

MACQUARIE UNIVERSITY



**POSTGRADUATE DIPLOMA
IN ACCOUNTING
and
MASTER OF ACCOUNTING**

UNIT OUTLINE

ACCG857 TAXATION LAW

Trimester 1 2008

Department of Accounting & Finance www.accg.mq.edu.au

TRIMESTER 1 2008

Unit Outline ACCG857 TAXATION LAW

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You will be marked present only if you attend the correct lecture group in any week.
You must use **BLACKBOARD** in this unit <http://learn.mq.edu.au> to log on NOW.

Week	Lecture	Presentations	Lecture Date
01	Lecture 1 Some basics	NCELTR	21 22 23 24 25 Jan
02	Lecture 2 Income		29 30 31 Jan 01 Feb Monday 28 Jan is a Holiday Students who are in Monday classes should instead attend any convenient class on Tuesday, Wednesday, Thursday or Friday.
03	Lecture 3 Income cont.	L2 SPs	04 05 06 07 08 Feb
04	Lecture 4 Tax Acctg & Int'l	L3 SPs	11 12 13 14 15 Feb
05	Lecture 5 Income/business	L4 SPs	18 19 20 21 22 Feb
06	Lecture 6 Deductions	L5 SPs	25 26 27 28 29 Feb
07	Lecture 7 Deductions cont	L6 SPs	03 04 05 06 07 Mar
	Saturday 08 March MID-TRIMESTER EXAM		This exam will cover topics listed for Lectures 1 to 5 110 minutes duration
08	Lecture 8 CGT	L7 SPs	10 11 12 13 14 Mar
09	Lecture 9 GST	L8 SPs	17 18 19 20 Mar Friday 21 Mar is a Holiday If your class is scheduled on Friday 21 please follow your lecturers advice.
10	Lecture 10 P'ship/Trusts	L9 SPs	24 25 26 27 Mar Monday 23 Mar is a Holiday If your class is scheduled on Monday 23 please follow your lecturers advice.
11	Lecture 11 Imputation System & tax admin.	L10 SPs	31 Mar 01 02 03 04 April
12	Revision/Catch up		07 08 09 10 11 April
13	EXAM PERIOD START		Mo 14 April Exam Period Start

Lecture detail & reading follows – this outline is also on BLACKBOARD
Please take study, UNDERSTANDING and exams seriously to pass this unit!

Pre-requisite. You must have passed the units ACCG851 Business Law and ACCG854 Company & Associations Law before you are permitted to study ACCG857

Aims and Objectives. ACCG 857 Taxation Law provides you with the opportunity to acquire skills in learning and analysing taxation and knowledge of aspects of current taxation law. Relevant learning skills and knowledge are important for all accounting practitioners; for many accountants they are crucial for their entire careers. Having completed this unit satisfactorily you will have proved your knowledge, and your ability to communicate professionally your skills and knowledge, in a variety of taxation areas including:

- The concepts of income and capital
- The nature and operation of deductions
- The operation of Capital Gains Tax
- The tax treatment of individual, partnerships and other entities including trusts and some aspects of corporate taxation
- Some key aspects of the operation of Goods and Services Tax
- The nature of tax avoidance and aspects of anti tax avoidance legislation
- The legislative structure of Australia's tax laws and the role of Courts in making legislation work

Assessment. Assessment in this unit is rigorous and if you are to succeed you **MUST** work consistently through the entire trimester. Please note that all lecturers in this unit will apply the same consistent assessment approaches and marks for all components will only be provided on BLACKBOARD at the end of the trimester. **Any 'advice' marks you may seek and/or which are given before the formal BLACKBOARD advice to all students in the unit will be subject to normalisation across all classes so that average marks shown below apply to all classes.**

You MUST read each week and prepare your own carefully prepared notes – that you are permitted to take into both examinations (see examination conditions for more details on this).

Exams are thorough and rigorous and are written anew for each exam in each trimester. We will not use exams or questions that have been used in class or in previous exams – although old exams and in-class problems will be indicative of the types of questions you may expect to encounter. Please note that where a question asks you to explain an answer you will NOT pass the question if you merely provide an answer (right or wrong) that does not give the required explanation.

