TABL5555
TAXATION OF
PROPERTY TRANSACTIONS

Course Outline
Semester 2, 2015
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About the lecturers

**Stephen Lawrence**  
BA, MA (Psychology), MCom, MAppTax.

Stephen currently practises as an SMSF Auditor and Taxation Consultant. He has authored a number of publications on the topics of CGT, beneficial ownership and SMSF overseas investment as well as international taxation matters particularly those in Thailand.

Stephen is a member of Chartered Accountants Australia and New Zealand, the Society of Trust and Estate Practitioners and the International Tax Planning Association.

**Michael Bennett**  
LLB (Hons I), LLM

Michael graduated with a Bachelor of Commerce in 2004, a Bachelor of Laws (Hons 1) both from the University of Western Sydney, and a Masters of Law in Corporate, Commercial and Taxation Law from the University of New South Wales.

In 2005 Michael was admitted as a solicitor of the Supreme Court of New South Wales.

Michael is a Barrister at 13 Wentworth Selborne Chambers and has worked at SBN Lawyers, and Binetter Vale Lawyers. Michael was an Associate to His Honour Judge Marien S.C. of the District Court of New South Wales and a law clerk at the NSW Director of Public Prosecutions. He has expertise in tax planning and litigation with revenue authorities, white collar criminal matters involving ATO, OSR’s, Cth & State Crime Commissions, superannuation and estates, financial and commercial structures, commercial litigation, and corporations and trust matters and has authored a number of papers and presentations on the subject of trusts.
Letter of introduction

Dear Student,

Welcome to Taxation of Property Transactions.

This course examines one of the cornerstones of taxation in Australia, both from the point of view of revenue collection and practical significance.

This is one of the most unique courses you will ever study, in that it entails examination of the application of numerous different tax regimes: income tax, GST, CGT, land tax and stamp duty.

The course takes a very practical approach, tracing through the application of relevant taxes to each stage in the cycle of typical dealings with property.

I am sure you will find it both extremely interesting and very challenging.

Good luck with your studies!

Stephen Lawrence and Michael Bennett
Introduction to the course

The property transactions examined in this course are based around real property (ie, land) and its associated infrastructure (ie, buildings).

Throughout the world, taxation of real property and property transactions is a popular and effective form of taxation. Little wonder, given the frequency and high value of property dealings of one form or another, combined with a high visibility that makes such taxes difficult to avoid.

We are not concerned merely with the tax consequences related to physical aspects of real property. We are also concerned with tax consequences of its use and exploitation.

Almost every tax career option requires knowledge of at least some aspects of the taxation of property transactions. Property transactions are such an important part of everyday personal and business life, not only on sale or purchase, but also from leasing and the payment of rent through to use of land and buildings in business or other income-producing activities.

As the course name implies, we take a transactional approach to property taxation. So as far as possible, the course follows a time-line approach to examining the tax effects of typical dealings with property.

However, before launching into this approach, an overview of property law concepts is provided, to help you understand aspects of the taxation of property transactions you will come across throughout the course that may depend or be based on such concepts.

After this introduction to the world of property, in line with our time-line approach the detailed tax content commences with consequences that can arise at acquisition, followed by consequences of holding and using land and buildings in every manner (eg, leasing, development and construction, or other income-producing use), finally leading up to tax consequences on ultimate disposal. The course then rounds off with a more overall look at tax-effective structuring of property investments, applying the knowledge that has been developed.

At each event within the time-line, without being too disjointed in relation to individual taxes and consistent with logic, we look at all the taxes that can impact, from Commonwealth taxes such as income tax, CGT and GST, to State taxes such as land tax and stamp duty.

We deal with all types of property interests, such as freehold and leasehold, and all types of property, from vacant land through to residential and commercial property.

In each area we look at problem areas that may arise and include discussion of relevant policy issues.
Relationship to other courses in program

This course builds on the general tax knowledge you have developed in other courses by extending its reach into a more specialised, yet extremely common and widespread application.

The course is a specialised course targeted at the practical application of tax law in a significant topical field (property transactions), rather than focussing on a particular statutory area of tax law.

One aspect of this is the specialised application of general principles you have learnt in other areas (eg income tax) to specific circumstances.

However, more importantly, it delves into more specialised provisions within legislative regimes that you may have only examined in a more general sense (eg CGT, GST and income tax), as well as examining other areas of tax law that you may not have come across (eg stamp duty and land tax).

You will find that the knowledge you develop throughout this course will also help you in many other areas of taxation and tax study, such as taxation of trusts, other areas of capital gains tax and alienation of income.

Course objectives—skill development

At one level, a significant course aim is the development of specialist technical knowledge in the area of taxation of property transactions.

