TABL5550
PRINCIPLES OF TAX: TRANSFER PRICING

COURSE OUTLINE
SEMESTER 1, 2014

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Sydney 2052 Australia
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This course introduces law, accounting and commerce students to the principles of transfer pricing and concepts like the arm's length principle. It equips them to identify when there is a risk of a transfer price being challenged and enables them to defend a price that has been set. It imparts a working knowledge of relevant tax rules including the operation of double tax treaties; Advanced Pricing Agreements; OECD guidelines; and applicable anti-avoidance controls. The arm’s length pricing methodology is thoroughly analysed for understanding of its application in the context of various transactions. Knowledge of tax, especially international tax is assumed.

Semester 1, 2014
Contents

COURSE OUTLINE

About the lecturer ................................................................. 4
Letter of introduction .......................................................... 6
Introduction to the course ..................................................... 7
  Student learning outcomes and goals ................................. 9
How to use this package ..................................................... 13
Key to instructional icons ................................................... 14
Profile of this course .......................................................... 15
  Course description .......................................................... 15
  Textbooks and references ............................................... 16
Supporting your learning ................................................... 17
  Conferencing ................................................................. 17
  School of Taxation & Business Law Website ..................... 18
  Atax Student Guide ........................................................ 18
  Library and resources .................................................... 18
  Online learning in this course ......................................... 19
  Other support ............................................................... 20
  Academic Honesty and Plagiarism ................................. 21
Assessment ........................................................................ 23
Suggested study schedule ................................................ 28
Appendix A—Assignment preparation and submission

STUDY GUIDE

Module 1  Introduction to transfer pricing
Module 2  Transfer pricing methods
Module 3  Comparability analysis
Module 4  Transfer pricing documentation
Module 5  Transfer pricing risks management
Module 6  Advance Pricing Agreements (APAs) and Cost
  Contribution Agreements (CCAs)
Module 7  Understanding the accounts
Module 8  Transfer pricing intangibles
Module 9  Intra-group services
Module 10 Business restructurings (BRs)
Module 11 Intra-group finance transactions
About the lecturers

Prof Michael Walpole
BA LLB GradDipTax (Natal) PhD (UNSW)

Michael is the Associate Head of School (Research) at the Australian School of Taxation and Business Law (including Atax) in the Australian School of Business.

Michael joined Atax in 1994, prior to which he was a senior lecturer in taxation in the Postgraduate Taxation Program of the School of Law, University of Natal. Michael worked as a Tax Consultant with Ernst & Young, and prior to that he was in private practice as a legal practitioner (solicitor and barrister). As a partner in a small firm, Michael’s legal practice was extremely varied, ranging from criminal defence, through family law and estate planning, to commercial and taxation matters.

Michael has co-authored several books including Proposals for the Reform of the Taxation of Goodwill, Understanding Taxation Law and Compliance Cost Control. Michael has also written and presented many papers on his research topics to practitioner and academic audiences in Australia and overseas. He is co-editor of the Australian Tax Review, an International Research Fellow at the Oxford University Centre for Business Tax, and he is also author and co-author of a number of articles on GST, taxation of intellectual property, tax administration and taxation compliance costs, especially psychological costs of taxation compliance.
Robert L Deutsch
BEC LLB (Hons) Syd LLM (Hons) Camb Barrister FTIA

Robert (Bob) Deutsch is a Professor of Taxation Law in the School of Taxation and Business Law at UNSW Australia. He is also a Deputy President with the Administrative Appeals Tribunal presiding over many tax, immigration and corporate regulation cases. He has over 30 years legal and tax experience and, immediately prior to his appointment with Atax, Bob was a tax partner with Mallesons Stephen Jaques. Previously, he was a Senior Lecturer in Law at the University of Sydney. Bob has lectured in international taxation and superannuation and has interests in issues relating to the derivative markets.