Please note that while hard work is rewarded, this Unit provides a valuable postgraduate professional entry qualification and skill set and you are assessed in this Unit accordingly. If you do not work and/or fail to gain sufficient understanding you will not attain a pass mark in this Unit. IMPORTANT: YOU MUST ACHIEVE AT LEAST 40% OF AVAILABLE MARKS IN THE FINAL EXAM TO PASS THIS UNIT. Students regularly fail for not achieving this requirement alone.

Marks you can score are as follows:

Mid-trimester Examination of 90 minutes duration	30%
End of trimester Final Examination of 180 minutes duration	60%
Attendance (only) – an attendance record will be kept	5%
Student presentation	5%
TOTAL	100%

REGARDLESS OF OTHER ASSESSMENT RESULTS YOU MUST ACHIEVE AT LEAST 40% OF AVAILABLE MARKS IN THE FINAL EXAM TO PASS THIS UNIT

Attendance Marks. You will gain full marks if you attend and participate diligently at all classes. You are expected to arrive at classes on time and to depart at the conclusion of classes in order to attain this mark. If you miss classes or regularly depart classes early or you sleep in classes you can expect these marks to fall. Each missed class or 'demerit activity' such as leaving early or arriving late without good reason will result in a half mark reduction, meaning for example, that missing 5 classes would result in a mark of 2.5 out of 5. **Disruption in class or obvious lack of preparation will also result in reduction of class marks – good pre-reading and quiet but FULL attendance should result in full marks.**

Student Presentation. Each week there will be a Lecture on topics listed in this Unit Outline. Lectures will last about 2¼ hours. Additionally, you will participate actively, as in each Lecture, 3 to 6 students (working in pairs if large class numbers demand this and sharing the mark awarded) will be allocated topics to prepare for an in-class presentation at the start of the following week's class. By the end of trimester you will have presented an in-class student presentation at least once and possibly twice if you think you may have performed poorly [if you do give two presentations the marks for each will be added and then be divided by two to give an average across the two – you will not gain 'bonus' marks for two presentations although your average mark may improve]. Up to 12 minutes (MAXIMUM) will be allowed for each such presentation. Marks will be provided to all students using student numbers only, on BLACKBOARD, before the end of trimester exam (if all administration by all lecturers is complete). **Please note that the normal or average mark for this component will be a high credit grade or slightly better (ie about 70% to 80%) so if you want to score comparatively highly you will need to perform appropriately better than the average.** If necessary, to overcome group variations, the lecturer in charge will scale results in all groups so that all averages for all groups fall within this credit average range.

You will be marked on the basis of quality of presentation including your level of preparation, your understanding, your accuracy, your comprehensiveness, your ability to explain the key issues to your fellow students, your GOOD use of learning aids such as overhead transparencies etc. [YOU MUST USE AT LEAST 24 POINT FONTS FOR OVERHEADS]. **Generally, you are expected to display your knowledge and the communication skills expected of a postgraduate student.**

STUDENT PRESENTATION FEEDBACK SHEET (see end of this outline). This sheet will be provided to you to give you an indication of presentation quality including indicative marks (subject to standardisation across all groups) – usually you would receive the feedback sheet the week after your presentation has taken place. The sheet that will be used for this purpose is at the end of this Unit outline. **NOTE that the mark you will be given on this sheet is INDICATIVE ONLY it is DEFINITELY subject to variation (including variation downwards) before final marks are given for all students in all classes on BLACKBOARD.**

Exams. The two exams are your opportunity to display and **EXPLAIN** your learning in full – and comprise 90% of your assessment. You will receive advice about exams in-class in writing two weeks before each exam and on BLACKBOARD. The mid-trimester exam will cover topics up to and including Lecture 5. The final exam advice will be on BLACKBOARD.

Exam Aids. You will be permitted to take into exams the following aids:

- **Your own handwritten class notes and study notes.**
- A calculator.
- Tax legislation in book published form – which may be hand written on and hand marked up as you see fit. Please note that, we allow book published legislation including *2008 Core Tax Legislation and Study Guide*.
- **You are NOT permitted to take into either exam any other items. No photocopies of any items are permitted nor are any computer downloads or printed output of any type.**

Written advice about both the mid-trimester and final exam coverage and content will be provided in class and on BLACKBOARD. No 'informal' advice about exams will be given in-class.

