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STUDY GUIDE

Module 1  Introduction to SMSF regulation design
Module 2  Establishment, contribution and operational issues
Module 3  Investment standards
Module 4  Benefit payments
About the lecturer

Gordon Mackenzie CA  
BSc LLB (Monash) LLM (Sydney) Grad Dip Securities Analysis  
F Fin FTIA

Gordon is a senior lecturer and joined Atax in February 2002. He has over 30 years experience in the field of superannuation, as an industry practitioner, consultant and lecturer. His roles have included:

- technical services director at AMP Ltd (30 qualified staff serving 3000 financial planners)
- superannuation lawyer responsible for superannuation funds holding $50bn in assets
- teaching Taxation of Superannuation at postgraduate masters level
- developing and teaching ‘Tax Strategies in Financial Planning’ curricula—an advanced course in the taxation of personal wealth
- authorship of Taxation of Superannuation for Halsbury Australia
- convenor of Master of Tax (Tax and Financial Planning).

He has a Bachelor of Science (Biochem) and Bachelor of Laws from Monash University, a Master of Laws from Sydney University and a Graduate Diploma in Securities Analysis from the Financial Services Institute of Australasia. Gordon has extensive experience in corporate taxation, including restructures both domestically and internationally, and cross border transactions.

Gordon has prepared and presented submissions to Government on behalf of many industry bodies and corporates in the financial services sector, on superannuation and international taxation, and securities law matters. He has also presented to Senate Standing committees on a number of occasions.
Letter of introduction

Welcome to Self Managed Superannuation Funds Law, one of the optional courses offered in a number of Atax courses.

Superannuation is an area of the law which seems always to be under constant review and has undergone significant and sometimes quite dramatic changes in the last twenty years. Those changes encompass the statutory regulation of all funds and other superannuation entities which seek to obtain the taxation concessions available under the Income Tax Assessment Act 1936 (ITAA 36) and the Income Tax Assessment Act 1997 (ITAA 97). Self managed superannuation funds (SMSFs) have not been immune from these changes. In fact, self managed funds have been under the legislative spotlight more than the other types of funds.

Indeed, SMSFs were one of the subjects of the Cooper Review into the functioning of the superannuation system. Overall, the Cooper panel observed that SMSFs were being managed adequately. Indeed, we have already seen many of the recommendations from the Tax Review concerning retirement incomes become law.

This course concentrates on the regulatory requirements of the Superannuation Industry (Supervision) Act 1993 (SISA). To a lesser degree the taxation aspects of superannuation are also covered. When administering or advising on a SMSF these two aspects of the fund operation go hand in hand because it is the nature of the regulatory structure which affords the taxation concessions.

In this course, therefore, we shall be looking at the key aspects of SMSFs from the prudential aspects through to the taxation areas. This ranges from the establishment of the fund, acceptance of contributions, the income of the fund and, finally the payment of benefits to members and other beneficiaries.

Our objective in this course is for you to gain a solid grounding in the operation of an SMSF. The content and activities presented in the course modules include examples of how the rules operate to help achieve this objective. Importantly, we also want you to walk away from this course with a solid understanding of the ‘architecture’ of an. If you have that, you will be ideally positioned to integrate the next set of changes in this ever changing area.

Please do not hesitate to contact me if you require assistance.

Gordon Mackenzie
Introduction to the course

Relationship to other courses in program
The SMSF Law course was developed as part of a Masters degree program designed to meet the needs of service providers (accountants and lawyers) in the financial planning sector. Atax, previously in the School of Law but now part of the UNSW Business School, and the Banking and Finance School in the UNSW Business School have combined resources to develop this Master of Financial and Tax Planning program, which will be articulated with a Graduate Certificate and Graduate Diploma. This course is a key part of that program and is also available as an elective course to students enrolled in the Master of Taxation, Master of International Tax and LLM programs.

Course summary
The course provides an introduction to the operation and administration of SMSFs. This includes the operation of the *Superannuation Industry (Supervision) Act* 1993, how the income of an SMSF is taxed, the treatment of contributions to SMSFs, and the taxation of benefits paid on retirement and when other conditions of release are met.

