor to professional publications.

Also he is a former member of the Tax Practitioners Board.

Gordon has a long list of professional involvements:

- He is a former President of the Taxation Institute of Australia.
- He is a former Governor of the Australian Tax Research Foundation.
- He is Chairman of the Committee of the Australian Branch of the International Fiscal Association.
- He is the Patron of the Australasian Tax Teachers Association.
- He is the Chairman of the Australasian Branch of the UK Chartered Institute of Taxation.
Letter of introduction

I would like to take this opportunity to welcome you to the course *Taxation of Capital Gains* in the Atax Program.

This is a postgraduate course and as such it is expected that you have a broad basic understanding of the capital gains tax regime as it applies in Australia. However, there is no set prerequisite for this course. For those of you who require background reading to familiarise yourselves with the territory to be covered, you may find the early chapters of the *Australian CGT Handbook* an excellent starting point—have an early look at Chapters 1 and 2 at the very least. Chapters 7 and 8 of the latest edition of *Australian Taxation Law* by Woellner R, Barkoczy S, Murphy S, Evans C and Pinto D (CCH) provides another good overview of the Australian CGT regime.

The best strategy for achieving maximum results is to start early and keep well ahead of the Suggested Study Schedule so as to allow for any possible disruption due to family or other commitments. You should not allow yourself the ‘luxury’ of falling behind, since failure to carefully read and analyse the earlier modules will inevitably lead to a failure to comprehend the later modules. If you are having any difficulties, it is better to address them sooner rather than later.

I will be teaching the distance mode of the course, while my colleagues Gordon Cooper and Vanessa Priest, both eminent practitioners and/or academics, will conduct the evening classes for those of you enrolled in the CBD mode. I will coordinate both modes.

Please give this course the attention it deserves. I hope you will find it enjoyable, and stimulating and helpful in your day-to-day work. Do not hesitate to contact me (my contact details are included later in this Course Profile).

*Dr Kalmen Datt*
Introduction to the course

This course centres upon the basic structure and central concepts of the Australian so-called ‘capital gains tax’ (‘CGT’) in Parts 3–1 and 3–3 (‘the Parts’) of the Income Tax Assessment Act 1997 (formerly Part IIA of the Income Tax Assessment Act 1936). Its first aim is to ensure that students have a clear grasp of the context within which CGT exists, and to this end the early part of the course is devoted to an analysis of the theoretical background against which Part IIA was introduced in 1985. It also explores the major changes that occurred to the taxation of capital gains in the late 1990s, including the rewrite of the provisions in ITAA97 and the introduction of significant CGT discounts for individuals and for superannuation funds that emerged as a result of the implementation of recommendations of the Review of Business Taxation in 1999.

Building upon this background, the course then provides a clear overview of the scheme of the Parts and their place within the general direct taxing provisions of the ITAA, and detailed analysis of the calculation provisions contained within the scheme. This provides the springboard for a consideration of the way in which the Parts operate so far as different business entities—companies, trusts and partnerships—are concerned. This analysis continues by looking at the CGT rules that apply to specific assets including shares and securities, leases and options. The next part of the course examines the specific exemptions that exist within the Parts (and in particular those relating to the main residence), and the roll-over provisions that apply in respect of marital breakdown, involuntary disposal and, most importantly, business and corporate reorganisations. Finally, the course considers the CGT concessions (exemptions and roll-overs) that exist for small business taxpayers.

The course should typically be taken early in the postgraduate program as it provides much of the technical content that is built upon in later postgraduate courses. It introduces students to a selected number of more complex CGT problems, and aims to develop advanced skills in statutory construction and a critical analysis of working rulings. Opportunities are taken to introduce international comparisons and examples of ‘best practice’, reinforcing the notion that the regime must be seen as an evolving body of legislation that has a way to travel before it successfully achieves its policy objectives and general professional acceptance.
Relationship to other courses in program

This course constitutes the core capital gains course in the postgraduate program. It is recommended that students undertake this course early in their program of study as it provides essential building blocks and concepts that are developed in later courses.

Course summary

The modern tax professional cannot operate successfully or efficiently without a sound understanding of the CGT regime and how it impacts upon personal and business decisions. This course is designed to provide you with that understanding.

Course objectives

The objectives of this course are to give a clear understanding of the reasons for the introduction of a Capital Gains Tax in Australia, and to give a grounding in its scope and application in a variety of situations. In so doing the course also seeks to develop a number of graduate attributes (outlined below).

In this context, the specific course objectives are to:

• facilitate students’ understanding of the rationale for taxing capital gains, and provide an understanding of the scheme of capital gains taxation in Australia

• enable students to determine the application of the CGT legislative provisions in any given case

• develop students’ skills of statutory construction and their ability to critically review interpretations of legislative provisions

• prepare students for more complex problem-solving in future courses.

Student learning outcomes and goals

Learning outcomes are what you should be able to do by the end of this course if you participate fully in learning activities and successfully complete the assessment items. The learning outcomes in this course will help you to achieve some of the overall learning goals for your program. These program learning goals are what we want you to be or have by the time you successfully complete your degree. The following is a list of the Business School program learning goals for both undergraduate and postgraduate students.
Undergraduate Program Learning Goals

1. **Knowledge:** *Our graduates will have in-depth disciplinary knowledge applicable in local and global contexts.*

   You should be able to select and apply disciplinary knowledge to business situations in a local and global environment.

2. **Critical thinking and problem solving:** *Our graduates will be critical thinkers and effective problem solvers.*

   You should be able to identify and research issues in business situations, analyse the issues, and propose appropriate and well-justified solutions.

3. **Communication:** *Our graduates will be effective professional communicators.*

   You should be able to:
   
   a) Prepare written documents that are clear and concise, using appropriate style and presentation for the intended audience, purpose and context, and
   
   b) Prepare and deliver oral presentations that are clear, focused, well-structured, and delivered in a professional manner.