Textbooks and Legislation

Text : "Woellner" – referred to as "W" throughout this outline. You **must** have a copy of this – bring it to class each week:

Woellner RH Barkoczy S Murphy S Evans C *2008 Australian Taxation Law* CCH Australia Ltd.

[We are pleased to let you know that 'Murphy S' in the title is the regular ACCG857 lecturer Shirley Murphy.]

Legislation – you need a copy of this – and should bring it to class each week
Barkoczy S *2008 Core Tax Legislation and Study Guide* CCH Australia Ltd

Worked problems and solutions – this will be very useful for your study and revision activities and you should organise access to this even if you do not buy your own – sharing a copy would be fine.

Nethercott LJ and others *Australian Taxation Study Manual: Questions and Suggested Solutions* CCH Australia Ltd *most recent edition available*

Casebook (summaries of almost all important tax cases) – this will be useful and you should consider organising at least shared access to help your study. An older edition will still be useful. The purpose of this book is to allow you to read revision and study summaries of important cases that are mentioned in the text and emphasised in lectures.

Barkoczy S *Australian Tax Casebook* CCH Australia Ltd *most recent edition available*

Recommended – a guide about how to study tax law

Obst W Smith Hanegbi *Successful Tax Study* Thomson/ATP. This book will help you discover how to understand analysis of legal principles. Once again, sharing a copy with somebody should be satisfactory.

Support Services For Overseas Students. The University Counselling and Health Services has appointed a counsellor specifically to assist students from overseas countries and those who speak English as their second language. This person is particularly expert in assisting with difficulties that involve adjustment to University life or to Australian custom, personal difficulties or the skills of studying, of reading, learning and remembering, or organising and motivating study, or of facing the examinations. Much of the work with students is conducted on an individual basis in a confidential setting. However, each trimester groups are conducted to assist students in study skills, stress management and preparation for returning to the home country.

BLACKBOARD and Lecture Guidance Notes. Each week, lecture notes will be placed on BLACKBOARD before the class. These notes are no more nor less than core lecture notes presented in lectures by Shirley, David and Patrick. They are NOT intended to, nor do they, stand alone nor in place of lecture attendance. They are provided for your convenience. You must also properly construct your own notes based on your own readings and any additional comments, supplements and corrections to these notes which WILL occur during lectures – and which you MUST attend.

CRITICAL COMMENT. You are not entitled to rely on lecturer provided notes for full study purposes nor as the final indicator of exam content. You are required to and expected to read all

text and legislative references and also to take into account comments, additional materials and illustrations and examples which may also be given in lectures.

The Lecture Notes have been constructed almost entirely by following the textbook for this Unit according to the Unit outline.

BLACKBOARD “Discussions” is intended as a noticeboard and discussion forum for all students. It is here that you should post questions – students and lecturers will regularly provide feedback and/or answers to your queries. This discussion forum is open right up to your final exam (please note that, if by chance students sit an exam ‘early’ for any reason – and this is very rare – the discussion forum will definitely continue until the date of the exam relevant to the normal exam time.)

Comments on Tax as a discipline and a study area. TAX IS INTRIGUING – it can also be both a FUN area of study that can be FRUSTRATING and which requires A LOT OF WORK BY YOU... but it is always interesting.... Some important issues to consider while studying this Unit:

1. ALWAYS READ ALL OF THE LISTED MATERIALS CAREFULLY EACH WEEK
2. It often helps to place yourself in the position of taxpayer or tax collector
3. Be prepared to follow things through further where you find them challenging or especially intriguing
4. It is in many ways the most complex area of law and ...
5. Once you master it you have a ticket to an excellent income and a rewarding career that is the core of most accountants’ professional income stream
6. This is true for all countries – study of Australia’s tax system will assist your tax understanding no matter where you will practice.

Your Compulsory Reading for Lectures and Topics for Lectures

Additional notes will be available on BLACKBOARD on the weekend before classes. These may also be handed out in classes depending on your lecturer preferences. These notes are to save you some writing in lectures – YOU MUST STILL MAKE YOUR OWN NOTES TOO!