Bob is a past-Chairman of the Australian branch of the International Fiscal Association, a former Governor on the Board of the Australian Tax Research Foundation and a member of the Taxation Institute of Australia. He is an external member of the Tax Office Public Rulings and Part IVA Panels. He has presented extensively at seminars and conferences over a number of years. He has published widely, with articles and books in the area of international tax and derivatives. He is co-author of the standard reference *Guidebook to Australian International Tax* (Legal Books, 1997) and the *Australian Tax Handbook*. 
Letter of introduction

We would like to take the opportunity to welcome you to this course in transfer pricing at a time when the eyes of the world (so it seems) are focused on tax minimisation by multinational corporations.

Having decided to undertake this course, it will be obvious to most of you that the area of transfer pricing has becoming increasingly important in recent years, particularly as globalisation has increased the presence of multinational corporations who transact within the group on a fairly regular basis. Not all such intra-group transactions are necessarily subject to challenge by tax authorities on the basis of transfer pricing principles. However, even where such transactions are not challenged, there needs to be an independent basis for demonstrating that the pricing which has been adopted intra-group is appropriate in the circumstances.

This course is intended to give you some understanding of how tax authorities and the OECD view this complex issue and how courts have interpreted the law (such as it is) in different jurisdictions.

We hope you will find this course interesting and of some value to you in your chosen locations. We look forward to working with you during the course of the classes and thereafter.

*Michael Walpole & Bob Deutsch*
Introduction to the course

This course introduces law, accounting and commerce students to the principles of transfer pricing and its control such as concepts like the arm's length principle. It equips them to identify when there is a risk of a transfer price being challenged and enables them to defend a price that has been set. It imparts a working knowledge of relevant tax rules including the operation of double tax treaties; Advanced Pricing Agreements; OECD guidelines; and applicable anti-avoidance controls. The arm’s length pricing methodology is thoroughly analysed for understanding of its application in context of various transactions. Knowledge of tax, especially international tax is assumed.

In the preparation of these Notes reliance has been placed on many excellent sources including:


Relationship to other courses in program

It is assumed in the development of this course that participants will have an understanding of international tax, either in Australia or some other comparable jurisdiction. In particular, a reasonable understanding of the concepts of residence and source and the way in which jurisdictions seek to tax their residents in comparison to the way in which they choose to tax their non-residents would be useful.

Those of you who have studied within the Tax program and have completed *Principles of Australian International Tax* or any of the other international tax subjects, will have sufficient background to understand the issues we deal with in this course.
Course summary

The course is broken effectively into four major divisions. It begins with Modules 1, 2 and 3 dealing with the broad structure and framework of transfer pricing and the relevant issues that arise in determining an arm’s length pricing methodology. The second part of the course, namely Modules 4, 5 and 6, deal with how to manage risk in the context of transfer pricing, either through appropriate documentation or by seeking formal agreements through cost contribution arrangements or advanced pricing agreements with relevant revenue authorities. The third part looks at understanding accounts, which is critical to transfer pricing as some analysis of the accounts will often be required to understand how certain figures were determined and how they relate to the methodology which has been selected. Finally in the fourth part, which included Modules 8, 9, 10 and 11, we look at the application of transfer pricing to specific industries and specific types of transactions.

In comparison to other areas of international tax, there is relatively little case law on transfer pricing, but we have selected four important international cases and discuss them in detail in Module 2. We also revisit some of those cases in part four, where we look at specific applications.

Whilst the whole of the course is important to a detailed understanding of transfer pricing, the fourth part is the area which we will look to in order to gain greater insights into how transactions are viewed by revenue authorities and how transfer pricing principles are specifically applied to those transactions.
Course objectives

On successful completion of the course, students will be expected to be able to:

- explain in detail the transfer pricing framework
- understand the five methodologies for determining arm’s length pricing
- differentiate between formulary apportionment and arm’s length pricing methodologies
- appreciate the relationship between transfer pricing and other areas of the law (e.g., customs duty and GST)
- understand the case law development internationally in the context of transfer pricing
- prepare transfer pricing documentation which will be satisfactory to a revenue authority if it is completed using appropriate data and understand the relevance of comparability studies in this context
- understand the importance of the application of accounts to transfer pricing
- apply transfer pricing principles in the context of specific transactions, such as intra-group financing arrangements and business restructurings.