4. **Teamwork:** *Our graduates will be effective team participants.*

   You should be able to participate collaboratively and responsibly in teams, and reflect on your own teamwork, and on the team’s processes and ability to achieve outcomes.

5. **Ethical, social and environmental responsibility:** *Our graduates will have a sound awareness of the ethical, social, cultural and environmental implications of business practice.*

   You should be able to:
   
   a) Identify and assess ethical, environmental and/or sustainability considerations in business decision-making and practice, and
   
   b) Identify social and cultural implications of business situations.
Postgraduate Coursework Program Learning Goals

1. **Knowledge:** Our graduates will have current disciplinary or interdisciplinary knowledge applicable in local and global contexts.

   You should be able to identify and apply current knowledge of disciplinary or interdisciplinary theory and professional practice to business in local and global environments.

2. **Critical thinking and problem solving:** Our graduates will have critical thinking and problem solving skills applicable to business and management practice or issues.

   You should be able to identify, research and analyse complex issues and problems in business and/or management, and propose appropriate and well-justified solutions.

3. **Communication:** Our graduates will be effective communicators in professional contexts.

   You should be able to:
   
   a) Produce written documents that communicate complex disciplinary ideas and information effectively for the intended audience and purpose, and
   
   b) Produce oral presentations that communicate complex disciplinary ideas and information effectively for the intended audience and purpose.

4. **Teamwork:** Our graduates will be effective team participants.

   You should be able to participate collaboratively and responsibly in teams, and reflect on your own teamwork, and on the team’s processes and ability to achieve outcomes.

5. **Ethical, social and environmental responsibility:** Our graduates will have a sound awareness of ethical, social, cultural and environmental implications of business issues and practice.

   You should be able to:
   
   a) Identify and assess ethical, environmental and/or sustainability considerations in business decision-making and practice, and
   
   b) Consider social and cultural implications of business and/or management practice.

The following table shows how your Course Learning Outcomes relate to the overall Program Learning Goals, and indicates where these are developed and assessed:
<table>
<thead>
<tr>
<th>Program Learning Goals</th>
<th>Course Learning Outcomes</th>
<th>Course Assessment Item</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>This course helps you to achieve the following learning goals:</strong></td>
<td><strong>On successful completion of the course, you should be able to:</strong></td>
<td><strong>This learning outcome will be assessed in the following items:</strong></td>
</tr>
<tr>
<td>1</td>
<td><strong>Knowledge</strong></td>
<td>Demonstrate a working knowledge of the rationale and operation of CGT in Australia, and its scope and application in a variety of situations, to determine the application of the CGT legislative provisions in any given case.</td>
</tr>
<tr>
<td>2</td>
<td><strong>Critical thinking and problem solving</strong></td>
<td>Demonstrate skills of statutory construction and an ability to critically review interpretations of legislative provisions in applying the CGT provisions to a range of practical scenarios. Demonstrating an independent capacity to resolve complex CGT issues, and to critically analyse CGT legislation in terms of both technical application and policy rationale. Demonstrate an ability to conduct a literature survey to identify appropriate and relevant sources, and to effectively analyse and apply these sources in the construction of legal argument.</td>
</tr>
<tr>
<td>3a</td>
<td><strong>Written communication</strong></td>
<td>Recognise and resolve legal and tax problems and develop clear, effective and well-reasoned analysis of the tax consequences of practical scenarios. Apply correct citation and referencing conventions in properly acknowledging all source material used.</td>
</tr>
<tr>
<td>3b</td>
<td><strong>Oral communication</strong></td>
<td>Not specifically addressed in this course.</td>
</tr>
<tr>
<td>4</td>
<td><strong>Teamwork</strong></td>
<td>Work in teams to develop model answers to class questions, and show a capacity for leadership in the presentation of group work.</td>
</tr>
<tr>
<td>5a</td>
<td><strong>Ethical, environmental and sustainability responsibility</strong></td>
<td>Consider the Australian CGT regime within the context of the broader Australian taxation system (including the ethical considerations that underpin taxation and the provision of professional advice in the area); and to compare Australian CGT trends and perspectives in the taxing of capital gains with more global trends and perspectives.</td>
</tr>
<tr>
<td>5b</td>
<td><strong>Social and cultural awareness</strong></td>
<td>Not specifically addressed in this course.</td>
</tr>
</tbody>
</table>
Course evaluation and quality enhancement

The School of Taxation & Business Law’s quality enhancement process involves regular review of its courses and study materials by content and educational specialists, combined with feedback from students. Towards the end of the semester, you will be asked to complete an online survey via myUNSW to evaluate the effectiveness of your course lecturer and the actual course content. These surveys are administered as part of the UNSW Course and Teaching Evaluation and Improvement process (‘CATEI’). Your input into this quality enhancement process through the completion of these surveys is extremely valuable in assisting us in meeting the needs of our students and in providing an effective and enriching learning experience. The results of all surveys are carefully considered and do lead to action towards enhance the quality or course content and delivery.

The feedback received from students in this course in Semester 1, 2013 indicated that students were generally well satisfied on all ten aspects of the course that were evaluated, with mean ratings and satisfaction scores that were generally equivalent to or better than School and Faculty averages.

Student responsibilities and conduct

Students are expected to be familiar with and to adhere to university policies in relation to attendance, and general conduct and behaviour, including maintaining a safe, respectful environment; and to understand their obligations in relation to workload, assessment and keeping informed.

You are expected to conduct yourself with consideration and respect for the needs of your fellow students and teaching staff. More information on student conduct is available at: https://my.unsw.edu.au/student/atoz/BehaviourOfStudents.html. Guide to online behaviour: https://student.unsw.edu.au/online-study. You should take note of all announcements made in lectures, tutorials, the Atax Bulletin, or on the course Website (Moodle). From time to time, the School or the University will send important announcements to your university e-mail address without providing you with a paper copy. You will be deemed to have received this information. It is also your responsibility to keep the University informed of all changes to your contact details.