Course objectives
On completion of this course, you should be able to:

- explain the differences between the operation and administration of an SMSF compared to other superannuation entities
- understand the nature and purpose of SMSFs
- describe the purpose and effect of the SISA as it applies to SMSFs
- understand and apply the special taxation rules that apply to superannuation contributions, superannuation funds and superannuation benefits, as provided in the ITAA 36 and ITAA 97
- apply those special rules in a variety of factual situations.
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 UNSW Business School program learning goals for both undergraduate and postgraduate students.

UNSW Business School 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.
UNSW Business School 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>This course helps you to achieve the following learning goals:</td>
<td>On successful completion of the course, you should be able to:</td>
<td>This learning outcome will be assessed in the following items:</td>
</tr>
<tr>
<td>1 Knowledge</td>
<td>Consider both the regulatory framework for, and tax treatment of, superannuation in assessing whether current and proposed legislation properly reflects policy intent in this area.</td>
<td>Module Activities Assignments Examination</td>
</tr>
<tr>
<td>2 Critical thinking and problem solving</td>
<td>Apply, in a variety of factual situations, the special taxation rules applicable to superannuation contributions, superannuation funds and superannuation benefits. Demonstrate an ability to identify appropriate and relevant sources, and to effectively analyse and apply these sources in the construction of legal argument. Masters students will be able to demonstrate a critical approach to material presented and evidence of original and independent thought.</td>
<td>Module Activities Assignments Examination</td>
</tr>
<tr>
<td>3a Written communication</td>
<td>Recognise and resolve legal and tax problems. Develop clear, effective and well-reasoned analysis of the tax consequences of practical scenarios using the conventions of legal essay writing. Apply correct citation and referencing conventions in properly acknowledging all source material used.</td>
<td>Assignments Examination</td>
</tr>
<tr>
<td>3b Oral communication</td>
<td>Not specifically addressed in this course.</td>
<td></td>
</tr>
<tr>
<td>4 Teamwork</td>
<td>Not specifically addressed in this course.</td>
<td></td>
</tr>
<tr>
<td>5a. Ethical, environmental and sustainability responsibility</td>
<td>Not specifically addressed in this course.</td>
<td></td>
</tr>
<tr>
<td>5b. Social and cultural awareness</td>
<td>Not specifically addressed in this course.</td>
<td></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.

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 Materials (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 Materials 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 Materials

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
- write responses outside the Study Materials
- optional reading
- write response in the Study Materials
- note this important point
- pause to reflect
- recall earlier work
- prepare for discussion in an Audio Conference or Webinar
- discuss with colleague
- discuss with study group
- access Moodle or the internet
- undertake investigation or research
- use video resource
- use audio resource
- use software
- perform fieldwork

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

Course description

<table>
<thead>
<tr>
<th>Course number/s</th>
<th>TABL3040/5540</th>
</tr>
</thead>
<tbody>
<tr>
<td>Course name</td>
<td>Self Managed Superannuation Funds Law</td>
</tr>
<tr>
<td>Units of credit</td>
<td>6</td>
</tr>
</tbody>
</table>

This course is taught in parallel to both undergraduate (TABL3040) and postgraduate (TABL5540) 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 2, 2015

Lecturer/s

Gordon Mackenzie and Graeme Colley

Contact details

Telephone: +61 (2) 9385 9521 and 8252 5575
Fax: +61 (8) 8212 5993
Email: gordon.mackenzie@unsw.edu.au graemecolley@spaa.asn.au
Textbooks and references

Prescribed textbook/s

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


Act/s

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


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 students only)

Conferences may be either in the form of an audio conference (conducted by telephone) or a webinar (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 the audio conferences will be held. Each audio conference is of approximately one and a half hours duration.

Remember audio conferences are not lectures—your active participation is an important part of the learning experience and preparation for examinations!
Evening Classes (CBD students only)

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

ALL Classes for SMSF Law will be held on WEDNESDAY evenings from 6pm to 8pm at UNSW, CBD Campus Level 6, 1 O'Connell Street, Sydney.

Please refer to the Suggested Study/Class Schedule at the end of the Course Outline for specific dates, times and venues.