MACQUARIE UNIVERSITY RULES AND REGULATIONS

All assessment is subject to the University's rules and information to students set out in the 2005 Handbook of Postgraduate Studies. You are particularly referred to rules of the various postgraduate awards and with the student Information regarding plagiarism and on grading (see below).

PLAGIARISM The University defines plagiarism in its rules: "Plagiarism involves using the work of another person and presenting it as one's own." Plagiarism is a serious breach of the University's rules and carries significant penalties. You must read the University's practices and procedures on plagiarism. These can be found in the Handbook of Undergraduate Studies or on the web at: <http://www.student.mq.edu.au/plagiarism/>

The policies and procedures explain what plagiarism is, how to avoid it, the procedures that will be taken in cases of suspected plagiarism, and the penalties if you are found guilty. Penalties may include a deduction of marks, failure in the unit, and/or referral to the University Discipline Committee.

GRADING Academic Senate has a set of guidelines on the distribution of grades across the range from fail to high distinction. Your final result will include one of these grades plus a standardised numerical grade (SNG).

On occasion your raw mark for a unit (i.e., the total of your marks for each assessment item) may not be the same as the SNG which you receive. Under the Senate guidelines, results may be scaled to ensure that there is a degree of comparability across the university, so that units with the same past performances of their students should achieve similar results.

It is important that you realise that the policy does not require that a minimum number of students are to be failed in any unit. In fact it does something like the opposite, in requiring examiners to explain their actions if more than 20% of students fail in a unit. The process of scaling does not change the order of marks among students. A student who receives a higher raw mark than another also receives a higher final scaled mark.

For an explanation of the policy see the MQ University website.

Lecture 1 INTRODUCTION to Australian Taxation

Note that Lecture 1 and Lecture 2 content might be covered across the first two weeks of classes as some Lecture 1 class time will be used with the valuable NCELTR presentations on 'business skills'.

In all classes 60 minutes of Lecture 1 will comprise a presentation by NCELTR which will guide you on how to make business presentations effective and successful.

"W" refers to paragraphs in the Woellner text.

"NE" indicates not examinable – topic is included for completeness of material coverage.

Introduction to this Unit

Explanation of Assessment methods

Role of In-Class Presentations – significance of NCELTR next week

In-class Informal Overview Discussion of Taxation Principles NE [NE means non-examinable BUT still important for professional competency]

W1-130 A conventional view of the taxation system

W1-140 Social and merit goods

W1-160 Free market corrections

W1-165 Tax Expenditures

W1-170 Problems with social engineering

W1-185 Fairness or Equity

W1-190 Simplicity

W1-193 Compliance costs

W1-195 Certainty

W1-200 Efficiency/Neutrality

W1.235 to W1.250 Tax Reform

Overview of Constitutional Aspects of Taxation NE

W1-530 to W1-600 Constitutional Aspects of Taxation

W1-550 Concept of a Tax

W1-560 No discrimination between States

W1-570 Other Constitutional provisions

W1-580 Wide reach of C/W tax power

W1-590 to W1-610 C/W & State Tax Relations

Sources of Income Tax Law ... rest of L1 content IS examinable

W1-310 & W1-320 Overview

W1-330 Legislation – ITAA1936 and ITAA 1937 and other tax legislation

W1-340 - 410 Case Law and interpretation – revision from earlier units – YOU need to know it!

W1-420 Variation over time in interpretative approaches

W1-430 & 440 Statutory support for purposive approach and use of extrinsic aids

W1-450 The role of precedent

W1-460 Court Hierarchy

W1-470 Ratio decidendi compared with obiter dictum

W1-480 Flexibility and precedent

W1.490 ATO practice as a source of "Law"

W1-490 Australian Taxation Office (ATO) decisions subject to court or admin review – Rulings
W1-500 ATO rule making powers – machinery – anti-avoidance – discretions
W1-520 Regulations

Self-assessment and Tax Rulings – a Key Aspect of Australian Taxation

W30-470 Self-assessment
W30-471 ATO Advice
W30-472 and 473 ATO Rulings
W30-474 Public Rulings
W30-480 Private Rulings

SELF-ASSESSMENT REGIME – RETURNS and AMENDMENT

W30-000 Introduction
W30-310 to W30-360 Basics of Tax Returns
W30.570 Elections & Notifications
W30-400 to W30-420 Assessments
W30-425 to 30-457 Types of assessment
W30-600 Amendment
W30-620 & W30-640 Time Limits
W30-690 General Interest Charge (not a penalty ...)