Information and policies on these topics can be found in the ‘A-Z Student Guide: https://my.unsw.edu.au/student/atoz/A.html and specific information for students studying taxation programmes can be found in the Atax Student Guide. See, especially, information on Attendance and Absence, Academic Misconduct, Assessment Information, Examinations, Student Responsibilities, Workload and policies such as Occupational Health and Safety.
How to use this package

If you are new to flexible learning you should carefully read this Course Outline. It contains most of the relevant information about how this course will be run and the expectations of you as a student. You should also refer to the Suggested Study Schedule at the end of this Course Outline as a guide to completing your coursework. So as to get the most out of your study we recommend that you follow this study schedule through the course and fit various time demands into a well-organised diary. Systematic study through the Semester is the key to success in a flexible learning program.

The Study Guide (which includes this Course Outline and the individual Modules and is sometimes referred to as the study materials or course materials) can help you in three ways.

1. It sets out a clear path of study over the Semester and helps you plan your workload. It also identifies learning outcomes and key concepts at the start of each module and provides a series of activities to help you learn actively and manage your own progress through the course.

2. It contains the core content for the course (often with reference to legislation, textbooks and other relevant material). The structure and layout of the Study Guide is designed to highlight key points and assist your revision for assignments, research papers and examinations.

3. It tells you when to refer to textbooks, legislation and other readings, giving precise details of what you should read.

Features of the Study Guide

Each module includes a range of features to assist you in managing your learning and developing study skills. These features include:

- Overview page
- Heading levels
- Learning outcomes and key concepts
- Module text
- Activities and feedback
- Readings
- Margin notes
- Instructional icons

Please familiarise yourself with the Key to Instructional Icons on the following page. These icons are intended to help you navigate the study materials and to encourage active learning.
Key to instructional icons

- compulsory reading
- optional reading
- note this important point
- recall earlier work
- access Moodle or the internet
- discuss with colleague
- discuss with study group
- undertake investigation or research
- use video resource
- use audio resource
- use software
- perform fieldwork

write responses outside the Study Materials
write response in the Study Materials
pause to reflect
prepare for discussion in an Audio Conference or Webinar

Only some of the media shown in the instructional icons are used in this course.
Profile of this course

Course description

Course number/s  TABL3015/5515

Course name  Taxation of Capital Gains

Units of credit  6

This course is taught in parallel to both undergraduate and postgraduate students. The study materials are universal for all students, however, the assessment tasks differ.

Suggested study commitment  You should plan to spend an average of 10–12 hours per week on this course to perform well (including class attendance, online participation, assignments, examination preparation etc). The information included on the overview page of each module should help you plan your study time.

Semester and year  Semester 1, 2015

Lecturer/s  Dr Kalmen Datt

Contact details
Telephone:  +61 (2) 9385 9688
Fax:  +61 (2) 9313 6658
Email:  k.datt@unsw.edu.au
Textbooks and references

Prescribed textbook/s

You must purchase or have access to the following publication/s.


This is referred to throughout the Study Guide as ‘Textbook’.

Act/s

You must purchase or have access to the following publication/s.

*Income Tax Assessment Act 1997*
*Income Tax Assessment Act 1936*

These are referred to throughout the Study Guide as ‘Act’.

Citation and style guide

In presenting written work for assessment in this course you must use an appropriate and consistent style for referencing and citation. The following is a selection of acceptable citation and style guides, which you may use as the basis for your written work. You must purchase or have access to one of the following publications.


(This is free to download and is the citation style guide used by the majority of Australian legal journals.)


Recommended reference/s

Below is a list of further references that you may find useful in this course. Purchase of recommended references is not compulsory.


This is the classic, concise dictionary of legal terms which is very useful for students of law based subjects.


Supporting your learning

Conferencing (Distance mode)

Conferences may be either in the form of an audio conference (conducted by telephone) or a webinar (ie, a web-based Conference conducted over the Internet). Instructions on preparing for and participating in audio conferences and webinars are available on the Taxation & Business Law website and in your course Moodle website.

These Conferences provide an opportunity for you to clarify and extend your understanding of the material in this course. They are designed to try out new ideas and give you a forum to ask questions and discuss issues with your lecturer and other students. Do not be afraid to participate—it is only by trying out new ideas and exploring their dimensions that you will learn in any real depth.

Thorough preparation is essential if you are to gain maximum benefit from a Conference. You can only start to come to grips with material if you work on it actively. As a general rule each Conference will cover the module/s between the previous Conference and the week it falls within on the Suggested Study Schedule. However, more specific information on material to be covered in each Conference may be provided via Moodle throughout the Semester (see ‘Online learning in this course’ below). Exact dates and times for Conferences will be advised via a timetable that you will find on Moodle and on the TBL Website (under Timetables).

There are six audio conferences for this course during the Semester. The Suggested Study Schedule in this Outline indicates in which weeks Conferences will be held. Each Conference is of approximately one and a half hours duration.

Remember Conferences are not lectures—your active participation is an important part of the learning experience and preparation for examinations!

Evening Classes (CBD mode)

Evening Classes are available to students studying in CBD mode only.

Regular classes for this course are held in the Sydney Central Business District throughout the semester. Please refer to the Suggested Study Schedule at the end of the Course Outline for specific information.

These classes will be conducted in a seminar style, rather than a lecture format, with an emphasis on interaction, problem solving and active participation by students. They are designed to try out new ideas and give you a forum to ask questions and discuss issues with your lecturer.
and other students. Do not be afraid to participate—it is only by trying out new ideas and exploring their dimensions that we learn.

Attendance at evening classes is a compulsory requirement in this course (unless you are undertaking this course on a continuing education/non assessment basis), and you are required to attend at least 80% of the available classes in order to achieve a passing grade in this course (ie, you must attend at least 10 of the 12 classes).