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 ASB program learning goals for both undergraduate and postgraduate students.
ASB 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>Apply knowledge of law, taxation and accounting in developing a sound understanding of the transfer pricing framework and the various methodologies for determining arm’s length pricing, in order to effectively apply transfer pricing principles.</td>
<td>Module Activities Assignments Examination</td>
</tr>
<tr>
<td>2 Critical thinking and problem solving</td>
<td>Apply transfer pricing principles in the context of specific transactions, such as intra-group financing arrangements and business restructurings.</td>
<td>Module Activities Assignments Examination</td>
</tr>
<tr>
<td>3a Written communication</td>
<td>Recognise and resolve legal and tax problems and 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>Understand the case law development in the international context of transfer pricing and the various requirements of revenue authorities in a range of jurisdictions in terms of preparing transfer pricing documentation.</td>
<td>Module Activities Assignments Examination</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:

Guide to online behaviour:

You should take note of all announcements made in lectures, tutorials or on the course Website, Moodle. From time to time, 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 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. To get the most out of your study we recommend that you follow this 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
- 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

Course number/s  TABL5550

Course name  Transfer Pricing

Units of credit  6

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, 2014

Lecturer/s  Michael Walpole  Bob Deutsch

Contact details
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Fax:  +61 (2) 9313 6658  +61 (2) 9313 6658
Email:  m.walpole@unsw.edu.au  r.deutsch@unsw.edu.au
Textbooks and references

Prescribed textbook/s
There are no prescribed textbooks for this course.

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.)


Supporting your learning

Conferencing

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!
School of Taxation & Business Law Website

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

http://www.asb.unsw.edu.au/schools/taxationandbusinesslaw/Pages/default.aspx

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:

http://www.asb.unsw.edu.au/schools/taxationandbusinesslaw/studentresources/taxationprogramresources/Pages/default.aspx

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 2014 Atax Student Guide from the Taxation & Business Law Website or from your Moodle course website.

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:

http://www.asb.unsw.edu.au/schools/taxationandbusinesslaw/studentresources/Pages/usefullinks.aspx

From this site you can access:

- The UNSW Library’s catalogue, online databases and e-journals
- UNSW Library Online Training guides for library research skills
- 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.

The main UNSW Library website provides access to the general UNSW Library resources as well as a guide to legal research and links to major legal websites. The Library website is located at:

http://info.library.unsw.edu.au
For more tax specific information, you should access the ‘Taxation’ subject guide at:

http://subjectguides.library.unsw.edu.au/taxation

Legal research tools can be accessed from the ‘Legal Research’ subject guide at:

http://subjectguides.library.unsw.edu.au/legalresearch

The ‘Accounting’, ‘Business’, ‘Economics’ and ‘Law’ subject guides can also be accessed at:

http://subjectguides.library.unsw.edu.au/index.php

UNSW Library staff will assist you with:

- locating journal articles, cases and legislation
- searching on-line databases and e-journals through Sirius
- loans of books
- photocopies of articles, cases etc which can be arranged free of charge.

You can contact Library staff via the Library website or by telephone on +61 (2) 9385 2650. Additionally, contact information for the Faculty Outreach Librarians can be found at:

http://www.library.unsw.edu.au/about/corporate/outreach.html

Online learning in this course

From 2014 UNSW will be using 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.
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](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:

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.

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](http://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 ASB students. Services include workshops, online and printed resources, and individual consultations. For further information, see:

[http://www.asb.unsw.edu.au/learningandteaching/studentservice/Pages/default.aspx](http://www.asb.unsw.edu.au/learningandteaching/studentservice/Pages/default.aspx)

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 you to achieve 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://info.library.unsw.edu.au/skills/tutorials/InfoSkills/index.htm.