Brief Discussion of Some Compliance Issues Under Self-Assessment Regime

W32-405 to 32-420 Pay As You Go (PAYG) System Overview
W32-435 Rate can be 46.5% of gross amount (ie including tax) – see W32-340
W32-375 Australian Business Number
W32-300 Tax File Number overview – and W32-340
W32-220 Financial Transactions Reports Act

Overview of Simplified Tax System for Small Business

W15-000 The *optional* Simplified Tax System
W15-100 Eligibility to select STS option

Lecture 2 SOME BASICS: INCOME, EXEMPT INCOME, TAX LIABILITY, TAX FORMULAE AND RATES

Note that some Lecture 1 content may be covered in Lecture 2. YOU NEED TO START READING FULLY

“W” refers to paragraphs in the Woellner text.

“NE” indicates not examinable – topic is included for completeness of material coverage.

Income

W3-060 **Assessable Income** – Introduction

W3-070 Income under ITAA36

W3-080 Income under ITAA97

W3-090 What type of Income?

Legislation Division 6 ITAA97: s6-1, s6-5, s6-10, s6-15, s6-20, s6-25

W3-100 **Income that is NOT Assessable Income**

Exempt Income

Non-Assessable Non-Exempt Income – this was new in year 2003!

W3-120 **Effect of GST on assessable income** – a little more on this when we look at GST

W3-150 **Ordinary Income** – Introduction

W3-180 **“ordinary income”** comes in

W3-190 **“ordinary income”** derived by a person as such

W3-195 **“ordinary income”** characterised at moment of derivation

W3-210 **“ordinary income”** has nexus with earnings activity

W3-230 **“ordinary income”** is money or money's worth

W3-250 **“ordinary income”** can be an amount of compensation

W3-260 **“ordinary income”** may be periodic, recurrent and regular

W3-270 **“ordinary income”** can be illegal, ultra vires or immoral activity receipts

W3-280 **“ordinary income”** **cannot** be capital gains (often the biggest question is capital or not)

W3-290 **“ordinary income”** usually must provide some real gain to be income

W3-300 **“ordinary income”** will not be amount of a mixed undissected sum –see *McLaurin Case* etc – discussed at W6-880

Some Aspects of Exempt Income

Legislation ITAA97 s6-1(3); s6-15; s6-20

W9-020 Overview

W9-030 – W9-040 and W9-085 some Exempt entities

W9-070 Non-profit associations etc – and income apportionment

W9-080 Judgment debts for personal injury compensation

W9-100 – W9-140 Some types of exempt payments

Mutuality Principle and Mutual Receipts

W9-250 Mutual Receipts

W9-255 Limitations to the mutuality principle – including distributions on winding up – including reference to *Colleambally* decision in the High Court & statutory response on this case

Tax Formulae and Tax Rates

IMPORTANT – unless good reasons exist you are required to use 2007/2008 Tax year rates whenever you are dealing with rate calculations within this Unit in 2008

W2-000 Overview

W2-020 Tax Formula

W2-100 Overview of rates – NOTE rates changes taking place this year and in recent years.

W2-110 Current individual rates of tax and important calculation examples
W2-120 to W2-250 various rates and Family Assistance – note resident versus non-resident
W2-300-W2-350 Medicare levy and levy surcharge
W2-400 HELP
W2-500 to W2-540 Overview of Tax Offsets (they were once called ‘rebates’ but are no longer).
W2-640 Low Income Earners Tax Offset (“LITO”) – **now is up to \$750** with 4% cutout rate
W2-650 Medical Expenses Rebate – much broader than is often advised!
Legislation Division 4, Division 6, Division 8, Division 11 ITAA97

Individual Tax Rates are shown in the Lecture Guidance Notes

L2 Student Presentation Topics (due L3)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class. You may like to read a little ahead into next week’s materials as you prepare answers – your presentations are effectively part of the overall learning experience for ALL students!