Thorough preparation is essential if you are to gain maximum benefit from classes. You can only start to come to grips with material if you work on it actively. A class preparation guide providing more detail will be issued in the first class and will also be made available early in semester via Moodle (see ‘Online learning in this course’ below). Additional information on material to be covered in each class may be provided via Moodle throughout the semester.

**School of Taxation & Business Law Website**

The School of Taxation & Business Law’s website is at:

https://www.business.unsw.edu.au/about/schools/taxation-business-law

In addition to general information for all of the School’s students and visitors, there is a portal under Student Resources which contains information specific to those students undertaking flexible learning courses—for example, information about exams, timetables and the Weekly Bulletin:

https://www.business.unsw.edu.au/about/schools/taxation-business-law/student-support

**Atax Student Guide**

The Atax Student Guide is a vital source of information for students studying flexible learning courses. It provides administrative and other information specific to studying these courses and you should make a point of being familiar with its contents. You can access the 2015 Atax Student Guide from your Moodle course website(s).
Library and resources

There are several resources that you can access from the School of Taxation & Business Law website to help you with your academic and research goals. Online tax and legal resources can be found at: https://www.business.unsw.edu.au/about/schools/taxation-business-law/student-support/useful-links.

From this site you can access:

- The UNSW Library’s catalogue, online databases and e-journals
- The UNSW Learning Centre for online academic skills resources (eg, essay and assignment writing, plagiarism), and
- Gateway’ links to legislation, case law, tax and accounting organisations and international tax agencies.

UNSW Library

UNSW Library provides information resources, services and research support that can assist UNSW students complete their course requirements. Online library resources such as online databases, e-books and e-journals are available 24 hours a day via the Library Homepage (http://www.library.unsw.edu.au/).

Information about your borrowing rights for hardcopy resources is available from the Library Homepage. All students can use the InterLibrary Loan service to access resources not held within UNSW Library.

Library Subject Guides

The UNSW Library has developed Subject Guides which identify major electronic resources in specific subject areas and are the ideal starting point for research.

Subject Guides

There are a range of Subject Guides in Business and Law topics, and a guide specific to electronic Taxation resources in the Taxation Subject Guide at http://subjectguides.library.unsw.edu.au/law/taxation.

Getting Library help

The Help Zones are where you can find library staff to help you. They are located just inside the entrance to each library.

See opening hours for staffed hours of library Help Zones.

See Contact Us for telephone numbers of the Help Zones. Help Zone staff can assist you with:
• locating journal articles, cases and legislation
• searching on-line databases and e-journals
• loans of books

You can also use the ‘Ask Us’ icon on the Library Homepage to ask the Library a question online.

For library related queries you can also contact the Faculty Outreach Librarian to the UNSW Business School.

Online learning in this course

UNSW Australia uses an online learning platform called ‘Moodle’. You should try to familiarise yourself with Moodle early in the semester. The Moodle course websites are where lecturers post messages and deliver documents to their class, where students can complete quizzes, submit assignments and participate in discussions, etc. This platform is an important link between you, your lecturer and your peers, and you should make a habit of regularly accessing your Moodle course website as part of your study regime.

All of the School’s flexible learning courses will have a Moodle course website, which is accessible only by students enrolled in that particular course. The contents of each site will vary, but at a minimum will provide you with information about the course, course content, assignment submission, email, relevant links to online resources and the opportunity to network with fellow students. In addition, Conferences will be recorded and made available via Moodle.

Log into Moodle from: https://moodle.telt.unsw.edu.au/.

Moodle support

A complete library of how-to guides and video demonstrations on the Moodle learning management system is available via the UNSW Teaching Gateway at http://teaching.unsw.edu.au/elearning.

Moodle technical support

If you encounter a technical problem while using Moodle, please contact the UNSW IT Service Desk via the following channels:

Website: https://www.it.unsw.edu.au/students/
Email: ITServiceCentre@unsw.edu.au
Telephone: +61 (2) 9385 1333

Phone and email support is available Monday to Friday 8am – 8pm, Saturday and Sunday 11am – 2pm. Online service requests can be made via their website.
Other support

Additional support for students is available from the UNSW Learning Centre, which provides a range of services to UNSW students. The Learning Centre website also features very helpful online resources which may assist you to refine and improve your study skills. You can access these resources and find out more about the services available at www.lc.unsw.edu.au.

As well as the Learning Centre, the faculty’s Education Development Unit (EDU) provides academic writing, study skills and maths support specifically for Business School students. Services include workshops, online and printed resources, and individual consultations. For further information, see:

https://www.business.unsw.edu.au/students/resources/learning-support

The EDU contact details are as follows:

Phone: +61 (2) 9385 5584
Email: edu@unsw.edu.au

The ‘Academic Support’ section of the Atax Student Guide details further services available to assist in achieving success in a flexible learning environment.

Those students who have a disability that requires some adjustment in their teaching or learning environment are encouraged to discuss their study needs with the course convenor prior to, or at the commencement of, their course, or with the Equity Officer (Disability) in the UNSW Equity and Diversity Unit (telephone: +61 (2) 9385 4734; email: seadu@unsw.edu.au). Issues to be discussed may include access to materials, signers or note-takers, the provision of services and additional exam and assessment arrangements. Early notification is essential to enable any necessary adjustments to be made. For further information, you may also wish to look at the Student Equity and Disabilities Unit homepage at http://www.studentequity.unsw.edu.au/
Academic Honesty and Plagiarism

UNSW has an ongoing commitment to fostering a culture of learning informed by academic integrity. All UNSW students and staff have a responsibility to adhere to this principle of academic integrity. Plagiarism undermines academic integrity and is not tolerated at UNSW.