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 (e.g., 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

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

(a) Research paper plan and annotated reading list 10%
(b) Research paper 50%
(b) 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

Assignment 1 (Research Paper Plan and Reading List)
Due date: Topic Proposal: Monday, 17 March 2014
Due date: Research Plan: Monday, 7 April 2014
Weighting: 10%
Word limit: 1000 words (plus or minus 10%)

Assignment 2 (Final Submission)
Due date: Monday, 19 May 2014
Weighting: 50%
Word limit: 4000 words (plus or minus 10%)
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 Saturday 13 June 2014 to Monday 30 June 2014 for Semester 1, 2014. 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:
http://www.asb.unsw.edu.au/schools/taxationandbusinesslaw/studentresources/taxationprogramresources/Pages/bulletin.aspx

This is not a negotiable schedule. Atax publishes it as a matter of courtesy, and to ensure that any clashes of Atax examinations are brought to our attention.
ASSIGNMENT 1: TABL5550

Due Dates:

Topic Proposal: Submit via email to m.walpole@unsw.edu.au by Monday, 17 March 2014 (Midnight, AEDT)*

Research Plan: Submit via Moodle by Monday, 7 April 2014 (Midnight, AEST)

Weighting: 10%

Length: 1000 words (plus or minus 10%)

* Australian Daylight Saving Time

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 ‘Useful Links & Resources’ 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.
**Required**

You are required to write and submit a research paper on a topic of your own choosing, previously agreed with the course lecturer. You should e-mail your request to Michael Walpole at m.walpole@unsw.edu.au. You must ensure that you have made your request for approval and submitted a synopsis by **Monday, 17 March 2014** (note Daylight Saving time in force until 6 April 2014). Approval will not be granted if the topic overlaps substantially with work that you have submitted for another course.

The 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: TABL5550

Due Date: Submit via Moodle by Monday, 19 May 2014 (Midnight, AEST)
Weighting: 50%
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, 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 phone Michael Walpole on +61 (2) 9385 9526 or e-mail to m.walpole@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
- 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

<table>
<thead>
<tr>
<th>Week</th>
<th>Beginning</th>
<th>Module</th>
<th>Topic</th>
<th>Events and submissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3 March</td>
<td>1</td>
<td>Introduction to transfer pricing</td>
<td>Audio Conference 1</td>
</tr>
<tr>
<td>2</td>
<td>10 March</td>
<td>2</td>
<td>Transfer pricing methods</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>17 March</td>
<td>2</td>
<td>Transfer pricing methods</td>
<td>Audio Conference 2, Research paper synopsis, topic agreed with lecturer</td>
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<tr>
<td>4</td>
<td>24 March</td>
<td>3</td>
<td>Comparability analysis</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>31 March</td>
<td>3</td>
<td>Comparability analysis</td>
<td>Audio Conference 3</td>
</tr>
<tr>
<td>6</td>
<td>7 April</td>
<td>4</td>
<td>Transfer Pricing documentation</td>
<td>Research plan &amp; annotated reading list</td>
</tr>
<tr>
<td>7</td>
<td>14 April</td>
<td>5</td>
<td>Transfer pricing risks management</td>
<td></td>
</tr>
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</table>

### Mid-semester break from Friday 18 April to Sunday 27 April 2014

<table>
<thead>
<tr>
<th>Week</th>
<th>Beginning</th>
<th>Module</th>
<th>Topic</th>
<th>Events and submissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>28 April</td>
<td>6</td>
<td>Advance Pricing Agreements (APAs) and Cost Contribution Agreements (CCAs)</td>
<td>Audio Conference 4</td>
</tr>
<tr>
<td>9</td>
<td>5 May</td>
<td>7</td>
<td>Understanding the accounts</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>12 May</td>
<td>8</td>
<td>Transfer pricing intangibles</td>
<td>Audio Conference 5</td>
</tr>
<tr>
<td>11</td>
<td>19 May</td>
<td>9</td>
<td>Intra-group services</td>
<td>Research paper due</td>
</tr>
<tr>
<td>12</td>
<td>26 May</td>
<td>10</td>
<td>Business restructurings (BRs)</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>2 June</td>
<td>11</td>
<td>Intra-group finance transactions</td>
<td>Audio Conference 6</td>
</tr>
</tbody>
</table>

### Examination period from Saturday 13 June to Monday 30 June 2014
Assignment preparation and submission

Assignment preparation guidelines

The following guidelines are offered as a general indication of what is expected in terms of the presentation of both assignments and research papers in flexible distance (Atax) courses. With the exception of the rules regarding ‘Acknowledgement of sources’ (see over), which are standard for any work submitted for assessment at UNSW, individual lecturers may amend any of these guidelines for particular assessment tasks. Each assessment task may also have particular requirements not covered here. Where information here is in conflict with information provided by the course lecturer, you should follow the advice of your lecturer.