L2SP1. Stella Stella is a student in Revenue Law at the Gordon’s Bay University. She has just completed an assignment in which she has explained carefully the concept of income. Throughout her assignment she has referred to “s25(1)” because many old cases have involved discussion of this section. She also emphasised the fact that Tax Rulings are not an important factor in stating taxation law unless they actually result in a taxpayer paying less tax. She scored low marks and much criticism from the person marking her work. Stella has asked you to assist her in working out why she would have scored low marks and whether she should challenge the examiner. In your answer consider the role of rulings and the fact that in many cases on income the judges did not talk about any other section than s25(1).

L2SP2 Jing Jing Jing Jing received a cash payment of \$100,000 on 30 November 2004 as a result of winning a television quiz show. She also won goods to the value of \$20,000. As a result of her success she was invited back in 2005, 2006 and 2007 for the annual “Champion of Champions Annual Quiz” held in May/June each year. In May 2005, May 2006 and May 2007 she was paid in advance \$20,000 as a fee for participating. In 2005 she did not win a major prize. In 2006 she won a major prize (the actual date that she won was 6 June) but had not received the \$50,000 in cash by 30 June 2006. In May 2007 she won the major prize of \$50,000 and she was paid this in July 2007. Discuss the tax implications that arise and show Jing Jing’s tax liability (if any), including Medicare, for each of the relevant tax years ending 30 June. You may assume Jing Jing had no other receipts in any of the years and that she was an Australian resident at all times. She recognises her income based on cash timing. In calculating the answer please use the relevant tax and Medicare rates for each tax year in answer. Remember that each tax year is always looked at on its own.

L2SP3 Tom Tom has a full life. In the daytime he works as a garbage collector. At Christmas each year, next to the garbage bins he often finds cartons of beer left by residents in gratitude for the terrific job he does each year. He also receives a small payment each weekend throughout winter for playing football and at the end of the 2007 season he was voted by spectators as the most popular player for which he received from a local newspaper a Toyota Yaris car worth \$17,000 and a cash prize of \$500. Tom is astounded to find that all of these gifts might be subject to tax according to a mate at the club. Advise Tom (hint – you would do well also to look at “voluntary payments” covered in L3 when preparing your answer including the case of *Kelly v FCT* – and as an alternative approach to your answer *Stone’s* case in the High Court might help.

Lecture 3 INDIVIDUALS & INCOME and a look at some other issues including Capital/Income including assignment

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“NE” indicates not examinable – topic is included for completeness of material coverage.

Class will commence with approximately 45 minutes student presentations of L2 Problems.

Aspects of Income from Personal Exertion

W4-000 Overview

W4-020 Principles and characterisation

W4-040 Voluntary payments – introduction

W4-043 Voluntary payments – by a party to a service relationship – after service relationship ends – periodic payments – first payment

W4.046 Voluntary payments by a third party – sportspersons Stone’s Case in the High Court – ex gratia by government

W4-050 Services or sale of asset

W4-060 Giving up rights – before entering service – during service – termination – restrictions

W4-070 Salary sacrifice and in-class reference to basic FBT principle

W4-080 Alienation of Personal Services Income (we look a little further at PSI rules late in the Unit)

Statutory Income (one type – s 26(e) ITAA36 – relates to personal)

W4-110 Background to allowances and s26(e)

W4-140 Benefit and s15-2 (similar to old s26(e)) **THIS WAS NEW ONLY IN 2007!**

W4-145 Benefit to the taxpayer

W4-150 Employment nexus

W4-160 Valuation rule – is this why s26(e) fails?

W4-190 Reimbursement of car expenses

W4-170 Reconciliation rules – you MUST understand these – especially FBT reconciliation

In-class discussion – why FBT supplants much of s15-2 in practical terms

W4-400; W4-460 to W4-510 Employee Share Schemes [NE]

Will not be covered in lectures. You should read for professional completeness of knowledge – important detailed practical knowledge.

W23-500 to W23-680 Eligible Termination Payments [NE]

Will not be covered in lectures. You should read for professional completeness of knowledge – important detailed practical knowledge.