The University regards plagiarism as a form of academic misconduct, and has very strict rules regarding plagiarism. For UNSW policies, penalties, and information to help you avoid plagiarism see: http://www.lc.unsw.edu.au/plagiarism/index.html as well as the guidelines in the online ELISE and ELISE Plus tutorials for all UNSW students: http://subjectguides.library.unsw.edu.au/elise.

To see if you understand plagiarism, do this short quiz: http://www.lc.unsw.edu.au/plagiarism/plagquiz.html

For information legal citation go to: http://www.law.unimelb.edu.au/mulr/submissions/quick-aglc

The following discussion of plagiarism is adapted from the UNSW website at https://my.unsw.edu.au/student/atoz/Plagiarism.html.

Plagiarism is using the words or ideas of others and presenting them as your own. Plagiarism is a type of intellectual theft. It can take many forms, from deliberate cheating to accidentally copying from a source without acknowledgement.

Examples of plagiarism include:

- direct duplication of the thoughts or work of another, including by copying work, or knowingly permitting it to be copied—this includes copying materials, ideas or concepts from a book, article, report or other written document (whether published or unpublished), computer program or software, website, internet, other electronic resource, or another person’s assignment, or the student’s own assignment from a previous course, without appropriate acknowledgement

- quotation without the use of quotation marks

- paraphrasing another person’s work with very minor change keeping the meaning, form and/or progression of ideas of the original

- citing sources which have not been read, without acknowledging the ‘secondary’ source from which knowledge of them has been obtained

- piecing together sections of the work of others into a new whole

- presenting an assessment item as independent work when it has been produced in whole or part in collusion with other people (eg, another student or tutor)
• claiming credit for a proportion of work contributed to a group assessment item that is greater than that actually contributed
• using another person’s ideas or words in an oral presentation without crediting the source.

Note also that submitting your own assessment item that has already been submitted for academic credit at UNSW or elsewhere may also be considered plagiarism.

The basic principles are that you should not attempt to pass off the work of another person as your own, and it should be possible for a reader to locate information and ideas you have used by going to the original source material. Acknowledgement should be sufficiently accurate to enable the source to be located quickly and easily.

The University has adopted an educative approach to plagiarism and has developed a range of resources to support students. If you are unsure whether, or how, to make acknowledgement, consult your lecturer or visit The Learning Centre at UNSW or at the following address:
http://www.lc.unsw.edu.au/

For more information, please refer to UNSW’s Plagiarism & Academic Integrity website at the following address:
http://www.lc.unsw.edu.au/plagiarism/index.html

Academic Misconduct carries penalties. If you are found guilty of academic misconduct, the penalties include warnings, remedial educative action, being failed in an assignment or being excluded from the University for a number of years. All students who are found guilty of academic misconduct will be placed on the UNSW Academic Misconduct register.
Assessment for Undergraduate Students (TABL3015)

All assignments must be submitted electronically through Moodle. Please refer to Appendix A for guidelines on assignment preparation and rules for electronic submission of assignments (as well as information on deadlines and penalties for late submission).

Assessment for undergraduate students undertaking this course will be on the basis of:

(a) Assignments 50%
(b) Final examination 50%

In order to pass this course, a student enrolled at Bachelor level must obtain:

- 50 per cent or more of the total marks available in the course and
- at least 40 per cent of the marks available for the final examination in the course.

Assignments (50%)

Assignment submission dates

There are 2 assignments:

**Assignment 1**
- Due date: Monday, 30 March 2015
- Weighting: 25%
- Word limit: 2500 words (plus or minus 10%)

**Assignment 2**
- Due date: Monday, 18 May 2015
- Weighting: 25%
- Word limit: 2500 words (plus or minus 10%)

Assignment topics are included on the following pages.
Final examination (50%)

The final examination will be open book, of 2 hours duration plus 10 minutes reading time, and will cover the whole Semester’s content. Note that you will not be permitted to write during the reading time.

Examinations are held from Friday 12 June to Monday 29 June 2015 for Semester 1, 2015. Students are expected to be available for exams for the whole of the exam period.

The final examination timetable is published prior to the examination period via the Atax Weekly Bulletin and on the School’s website at:

https://www.business.unsw.edu.au/about/schools/taxation-business-law/student-support/examinations

This is not a negotiable schedule. The School of Taxation & Business Law publishes the exam schedule as a matter of courtesy, and to ensure that any clashes of examinations are brought to our attention.
ASSIGNMENT 1: TABL3015

Undergraduate Students only

Due date: Submit via Moodle by Monday, 30 March 2015 (Midnight, AEDT*)
Weighting: 25%
Length: 2500 words (plus or minus 10%)

* Australian Daylight Saving time

Topic:
Most capital gains are fictitious in that they merely reflect an inflationary gain. It is therefore inappropriate to tax capital gains, or, if they must be taxed, they should be taxed at a much lower rate than other income.

Required:
Critically evaluate this statement in the light of Australia’s experience with the taxation of capital gains.
Evaluation criteria

An important note on word limits

Assignments are exercises in filtering material and communicating it succinctly. Quantity is not to be confused with quality. Atax lecturers will uniformly apply this principle in their assessment of assignments.

Most word processing packages indicate word lengths, or otherwise some manual check must be done in the drafting process. Indicate the actual number of words of your assignment in the space indicated on your assignment cover sheet.

The following criteria will be used to grade assignments:

- ability to cut through the undergrowth and penetrate to key issues
- identification of key facts and the integration of those facts in the logical development of argument
- demonstration of a critical mind at work and, in the case of better answers, of value added to key issues over and above that of the source materials
- clarity of communication—this includes development of a clear and orderly structure and the highlighting of core arguments (including, where appropriate, headings)
- sentences in clear and, where possible, plain English—this includes correct grammar, spelling and punctuation
- correct referencing and bibliographic style in accordance with a recognised and appropriate citation and style guide (when uploading, check your footnotes have been correctly submitted).