However, on a wider level, it seeks to develop your ability to apply tax law in practice, through concentrating not so much on abstract learning of legislative provisions in a void, but rather on learning the law in the context of its application to real world factual circumstances and transactions.

You will also develop an appreciation of the bringing together of the application of various tax laws to a single situation and how all of the potential tax consequences always need to be examined.

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 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.
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><strong>This course helps you to achieve the following learning goals:</strong></td>
<td><strong>On successful completion of the course, you should be able to:</strong></td>
<td><strong>This learning outcome will be assessed in the following items:</strong></td>
</tr>
<tr>
<td><strong>1</strong> Knowledge</td>
<td>Apply tax law in practice, through concentrating not so much on abstract learning of legislative provisions in a void, but rather on learning the law in the context of its application to real world factual circumstances and transactions.</td>
<td>Module Activities</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Assignments</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Examination</td>
</tr>
<tr>
<td><strong>2</strong> Critical thinking and problem solving</td>
<td>Demonstrate specialist technical knowledge and an independent capacity to resolve complex problems in the context of property transactions. Access and interpret a variety of legislation and case law dealing with a diverse range of legal issues relevant to property transactions. Effectively analyse and apply sources in the construction of legal argument and apply correct citation and referencing conventions in properly acknowledging all source material used.</td>
<td>Module Activities</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Assignments</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Examination</td>
</tr>
<tr>
<td><strong>3a</strong> 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. Apply correct citation and referencing conventions in properly acknowledging all source material used.</td>
<td>Assignments</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Examination</td>
</tr>
<tr>
<td><strong>3b</strong> Oral communication</td>
<td>Not specifically addressed in this course.</td>
<td></td>
</tr>
<tr>
<td><strong>4</strong> Teamwork</td>
<td>Not specifically addressed in this course.</td>
<td></td>
</tr>
<tr>
<td><strong>5a.</strong> Ethical, environmental and sustainability responsibility</td>
<td>Not specifically addressed in this course.</td>
<td></td>
</tr>
<tr>
<td><strong>5b.</strong> 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.

In response to feedback received on previous versions of this course, the course now includes cross-reference tables in readings using former provisions to the equivalent current provisions, as well as new review activities. It also includes discussion of numerous significant high level GST decisions in the property area handed down in recent years, where the interpretation of this still relatively young tax is being constantly developed.

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

Course number/s      TABL3055/5555
Course name          Taxation of Property Transactions
Units of credit      6

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

Suggested study commitment

You should plan to spend an average of 10–12 hours per week on this course to perform well (including class attendance, online participation, assignments, examination preparation etc).

The information included on the overview page of each module should help you plan your study time.

Semester and year    Semester 2, 2015

Lecturer/s           Stephen Lawrence            Michael Bennett
Email:               stephencatep@gmail.com        m.bennett@wentworthchambers.com.au
Textbooks and references

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

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

*Income Tax Assessment Act 1936*
*Income Tax Assessment Act 1997*
*A New Tax System (Goods and Services Tax) Act 1999*

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.


Egan B, *GST Insights—Property Sales & Rentals* (Sydney: Taxability, 2008)
Supporting your learning

Conferencing

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 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!
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](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:

[https://www.business.unsw.edu.au/students/resources/learning-support](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/](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](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](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 (TABL3055)

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

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

(a) Assignments 40%
(b) Final examination 60%

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, 31 August 2015
Weighting: 20%
Word limit: 2000 words (plus or minus 10%)

Assignment 2
Due date: Monday, 12 October 2015
Weighting: 20%
Word limit: 2000 words (plus or minus 10%)

Assignment topics are included on the following pages.
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: TABL3055

Undergraduate Students only

Due date: To be submitted via Moodle by Monday, 31 August 2015 (Midnight, AEST)
Weighting: 20%
Length: 2000 words (plus or minus 10%)

Topic:
Consider and discuss the margin scheme under Division 75 of A New Tax System (Goods and Services Tax) Act 1999 with particular reference to whether the margin scheme should be utilised and if so what constitutes eligible property.
Evaluation criteria

An important note on word limits

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

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

The following criteria will be used to grade assignments:

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

You are encouraged to read beyond the study materials and references to do the assignment.
ASSIGNMENT 2: TABL3055

Undergraduate Students only

Due date: To be submitted via Moodle by Monday, 12 October 2015 (Midnight, AEDT*)
Weighting: 20%
Length: 2000 words (plus or minus 10%)

*Australian Daylight Saving time.

Topic:
Michel and Chris operate a business in Sydney through a private company, MCC Pty Ltd (‘MCC’), in which they each own 50% of the shares and are its two directors. MCC acquired a vacant block of land on the coast near Townsville in September 2003 for $1,100,000, which Michel and Chris intended they would eventually use to build their retirement home on.