Abstract

An abstract is used to summarise the subject of a research paper. Abstracts are only required for research papers and should contain 100 to 200 words. Do not write an abstract for a problem-type assignment.

Margins

The margins of electronic assignment templates are pre-set to the following standard:
- Left margin — 3.5 cm
- Right margin — 3.5 cm
- Top margin — 2.5 cm
- Bottom margin — 2.5 cm

These margins are used to allow room for comments. Please do not alter these margin settings.

Headings/Table of contents

Headings should be typed in bold. Only capitalise the first letter of the heading. Do not capitalise the entire heading. If you have written a long essay with many parts, a table of contents should be used. Otherwise, do not include one.

Style of presentation

Your assignment should be typed into the relevant section of your electronic assignment template, using an 11 or 12 point font. Single line spacing should normally be used, unless your lecturer tells you otherwise. You should number each page of the assignment. The style for layout set out below should be applied.

Spaces after words

Leave a space after each word, except where a punctuation mark is used. Where a punctuation mark is used, the mark follows immediately after the word. Leave one space after any punctuation mark.
Paragraphs
Leave a line after each paragraph. Do not indent the first line of the paragraph.

Footnotes and citation system
You should use footnotes as your referencing tool. Use end notes only if your computer cannot produce footnotes. Use the rules set out in a recognised citation and style guide. Footnotes are not normally included in the word limit, unless you include substantial commentary or discussion in the footnotes. Do not abuse footnotes by including too much material in them in the hope of extending the word limit.

A note of caution: we have discovered that some word processing packages lose the footnotes when the assignment is electronically lodged. Ensure at the time of lodgement that your footnotes have been retained. This is not a problem that we have encountered with Microsoft Word®.

Bibliography
Details of works cited in the text are provided in a bibliography. The bibliography is placed at the end of the document on a new page under the heading ‘Bibliography’. The bibliography is not included in the word limit.

All publications (books, articles, theses etc) are included in the bibliography. Legal cases and legislation are not included in the bibliography. If a list of cases is considered necessary due to the large number used, it should be in alphabetical order under a separate heading ‘Legal cases’. A similar separate list, headed ‘Legislation’, is used if needed for legislation.

Your bibliography must be presented in the following format:
1. Items in the bibliography are listed alphabetically by author or source.
2. The citation style of the item should be in accordance with a recognised and appropriate citation and style guide, except that specific page references are not included.

Acknowledgment of sources
You must acknowledge the source of ideas and expressions used in submitted work. To provide adequate documentation is absolutely essential in academic work as the academic system depends on clear reference to sources. The markers must be able to consult sources with ease. Failure to acknowledge sources may constitute plagiarism, which is subject to a charge of academic misconduct.

UNSW sometimes uses software to check the authenticity of submitted assignments.

The following are the more common forms of plagiarism (from the obvious to more subtle)*:
- **quoting from a source ‘word for word’ without using quotation marks or proper acknowledgement**—this may include:
  - copying an essay from another student
  - copying a journal article or a section of a book
  - copying sentences or paragraphs from someone else (essay, article, book, lectures etc)
- **using significant ideas from another author without acknowledgment**—putting someone else’s ideas into your own words and not acknowledging the source of the ideas
- **heavy reliance on the written expressions of someone else without proper acknowledgement**—quoting from a source ‘word for word’ without using quotation marks but with proper acknowledgement, giving the impression that the expression of the idea is actually yours
- **excessive reliance on other people’s material**—overuse of quoted material, properly acknowledged, results in your sources speaking for you, meaning your own contribution is minimal.

(* The above examples are adapted from UNSW Learning Centre information sheet ‘Avoiding plagiarism’).
Assignment submissions and deadlines

This course uses UNSW Moodle for the electronic delivery and submission of assignments.