You are encouraged to read beyond the study materials and references to do the assignment.
Zed Pty Ltd (Zed), a company incorporated in Australia, carries on an investment business. The equal shareholders of the company are two Australian residents, Garry and Doris. The company commenced trading in 1981. The company acquired a freehold property (Greenacre) in September 1981 for AUD$250,000 and in February 1992 a block of land (Bluehaven) for AUD $1 million. On 1 June 1994 Zed acquired one million shares in a company quoted on the United States Stock exchange for US $1m. This is equivalent to 30% of the issued share capital in the American company. As at 1 June 1994 US $1=AUD $0.75. The average conversion rate for the year ended 30 June 1994 was US $1 = AUD $0.80.

In June 2011 Garry and Doris sold their shareholding in Zed to Allan and Olivia for AUD $4million. Olivia is at all times a citizen of Australia but resides permanently in Singapore. At that time the Greenacre was worth AUD $500,000; Bluehaven was worth AUD $1.5million and the shares were worth the US $ equivalent of AUD $2million. Allan and Olivia each acquire 50% of the issued share capital in Zed. Allan and Olivia wish to continue the investment activities of Zed.

On 15 March 2014 an offer is received from a private company registered in Australia (Purchaser Co) to acquire the properties (Greenacre and Bluehaven) from Zed which it accepts. The payment terms of the transaction are the following:

- Purchaser Co would pay AUD$1million on signing the agreement on 15 March 2014;
- Purchaser Co would pay a further AUD$2million on settlement which occurs on 31 July 2014 and from which date Purchaser Co would be entitled to all the benefits from Greenacre including rentals;
- Purchaser Co would pay a further unascertained amount based on rentals received during the period 1 July 2014 up to and including
30 June 2017. The amount payable is to be calculated and paid to Zed Ltd on 28 July 2017.

The right to receive the additional consideration has been valued at AUD $100,000 by Zed Ltd. In July 2017 a calculation is made of rentals received in the intervening 3 years and it is found that Zed Ltd is entitled to and receives a payment of AUD $150,000 from Purchaser Co.

Allan and Olivia, sign an agreement with Purchaser Co on 15 March 2014, that they will not erect or own any buildings within 5 kilometres of either Greenacre or Bluehaven for a period of 5 years commencing on 1 July 2014. They each receive AUD $100,000 for this undertaking on 31 July 2014.

On 30 August 2014 Zed declares and pays a dividend totalling AUD$2.5million to Allan and Olivia from the proceeds of the sale of Greenacre and Bluehaven.

On 31 December 2014 Zed transfers the shares it holds in the US Company to Allan and Olivia in settlement of their credit loan accounts in the company. At this time the value of each of the loan accounts is AUD$3million.

Half the shares in the US Company held by Olivia are sold on 30 June 2015 for US $1m. The exchange rate at this time is US $1 = AUD $0.78.

**Required:**

Advise

1. Zed
2. Garry and Doris; and
3. Allan and Olivia

on the tax implications of the above transactions having regard only to CGT issues. Cite legislative or other authority to support your answer wherever possible.
Evaluation criteria

An important note on word limits

Assignments are exercises in filtering material and communicating it succinctly. Quantity is not to be confused with quality. Atax lecturers will uniformly apply this principle in their assessment of assignments.

Most word processing packages indicate word lengths, or otherwise some manual check must be done in the drafting process. Indicate the actual number of words of your assignment in the space indicated on your assignment cover sheet.

The following criteria will be used to grade assignments:

• correct identification, explanation and application of relevant legislation to the facts of the problem
• ability to cut through the undergrowth and penetrate to key issues
• demonstration of a critical mind at work and, in the case of better answers, of value added to key issues over and above that of the source materials
• accurate numerical answers
• clarity of communication—this includes development of a clear and orderly structure and the highlighting of core arguments (including, where appropriate, headings)
• sentences in clear and, where possible, plain English—this includes correct grammar, spelling and punctuation

You are encouraged to read beyond the study materials and references to do the assignment.
Assessment for Postgraduate students (TABL5515)

All assignments must be submitted electronically through Moodle. Note, however, that your Research Paper synopsis (if required) should not be submitted through the assignment section of Blackboard. Please refer to Appendix A for guidelines on assignment preparation and rules for electronic submission of assignments (as well as information on deadlines and penalties for late submission).

Assessment for postgraduate students undertaking this course will be on the basis of:

(a) Annotated reading list and research paper plan 10%
(b) Research paper 40%
(c) Final examination 50%

In order to pass this course, a student enrolled at postgraduate level must obtain:

• 50 per cent or more of the total marks available in the course and
• at least 40 per cent of the marks available for the final examination in the course.

Assignments (50%)

Assignment 1 (Annotated reading list and research paper plan)

Due date: Monday, 30 March 2015
Weighting: 10%
Word limit: 1000 words (plus or minus 10%)

Assignment 2 (Final Submission)

Due date: Monday, 18 May 2015
Weighting: 40%
Word limit: 4000 words (plus or minus 10%)
Final examination (50%)  
The final examination will be open book, of 2 hours duration plus 10 minutes reading time, and will cover the whole Semester’s content. Note that you will not be permitted to write during the reading time.

Examinations are held from **Friday 12 June to Monday 29 June 2015** for Semester 1, 2015. Students are expected to be available for exams for the whole of the exam period.

The final examination timetable is published prior to the examination period via the **Atax Weekly Bulletin** and on the School’s website at:  
https://www.business.unsw.edu.au/about/schools/taxation-business-law/student-support/examinations

**This is not a negotiable schedule.** The School of Taxation & Business Law publishes the exam schedule as a matter of courtesy, and to ensure that any clashes of examinations are brought to our attention.
ASSIGNMENT 1: TABL5515
(Research Plan and Reading List)

Postgraduate Students only

Due Date: Submit via Moodle by Monday, 30 March 2015
(Midnight, AEDT*)
Weighting: 10%
Length: 1000 words (plus or minus 10%)

* Australian Daylight Saving time

Prepare an Annotated Reading List (includes Bibliography) and a Research Paper Plan for your research paper. Your Research Paper Plan should identify the key issues and outline the structure for your research paper (but do not write out an answer).