MCC borrowed the funds to purchase the land from the local branch of the Commonwealth Bank—interest on this borrowing amounted to $25,000 for the 2000–01 income year and $62,000 for each subsequent income year, including the year ended 30 June 2012.

In August 2011, Michel and Chris were approached by a local home building company, Coastal Estates Pty Ltd (‘Coastal’), to sell the land owned by MCC. After a series of negotiations, it was decided that instead of MCC selling the land, Michel and Chris would sell all their shares in MCC to Coastal and would be replaced as directors of MCC by the directors of Coastal. MCC would cease operating its business.

At the time the shares were sold, the balance of the mortgage owed by MCC to its bankers was $700,000.

At the time the contract of sale was concluded, the vacant block of land owned by MCC was valued at $1,750,000.

MCC then developed the land and built a series of 10 townhouses on it. Development and building costs (materials and contracted labour) amounted to $2,200,000. MCC subsequently sold 9 townhouses in the period May to June 2012 to local residents for $440,000 each. The final townhouse could not be sold and MCC rented it out for $770 per week. It is the intention of MCC to sell the townhouse on the termination of the lease.
Required:
Explain the income tax (ordinary and/or CGT) and GST consequences of these transactions for MCC, from acquisition of the land in September 2003 through to its sale to date. Comment on how any assessable or deductible amounts would be calculated.

You do not need to comment on the tax position of Michel or Chris or Coastal Estates Pty Ltd.

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

The following criteria will be used to grade assignments:

- ability to cut through the undergrowth and penetrate to key issues
- identification of key facts and the integration of those facts in the logical development of argument
- demonstration of a critical mind at work and, in the case of better answers, of value added to key issues over and above that of the source materials
- clarity of communication—this includes development of a clear and orderly structure and the highlighting of core arguments (including, where appropriate, headings)
- sentences in clear and, where possible, plain English—this includes correct grammar, spelling and punctuation
- accurate numerical answers
- 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 (TABL5555)

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 Masters 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, 10 August, 2015
Word limit: 1 page (or as required)

Assignment 1 (Research Paper Plan and Reading List)
Due date: Monday, 17 August, 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%)
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: TABL5555

Postgraduate Students only

Due Date: To be submitted via Moodle by Monday, 10 August 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. “The reasons for the input tax treatment of residential property for GST purposes do not outweigh the economic disadvantages of such treatment for landlords, tenants, homebuyers and the economy in general.”
   Does this statement make sense? What are the reasons for and against such treatment? Are there any feasible alternatives? You may like to look overseas as well as in Australia in answering this question.

2. “The CGT exemption for real property acquired prior to 20 September 1985 distorts investment decisions. All pre-CGT real property should become subject to CGT on disposal, with an upgrade for the cost base to current market value at the date of implementation of this policy.”
   Critically evaluate this statement.

3. The last two years has seen a surge in GST cases being decided by the courts and tribunals, many of which have been in a property transactions context. Have these cases clarified the operation of the GST law to property transactions or simply added to the confusion and ambiguity? Have any unresolved practical difficulties been created by the decisions themselves that have not been corrected by statutory intervention? Are there any major interpretational issues that remain unresolved and do any cases shed any light on how they might be resolved?

4. Critically consider all the factors that need to be taken into account when structuring for property ownership and development. In dealing with these issues, you must explain the advantages and disadvantages of different structures. Your answer is to include a brief consideration of Div 7A Income Tax Assessment Act 1936.

5. The capital revenue distinction can be problematic in property development. Critically consider all the issues that could arise from this distinction when carrying on a property development.
6. “The only positive feature of stamp duty—its relative simplicity—has long since ceased to justify its continued use in the face of the costs it imposes on Australian society” (Henry Tax Review).

To what extent do you agree with the statement above? Support your answer with a discussion of how efficient stamp duty is in gathering revenue for State governments.

7. Recent decisions by the A and the NSW Court of Appeal have restricted the availability of the primary production exemption from land tax, particularly as it relates to land developers.

Discuss the reasoning behind these decisions and the adverse consequences for both land developers and inefficient farmers.

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 Stephen Lawrence on stephencatep@gmail.com. You must ensure that you have made your request for approval and submitted a synopsis by Monday, 10 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**

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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: TABL5555

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. 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. Refer to Appendix A for more details on presentation and style.

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 email Stephen Lawrence on stephencatep@gmail.com.
Evaluation criteria

An important note on word limits

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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

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<td>Structuring investments</td>
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<td>26 October</td>
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<td>Course revision</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)**

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**Examination period from Friday 6 November to Saturday 21 November 2015**