Please check your submission link – you may only be entitled to submit an assignment once in which case additional and subsequent submissions will not be accepted.

Step-by-step guides have been produced to assist students through the assignment submission process, and are available for download from the UNSW Teaching Gateway at https://student.unsw.edu.au/moodle.

Completing the cover sheet within the electronic template

In the past we required students to complete assignments on an assignment template that we had created – this is no longer the case, however, you must ensure that you include a cover page with each of your assignments that has the following information: your name, your student ID, the course name, the course code, the due date and the word length. You should also include these details the footer of your assignment document. A sample cover sheet can be found on Moodle in the Assessments section. Failure to include this information could result in your assignment mark not being recorded.

Re-name and save your assignment documents

For identification purposes you are required to name all of your assignment files that you are submitting using the following naming convention: Surname_GivenName_Course Code format. For example:

‘Lawson_Henry_TABL1001As1.doc’

You must also retain both an electronic and hard copy of every assignment. No mark can be given or concession awarded should an assignment be lost and no evidence of completion is able to be provided by the student.

Due date and time

Each assignment should be submitted via Moodle by midnight AEST (or AEDT, Australian Eastern Daylight Time, where applicable) on the specified due date (eg, if the due date is Monday 7th April 2014, your assignment is due by midnight on Monday night). You are advised to check your access to Moodle in week 1 of Semester, to submit your assignment early if possible, and to allow at least 15 minutes for the Moodle submission process. Many assignments will be parsed through TurnItIn which will check the originality of your work. If you are given the opportunity to resubmit your assignment up until the due date you should be aware that TurnItIn will only produce one originality report every 24 hours so there may be a delay on receiving your updated originality report after the first submission. You must allow for this in order to be able to submit your assignment on time. The version of your assignment that is submitted at the due date will be the version that is accepted for marking. For information on TurnItIn functions and how to interpret originality reports please go here:

Due dates are chosen to facilitate the pacing of the student and lecturer workloads. The overall aim is to promote efficient learning and prompt feedback to the student. Lecturers will make every effort to return assignments (which are submitted on time) within three weeks with appropriate comments and feedback.
Problems with Moodle assignment submission

If you encounter technical difficulties while attempting to access Moodle, and are unable to submit your assignment, please contact the IT Service Desk by email to ITServiceCentre@unsw.edu.au or by telephone on +61 (2) 9385 1333. **Your lecturer will not be able to assist with assignment submission issues, and cannot accept assignments emailed direct to him/her.**

Assignment return

Assignments may be marked electronically or on paper. Feedback for electronically-marked assignments will be made available electronically, usually through Moodle. Feedback for assignments marked by paper will be returned in hard copy format to the mailing address you have recorded on myUNSW. **It is therefore important that you keep your address details up-to-date on myUNSW (https://www.my.unsw.edu.au).**

Late submission penalties

An assignment is not considered to be late if it has been submitted via Moodle on or before the due time and date. **Posted, faxed or e-mailed assignments will NOT be marked and should not be sent.**

If you submit an assignment after the due date, please be aware that the following penalties will be applied.

- **Where assignments are up to one week (ie 1–5 working days) late:** 10% of the maximum marks available for the assessment item **will be deducted.**
- **Where assignments are more than one week late and up to two weeks (ie 6–10 working days) late:** 20% of the maximum marks available for the assessment item **will be deducted.**
- **Where assignments are more than two weeks (ie 11 or more working days) late:** the assignment can be perused, **but no marks will be awarded.** Assignments will be recorded only as having been submitted.

Please note that the penalties are applied to the **maximum marks available** for the assignment, **not the actual mark awarded.** For example, a student is due to submit an assignment by 16 April 2014. The assignment is in fact submitted on 30 April 2014 (10 working days late). The penalty for lateness will be 20% of the maximum marks for the assessment. If the student’s mark before the imposition of the penalty was a credit mark of 65%, after taking the penalty into account this mark will fall to 45%—a failure.