You may select one of the prescribed topics, or devise your own research topic (see below).

Please note that an example of an Annotated Reading List (Bibliography) has been placed on Moodle and further details are provided below. You are only required to annotate 3 or 4 of the total references. You can include cases and legislation in your list.

Page 2 of Appendix A provides details of the set out for a Bibliography.

Please note that the word limit of 1000 words (plus or minus 10%) words is for the total of the Annotations and the Research Paper Plan. It does not include the actual references themselves (the bibliography).
Prescribed topics

1. “The proliferation of financial centres, increasing globalisation and the adoption of cost rationalisation measures are increasingly encouraging companies to migrate.”
   (Anton Joseph, *CCH Tax Week* 5 June 2008.)

   Review and critically evaluate the CGT implications of such corporate inversions, identifying technical issues that may arise for both the corporations and their shareholders, together with possible strategies that may be employed to overcome any problems that do arise.

2. The manner in which the capital gains legislation deals with issues relating to trusts has long been problematic. Identify and discuss any problems with trusts in relation to CGT and make suggestions as to how it could be improved.

3. Critically evaluate the CGT small business concessions contained in the Australian CGT regime, and provide recommendations (which may be policy and/or technically focused) for improvement. Your evaluation may include consideration of the policy drivers for the introduction of such provisions, and determine the extent to which the technical provisions have achieved those policy objectives. It may also identify and analyse the manner and extent to which these provisions integrate appropriately with other CGT and related tax provisions.

4. Compare and contrast one or more major design features of Australia’s CGT with the way in which those features are dealt with in the CGT regimes adopted in other jurisdictions. In doing so, identify the extent to which the different approaches adopted reflect different policy drivers. By reference to your comparative analysis, identify aspects of the other regimes that might improve the Australian CGT measures if adopted here.

5. Critically evaluate the provisions enacted in 2013 that deal with the removal of the CGT discount for foreign resident individuals. Your evaluation should seek to explain why the change was made, how it was made, and – most importantly – should clearly discuss whether the change is likely to achieve its objectives.
Alternative topic

As an alternative to the five topics identified above, you may select a CGT topic of your choice. If you choose this option, you should consult the course convenor—Dr Kalmen Datt: +61 (2) 9385 9688 or e-mail k.datt@unsw.edu.au—to discuss and agree your alternative choice.

Required

The prescribed topic, or an alternative topic which you select and agree with your lecturer, will require a review of the sections of the Income Tax Acts, of any relevant textbooks, and of journal articles, reports and conference papers on the topic. Depending on your argument, some cases may also be relevant. The topic then requires a plan of how the information from these sources will be combined to answer the question that has been posed.

Accordingly, you are required to:

1. List the sources that will be of value to you in attempting to answer this question. Organise the sources into groups according to their type—eg, sections of the 1936 Act, sections of the 1997 Act, cases, textbooks (identify pages used), journal articles, conference papers etc.

2. In the list of sources, give full and accurate references which accord with one of the approved citation and style guides (see list earlier in this Course Outline).

3. Select 3 or 4 items from the list of sources that you find particularly valuable in answering the question. Explain what it is that the selected sources say or provide, that makes them valuable and indicate how they contribute to the argument within your proposal (ie, your thesis). Merely descriptive selections will be unhelpful.

4. Prepare an outline (a plan) of what you propose to say in your research paper, indicating the structure and identifying in point form the likely content of the research paper.

DO NOT write up a full answer to the assignment. An example of an annotated reading list (from an unrelated area) may be found on the Moodle site for this course.
Evaluation criteria (for annotated reading list and research paper plan)

An important note on word limits

Assignments are exercises in filtering material and communicating it succinctly. Quantity is not to be confused with quality. Atax lecturers will uniformly apply this principle in their assessment of assignments.

Most word processing packages can indicate word lengths, or otherwise some manual check must be done in the drafting process. Indicate the actual number of words of your assignment in the space indicated on your assignment cover sheet.

The following criteria will be used to grade your assignment:

• evidence of ability to conduct a literature survey to identify appropriate and relevant sources

• an appropriate mix of sources, including relevant text books, refereed journal articles, and professional, official and technical references from both Australian and overseas sources

• effective analysis and use of primary sources including reports, submissions, taxation statistics, case law and statutory material

• ability to plan and structure a research paper, as evidenced in the submitted research paper plan, which shows that your approach has been informed by your research

• sentences in clear and, where possible, plain English—this includes correct grammar, spelling and punctuation

• correct referencing and bibliographic style in accordance with the prescribed citation and style guide.

You are required to read well beyond the course materials and references to do the assignment.
ASSIGNMENT 2: TABL5515
(Final Submission)

Postgraduate Students only

Due Date: Submit via Moodle by Monday, 18 May 2015
(Midnight, AEST)
Weighting: 40%
Length: 4000 words (plus or minus 10%)

Write and submit a research paper on the topic you identified for the first assignment.

Note that you may wish to depart from your original plan either because you have changed your views or because of suggestions made on your first assignment. That is acceptable, but if in doubt, you should discuss the matter with your lecturer.

Guidelines

The following guidelines have been developed to assist you to plan and complete your assessment.

1. Planning the research

Be aware that the session is very short and that there is no flexibility in the date for submission. Once you have chosen the topic you should be in a position to identify the key issues that you will wish to focus upon in your paper. Be modest and circumscribed in the goals you set yourself. It is better to make good progress on narrow fronts than to produce vast and vague conjecture on a broad range of fronts. Remember that we are looking for the ability to filter complex material in an original and analytical manner.