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:


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, Webinars 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 UNSW 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 Integrity at UNSW**

UNSW has an ongoing commitment to fostering a culture of learning informed by academic integrity. All UNSW staff and students have a responsibility to adhere to this principle of academic integrity. Plagiarism undermines academic integrity and is not tolerated at UNSW. Plagiarism at UNSW is defined as using the words or ideas of others and passing them off as your own.

The UNSW Student Code (https://www.gs.unsw.edu.au/policy/documents/studentcodepolicy.pdf) provides a framework for the standard of conduct expected of UNSW students with respect to their academic integrity and behaviour. It outlines the primary obligations of students, and directs staff and students to the Code and related procedures. In addition, it is important that students understand that it is not permissible to buy essay/writing services from third parties as the use of such services constitutes plagiarism because it involves using the words or ideas of others and passing them off as your own. Nor is it permissible to sell copies of lecture or tutorial notes as students do not own the rights to this intellectual property.

Where a student breaches the Student Code with respect to academic integrity the University may take disciplinary action under the Student Misconduct Procedure (https://www.gs.unsw.edu.au/policy/documents/studentmisconductprocedures.pdf)

**Examples of plagiarism including self-plagiarism**

**Copying:** Using the same or very similar words to the original text or idea without acknowledging the source or using quotation marks. This includes copying materials, ideas or concepts from a book, article,
report or other written document, presentation, composition, artwork, design, drawing, circuitry, computer program or software, website, internet, other electronic resource, or another person's assignment, without appropriate acknowledgement.

**Inappropriate paraphrasing:** Changing a few words and phrases while mostly retaining the original structure and/or progression of ideas of the original, and information without acknowledgement. This also applies in presentations where someone paraphrases another’s ideas or words without credit and to piecing together quotes and paraphrases into a new whole, without appropriate referencing.

**Collusion:** Presenting work as independent work when it has been produced in whole or part in collusion with other people. Collusion includes students providing their work to another student before the due date, or for the purpose of them plagiarising at any time, paying another person to perform an academic task and passing it off as your own, stealing or acquiring another person’s academic work and copying it, offering to complete another person’s work or seeking payment for completing academic work. This should not be confused with academic collaboration.

**Inappropriate citation:** Citing sources which have not been read, without acknowledging the 'secondary' source from which knowledge of them has been obtained.

**Self-plagiarism:** ‘Self-plagiarism’ occurs where an author republishes their own previously written work and presents it as new findings without referencing the earlier work, either in its entirety or partially. Self-plagiarism is also referred to as 'recycling', 'duplication', or 'multiple submissions of research findings' without disclosure. In the student context, self-plagiarism includes re-using parts of, or all of, a body of work that has already been submitted for assessment without proper citation.
Assessment: Undergraduate Students (TABL3040)

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 Bachelor 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

Assignment submission dates

There are 2 assignments:

**Assignment 1**
Due date: Monday, 7 September 2015
Weighting: 25%
Word limit: 2000 words (plus or minus 10%)

**Assignment 2**
Due date: Monday, 12 October 2015
Weighting: 25%
Word limit: 2000 words (plus or minus 10%)

Assignment topics are included on the following pages.

You may be asked to submit your assignment through Turnitin, which will allow you to check your work for inadvertent plagiarism. You will do this via Moodle. Note that the version lodged at the due date will be taken as your final submission in the course.

For information on Turnitin functions and how to interpret originality reports please refer to the following online resource:

http://www.turnitin.com/static/training/student.php
Final examination

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 6 November to Saturday 21 November 2015** for Semester 2, 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:


**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: TABL3040

Undergraduate Students only

Due date: To be submitted via Moodle by Monday, 7 September 2015 (Midnight, AEST)
Weighting: 25%
Length: 2000 words (plus or minus 10%)

Topic:
The Tax and Superannuation Laws Amendment (2014 Measures No. 1) Act 2014 amended the SIS Act from 1 July 2014 with respect to:
- administrative penalties
- education directions
- rectification directions.