Penalty remission

If illness or other verified circumstances beyond your control have a significant effect on your ability to submit an assignment by the due date, the normal penalty may be remitted. All medically related requests must be made using the **Penalty Remission** form ( downloadable from http://www.asb.unsw.edu.au/schools/taxationandbusinesslaw/Documents/penalty_remission.pdf).

Doctor’s reasons must be sufficiently detailed and specifically address the effect of the medical condition on your ability to complete assignments.

General points

- The Student Services Office supervises all penalty remission requests. **Lecturers are not permitted to grant penalty remissions** and you should not approach lecturers for this purpose.
- **You should not anticipate that a Penalty Remission will be granted, and should endeavour to submit all assignments as soon as possible.**
- You are advised to begin preparing assignments well before the submission date so that normal problems are easily avoided.
- You should also check that you have access to Moodle, and that your computer is correctly configured to submit assignments, well before the assignment due date.
If you require academic assistance contact your lecturer or the Academic Support Coordinator during the period that you are preparing assignments.

You have only 13 weeks in the Semester, during which time all assignments must be completed. You also need to prepare for the final examination in all courses. Therefore, your time management is very important.

Guidelines for lodging a Penalty Remission Request

All requests for Penalty Remissions must be made in writing using the Penalty Remission Application form. Penalty Remissions should be posted (within 24 hours of submitting your assignment) to:

Penalty Remissions
School of Taxation & Business Law,
The University of New South Wales,
UNSW Sydney, NSW 2052.

It is your responsibility to give full reasons for requesting remission of the penalty, in writing, and to ensure that all necessary documentation are sent with your Penalty Remission application.

YOU MUST ALSO INDICATE YOUR INTENTION TO APPLY FOR PENALTY REMISSION BY EMAILING THE SCHOOL OFFICE (tbl@unsw.edu.au).

If you are unsure whether your situation is likely to be a ‘reasonable’ request you should refer to the ‘Grounds for Penalty Remission Being Granted’ policy presented in the Atax Student Guide. You may wish to seek further advice from the Student Services Office in order to obtain an indicative reply (you will then need to provide all relevant documentation to substantiate your formal request).

The following is very important:

If your assignment is up to one week (ie 1–5 working days) late, your penalty remission request must clearly show that you are seeking a one week penalty remission and you must clearly state your reasons and provide all relevant documentation. If your reasons are judged insufficient you will receive no remission of penalty.

If your assignment is more than one week late but less than two weeks (ie 6–10 working days) late, your penalty remission request should indicate whether you are seeking a 10% or a 20% remission. You must clearly show why the penalty remission you are seeking is valid and provide all relevant documentation. If you have requested remission of a 20% penalty and your reasons are judged insufficient, you may receive either a 10% remission or no remission depending on the judged validity of your request. If you requested 10% and your reasons are judged insufficient you will receive no remission of penalty.

Extensions of time in exceptional circumstances

Only in the most exceptional circumstances will you be awarded any marks for an assignment submitted more than two weeks late. If you believe such truly exceptional circumstances apply as to justify submission more than two weeks beyond the due date, please contact the School Office on +61 (2) 9385 9534 so that your case can be considered by the appropriate Program Convenor as quickly as possible. Appropriate documentation will need to follow your telephone request rapidly. You should be aware that where an extension of time later than two weeks after the submission date is granted, this new date is an absolute deadline. No later submission date will be permitted and the late penalty rules will not apply.
ATAX0450 PRINCIPLES OF TAX TRANSFER PRICING

Semester 1, 2013 End of Semester Examination

Examination duration: 2 hours, plus 10 minutes reading time.

Number of Answer Books: 2

Reading time conditions: DO NOT write in the answer book during the 10 minutes reading time.

Examination conditions: THIS IS AN OPEN BOOK EXAMINATION.
You are permitted to bring relevant printed or written materials into the examination room.