You will need to conduct a literature search at an early stage of the session in order to identify the materials available to you. Having identified and reviewed the material you will be able to consolidate the issues, and you can then prepare your annotated bibliography and plan.
2. Presentation

You will probably find the writing of the final paper to be the easiest part of the process. The research paper should be organised, well-structured and make use of plenty of spacing and headings. They should be typed or word processed on A4 size paper with a 5 cm margin. The number of words should be clearly stated at the end of the paper. All quotations should be fully referenced, and acknowledgment must be made of any work or material which is not your own. Beware of ‘overdoing’ quotes—they should be used sparingly and only where their inclusion adds value to the exposition.

Each paper should commence with a short (less than one page) abstract and conclude with a full bibliography. The word limit will not include the abstract or the bibliography. There is no need to provide a contents page.

It is to be hoped that some of the better research papers will be publishable without too much more work. It may well be that another outcome will be the stimulation of further work in the area by the specialist cells of the Tax Office and the professional bodies, using your work as the basis for such developments. Your work may even be suitable for actual submission to the Board of Taxation.

If you have any queries on the above, you should phone Dr Kalmen Datt on +61 (2) 9385 9688 or e-mail to k.datt@unsw.edu.au.
Evaluation criteria

An important note on word limits

Assignments are exercises in filtering material and communicating it succinctly. Quantity is not to be confused with quality. Atax lecturers will uniformly apply this principle in their assessment of assignments.

Most word processing packages can indicate word lengths, or otherwise some manual check must be done in the drafting process. Indicate the actual number of words of your assignment in the space indicated on your assignment cover sheet.

The following criteria will be used to grade your assignments:

- knowledge of the subject area and an ability to locate your chosen area of research within an appropriate context—in certain circumstances international comparisons may be appropriate
- independent research
- analysis rather than mere description
- the clarity and strength of that analysis—this will include evidence of your understanding of the issues involved in the topic, and your ability to use that understanding in an applied manner
- analysis which is supported by authority
- ability to cut through the undergrowth and penetrate to key issues
- effective organisation and communication of material (including economy of presentation—ie a minimum of waffle)
- clarity of communication—this includes sentences in clear and, where possible, plain English; it also includes correct grammar, spelling and punctuation
- critical approach to material presented and evidence of original and independent thought
- quality of judgment and balance in filtering the complex material you are dealing with
- quality of research and bibliography.
- correct referencing and bibliographic style in accordance with the prescribed citation and style guide.

You are required to read beyond the course materials and references to do the assignment. Research papers must not be merely descriptive. They must present a point of view.
# Suggested study schedule (Distance students only)

<table>
<thead>
<tr>
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<th>Beginning</th>
<th>Module</th>
<th>Topic</th>
<th>Events and submissions</th>
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<td>1</td>
<td>2 March</td>
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<td>Background</td>
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<td>2</td>
<td>9 March</td>
<td>2</td>
<td>Core provisions</td>
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<td>16 March</td>
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<td>3</td>
<td>Entities</td>
<td>Audio Conference 2</td>
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<td>3</td>
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<td>Mid-semester break from Friday 3 April to Sunday 12 April 2015 (NOTE: Daylight saving ends on Sunday 5 April 2015)</td>
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<tr>
<td>6</td>
<td>13 April</td>
<td>4</td>
<td>Specific assets</td>
<td>Audio Conference 3</td>
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<td>7</td>
<td>20 April</td>
<td>5</td>
<td>Exemptions</td>
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<td>8</td>
<td>27 April</td>
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<td>Exemptions</td>
<td>Audio Conference 4</td>
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<td>9</td>
<td>4 May</td>
<td>6</td>
<td>Roll-overs and reorganisations</td>
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<tr>
<td>10</td>
<td>11 May</td>
<td>6</td>
<td>Roll-overs and reorganisations</td>
<td>Audio Conference 5</td>
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<tr>
<td>11</td>
<td>18 May</td>
<td>7</td>
<td>Small business concessions</td>
<td>Assignment 2 due</td>
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<tr>
<td>12</td>
<td>25 May</td>
<td>7</td>
<td>Small business concessions</td>
<td>Audio Conference 6</td>
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<tr>
<td>13</td>
<td>1 June</td>
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<td>Course revision</td>
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<td></td>
<td>Examination period from Friday 12 June to Monday 29 June 2015</td>
</tr>
</tbody>
</table>
# Study/class schedule (CBD students only)

**ALL Classes for Taxation of Capital Gains** will be held on **TUESDAY** evenings from 6pm to 8pm at UNSW, CBD Campus Level 6, 1 O’Connell Street, Sydney.

<table>
<thead>
<tr>
<th>Week</th>
<th>Beginning</th>
<th>Module</th>
<th>Topic (You should ensure you have read this material prior to the class)</th>
<th>Events and submissions</th>
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<tbody>
<tr>
<td>1</td>
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<td>2</td>
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<td>Entities</td>
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</table>

**Mid-semest**erm break from Friday 3 April to Sunday 12 April 2015  
(NOTE: Daylight saving ends on Sunday 5 April 2015)

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<thead>
<tr>
<th>Week</th>
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<td>Entities</td>
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<td>Evening Class 6</td>
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<td>Exemptions</td>
<td>Evening Class 7</td>
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<td>9</td>
<td>4 May</td>
<td>5/6</td>
<td>Exemptions/Roll-overs and reorganisations</td>
<td>Evening Class 8</td>
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<td>11 May</td>
<td>6</td>
<td>Roll-overs and reorganisations</td>
<td>Evening Class 9</td>
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<td>1 June</td>
<td>–</td>
<td>Course revision</td>
<td>Evening Class 12</td>
</tr>
</tbody>
</table>

**Examination period from Friday 12 June to Monday 29 June 2015**

Evening classes are available to students studying in the CBD mode only. Most classes will be held on Level 6. Please ensure to check the Plasma Screen at reception for classroom location details prior to each lecture. Alternatively, you may call reception on (02) 9931 9444 prior to arrival to confirm classroom details.