What, exactly, are the details of these changes, why were they introduced, including the problem with the rules before they were introduced, and what affect do you expect them to have on the way that the ATO regulates SMSFs?
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
• in the case of problem assignments, this means tying argument back to the problem and severely pruning less relevant material
• 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.
ASSIGNMENT 2: TABL3040

Undergraduate Students only

Due date: To be submitted via Moodle by Monday, 12 October 2015 (Midnight, AEDT*)
Weighting: 25%
Length: 2000 words (plus or minus 10%)
*Australian Daylight Saving Time

Topic:

Taxation Ruling TR 2013/5 gives the ATO’s view about what a pension is and when a pension commences and ceases for tax purposes, but is equally relevant for SIS Act purposes. Explain the ATO’s view on each of these issues and whether they will change people’s behaviour in practice.
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
- in the case of problem assignments, this means tying argument back to the problem and severely pruning less relevant material
- 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.
Assessment: Postgraduate Students (TABL5540)

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

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

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.

Assessment submission dates

Research Paper synopsis (if required)
Due date: Monday, 17 August 2015
Word limit: 1 page (or as required)

Assignment 1 (Research Paper Plan and Reading List)
Due date: Monday, 7 September 2015
Weighting: 10%
Word limit: 1000 words (plus or minus 10%)

Assignment 2 (Final Submission)
Due date: Monday, 12 October 2015
Weighting: 50%
Word limit: 4000 words (plus or minus 10%)
Assignment topics are included on the following pages.

You may be asked to submit your assignment through Turnitin, which will allow you to check your work for inadvertent plagiarism. You will do this via Moodle. Note that the version lodged at the due date will be taken as your final submission in the course.

For information on Turnitin functions and how to interpret originality reports please refer to the following online resource:

http://www.turnitin.com/static/training/student.php

Final examination

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 6 November to Saturday 21 November 2015 for Semester 2, 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: TABL5540

Postgraduate Students only

Due Date: To be submitted via Moodle by Monday, 7 September 2015 (Midnight, AEST)
Weighting: 10%
Length: 1000 words (plus or minus 10%)

Prepare a Research Plan and an Annotated Reading List (includes Bibliography) for your research paper. Your Research 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 under Course Materials 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 Plan and the Annotated Bibliography.
Prescribed topics

1. Recently the Commissioner issued a Private Binding Ruling on an arrangement involving limited recourse borrowing where the interest rate on the loan acquired by the superannuation fund was at 0% p.a. The Commissioner has treated the income received by the superannuation fund as non-arm’s length income.


The link to the Private Binding Ruling is:

Private Binding Ruling 1012582301006
Non-arm’s length income and limited recourse borrowing arrangements

https://www.ato.gov.au/rba/content/?ffi=/misc/rba/content/1012582301006.htm

2. Taxpayer Alert TA 2010/2 issued by the Australian Taxation Office describes an arrangement where a clause or clauses in the trust deed for a self-managed superannuation fund is able to circumvent the imposition of tax on excess contributions.

As part of the review of the announced but unenacted measures made by the current government late in 2013 it was decided to dispense with this proposal. Why do you think the new government did not go ahead with the proposed change announced by the previous government.

Support your answer with an analysis of the relevant legislation relating contribution made to a fund and the operation of the trust law in this respect.

3. The “accountants exemption” where, broadly accountants were exempt from being licensed under the AFSL rules in the Corporations Act to give certain advice about SMSF is progressively being changed. What are these changes, why are they being made and what affect do you think that they will have? Some commentators have suggested that accountants who become regulated under the new regime will have to change the way they practice and, in fact, will have to conduct their practice in much the same way that a financial planner does with such things as the “know your client “rule.
4. Provide an analysis of the circumstances in which it is possible to rollover a death benefit to another superannuation fund. Support your answer with an analysis of the relevant legislation relating to death benefit payments in terms of the Superannuation Industry (Supervision) Act 1993 and the Income Tax Assessment Act 1997.

5. The Cooper Review recommended that SMSF auditors needed to demonstrate certain competencies and that only qualified auditors should audit SMSFs. Investigate the reasons for the new SMSF auditor regime, including what Cooper said about it, and how it has been implemented in the rules.

6. The Commissioner of Taxation has issued a number of SMSF rulings and SMSF determinations over the past two or three years which represent his views on the interpretation of particular provisions of the Superannuation Industry (Supervision) Act 1993 as they relate to SMSFs. These rulings and determinations contrast with those made under the provisions of the income tax law. Provide a critical analysis of some of the most recent rulings and determinations. In particular, provide your views on their effectiveness in reducing the relatively high levels of compliance risk perceived to be associated with the operation of SMSFs.