INSTRUCTIONS:

1. Answer TWO questions.
2. Answers must be written in INK in the answer book(s) provided by Atax.
3. The value of each question is indicated at the beginning of each question.
4. Write your name, Student ID number and the question number(s) attempted on the front of EVERY answer book used.
5. Leave a whole blank page between questions.
7. Complete the Student Attendance Slip.
8. You may keep this examination paper.
QUESTION 1

Question 1 is worth 50 marks

Toady FM Pty Ltd is an Australian resident company engaged in the operation of a radio station and advertising. It has a subsidiary in Hong Kong (called Toady Radio HK Ltd) which has commenced a separate business there. The Hong Kong company is just starting up and for a few years was not profitable so the Australian company provides services to the Hong Kong company and has done so in 2009, 2010, 2011 and 2012. Fees have been agreed for these services but the global economic downturn and the fact that the Hong Kong company is just starting to become profitable mean that although a fee of $50 000 was paid in 2009, the amounts owed for the subsequent 3 years have been left outstanding and no interest has been charged.

There has been a tax audit of Toady FM Pty Ltd and the Australian Taxation Office (ATO) is deliberating on whether to institute a transfer pricing investigation. The audit suggests that Toady FM Pty Ltd did not charge interest on debit balances when amounts were owed by other independent parties overseas and that Toady FM Pty did not pay any interest to independent parties overseas.

According to the ATO’s inquiries it is normal in the radio and media industry to leave outstanding balances arising from arm’s length transactions interest free for up to 30 days and thereafter to charge interest.

Required:

Write a detailed Report to the ATO explaining whether or not the arrangements between Toady FM Pty Ltd and Toady Radio HK Ltd should be subject to a transfer pricing adjustment and on what basis. Explain what aspects of the Australian law are applicable and what other adjustments should be made if a transfer pricing adjustment is made.

Write a further Report for Toady FM Pty Ltd advising how it should deal with such situations in future so as to avoid conflict with the ATO and other revenue authorities. Explain what their report to revenue authorities should contain if it is to support their position in relation to transfer prices between itself and subsidiaries overseas.

QUESTION 2

Question 2 is worth 50 marks

The area of transfer pricing is riddled with nomenclature that is not readily understood by lay people. You have been approached by the recently appointed Executive Director of a large Australia private company which has recently expanded into overseas markets in New Zealand, Hong Kong and Singapore. He is well versed in the commercial world but has no idea about transfer pricing and in particular what issues he might face in relation to
any dealings which Australian subsidiaries might have with subsidiaries based in any of those three foreign countries.

He has been to a number of seminars to try to come to grips with the issues involved but it has proved to be a struggle because of the way in which transfer pricing specialists tend to throw around terms without explanation.

**Required:**

He is looking to you to provide him with a simple plain English language explanation of each of the following terms and how they fit into the overall fabric of transfer pricing. In particular, he would like some examples to illustrate the terms referred to:

(a) Comparable Uncontrolled Price;

(b) Transactional Net Margin Method;

(c) Functional Analysis;

(d) Cost Contribution Agreement;

(e) Advance Pricing Agreement;

(f) Unitary Tax Methodology.

**QUESTION 3**

**Question 3 is worth 50 marks**

The Australian Fastfood Company Pty Ltd (‘AFC’) is an Australian resident company which owns a number of brands, trademarks and patents which it uses to manufacture and sell its vast array of products both in Australia and internationally.

It has recently recognised a number of growth opportunities throughout Africa and management is currently exploring a number of possible opportunities including the establishment of a subsidiary company in Mauritius and the sale to it of a number of brands, trademarks and patents with a licensing by the Mauritian company to other companies in the group including the Australian parent.
Following the transfer AFC will effectively act as a contract manufacturer to the Mauritian company and it will receive a fee based on units of production times the cost of production plus a standard percentage mark-up of 4.5%.

**Required**

AFC consults you as their local adviser and seeks your advice in relation to the overall restructured contemplated AFC in particular would like specific advice on:—

(a) What tax issues might arise from the initial transfer of the intellectual property constituted by the brands trademarks and patents?
(b) Whether the Australian Taxation Office would seek to apply the general anti-avoidance provisions in Part IVA or any other anti-avoidance provision?
(c) Whether there are any other considerations (tax or otherwise) which AFC should have regard to in considering this restructure?

END OF PAPER