7. From 1 July 2014 a new system of penalties were introduced for SMSFs. These contrast to the penalties that were in existence up until 30 June 2014. Provide an analysis of the system of penalties that is in place and how they could be applied to an SMSF that is in breach of the rules. Compare them to the system that was in place until 30 June 2014.

In your answer critically examine the penalties in terms of the Superannuation Industry (Supervision) Act 1993 with reference to legislation, statements by the regulators and relevant court cases.

**Alternative topic**

Alternatively, you may select your own topic in which case the prior agreement of the lecturer will be required. Approval will not be granted if the topic overlaps substantially with work that you have submitted for another course. You should e-mail your request to Gordon Mackenzie at gordon.mackenzie@unsw.edu.au. You must ensure that you have made your request for approval and submitted a synopsis by Monday, 17 August 2015.
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, textbooks (identify pages used), journal articles cases, 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 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. Write an outline of what you propose to say, indicating the structure and identifying in point form the content of the parts of the assignment.

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 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: TABL5540

Postgraduate Students only

Due Date: To be submitted via Moodle by Monday, 12 October 2015 (Midnight, AEDT*)
Weighting: 50%
Length: 4000 words (plus or minus 10%)
*Australian Daylight Saving Time

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, include a page of contents and conclude with a full bibliography. The word limit will not include the bibliography.

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 e-mail Gordon Mackenzie at gordon.mackenzie@unsw.edu.au.
Evaluation criteria (for research paper)

**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
- clarity and strength of 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 and strength of 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
- 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)

<table>
<thead>
<tr>
<th>Week</th>
<th>Beginning</th>
<th>Module</th>
<th>Topic</th>
<th>Events and submissions</th>
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<td>1</td>
<td>27 July</td>
<td>1</td>
<td>Introduction to SMSF regulation design</td>
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<td>2</td>
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<td>4</td>
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<td>Audio Conference 2 PG Research Paper synopsis (if required)</td>
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<td>6</td>
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<td>3</td>
<td>Investment standards</td>
<td>Audio Conference 3 Assignment 1 due</td>
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<td>14 September</td>
<td>3</td>
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<td>9</td>
<td>21 September</td>
<td>3</td>
<td>Investment standards</td>
<td>Audio conference 4</td>
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<td></td>
<td>4</td>
<td>Benefit payments</td>
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<td>Audio Conference 5</td>
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<td>13</td>
<td>26 October</td>
<td>–</td>
<td>Course revision/exam preparation</td>
<td>Audio Conference 6</td>
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**Mid-semester break from Saturday 26 September to Tuesday 6 October 2015**

*(NOTE: Daylight saving begins on Sunday 4 October 2015)*

<table>
<thead>
<tr>
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</table>

**Examination period from Friday 6 November to Saturday 21 November 2015**
Suggested study guide (CBD students only)

ALL Classes for SMSF Law will be held on WEDNESDAY evenings from 6pm to 8pm at UNSW, CBD Campus Level 6, 1 O'Connell Street, Sydney.

<table>
<thead>
<tr>
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<td>Evening Class 2</td>
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<tr>
<td>4</td>
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<td>2</td>
<td>Establishment, contribution and operational issues</td>
<td>PG Research Paper synopsis (if required)</td>
</tr>
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<td>2</td>
<td>Establishment, contribution and operational issues</td>
<td>Evening Class 4</td>
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<tr>
<td>6</td>
<td>31 August</td>
<td>2</td>
<td>Establishment, contribution and operational issues</td>
<td>Evening Class 5</td>
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<tr>
<td>7</td>
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<td>3</td>
<td>Investment standards</td>
<td>Evening Class 6 Assignment 1 due</td>
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<td>3</td>
<td>Investment standards</td>
<td>Evening Class 7</td>
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Mid-semester break from Saturday 26 September to Tuesday 6 October 2015
(NOTE: Daylight saving begins on Sunday 4 October 2015)

<table>
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<td>Evening Class 12</td>
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</table>

Examination period from Friday 6 November to Saturday 21 November 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.