W23.950 to W23.975 Unused Leave Payments [NE]

Will not be covered in lectures. In your practical work as accountants you must be aware that you may need to apply the details for unused leave pre-dating 1993.

INCOME FROM PROPERTY

W5.000 Overview – VERY IMPORTANT – read and think carefully about this overview!

W5-200 to W5-210 Interest

W5-215 Discounts and premiums – what are these – income or capital???

W22-570 to 22-660 Statutory rules on interest and Debt Securities – [NE] – practically important and complex but this very complex area is not examinable in this unit.

W5-400 Introduction to Leases and Rental Income

W5-410 Identifying rent payments

W5-420 Lease Premiums – normally capital

W5-420 Lease surrender receipts

W5-460 Promises by tenants to make repairs – non-compliance payments

W5-500 Royalties – what are *these* – income or capital??? (the Income/Capital borderline explored again

W5-510 Royalties in ordinary usage

W5-515 Royalties that are not ordinary income

W5-520 Making statutory royalties **ordinary** income

W5-525 Amounts that are not ordinary royalty payments

W5-600 **Assignment of the right to receive property income** – (the Income/Capital borderline explored for the third time) and the *FCT v Myer Emporium* case (1987) 163 CLR 199; 87 ATC 4363

L3 Student Presentation Topics (due L4)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class.

L3SP1 Duran. Duran was an amateur golfer who was paid sums amounting to as much as \$30,000 per year by a sponsor to assist his travel expenses. Until he turned professional, his main income came from his job as a security officer – and he generally earned about \$50,000 per year in this job (he was lucky that his boss allowed him time off to attend amateur golfing events). He sometimes won small tournaments and in 2004 he won \$18,000 and in 2005 \$14,000 in small tournaments. His actual travel costs amounted to about \$40,000 each year.

In May 2006 Duran entered a major international ProAm tournament held in Australia. He won this ProAm and accepted the amateur's prize of a car. The winning professional golfer received AUD\$1 million. Almost immediately, Duran was offered AUD\$500,000 to become a professional golfer by a major golfing equipment manufacturer. He accepted this money and in the following 12 months made AUD\$400,000 and then won another ProAm event in November 2007 – winning AUD\$1.2 million. Immediately afterwards, his success was so popular a magazine arranged for him to sit down with one of their writers and he was paid \$300,000 as a lump sum for giving the magazine the copyright in the story. In January 2008, shortly after writing the story Duran was struck by a fellow competitor's golf ball and he was badly injured. He received \$100,000 compensation for lost income and \$50,000 for personal pain and suffering. **Advise Duran** on the general nature of his tax situation – give full reasons including cases and legislation.

L3SP2 Jane. Jane was employed by Rushcutter Private Hospital. On 1 January 2006 Jane took leave from the hospital and became a nurse with the Red Cross. Jane worked with the Red Cross in East Timor for 18 months. She was paid by the Red Cross, into a bank account she had opened in East Timor. While in East Timor, the Rushcutter Private Hospital paid Jane an extra \$6000 for each completed year of service in East Timor. Whilst there, Jane leased her Sydney home unit for \$500 per week. She entered the lease on 1 January 2006 and, because of the tight Sydney property market, demanded and received a lease premium payment of \$5,000 at the start of the lease period. Jane was under no obligation to return to work for Rushcutter Private Hospital. In fact, she did not return there to work – she stayed in East Timor where she now lives having just left the Red Cross. She now works for the East Timorese Government Nursing Service. **Advise Jane** on the general nature of her tax situation – give full reasons including cases and legislation. (Hint – for part of the answer read ahead to see whether Jane will be taxed as a resident or not...)

Lecture 4 TAX ACCOUNTING & INTERNATIONAL

“W” refers to paragraphs in the Woellner text.

“NE” indicates not examinable – topic is included for completeness of material coverage.

Class will commence with approximately 45 minutes student presentations of L3 Problems.

Tax Accounting – Cash (receipts) or Accrual recognition...

W13-000 to W13-040 – your introductory reading – especially W13-025 the Income Year

W13-100 Cash basis and Accruals basis accounting systems

W13-110 Which is most appropriate?

W13-120 The borderline

W13-130 Professional practices – the central problem area

W13-140 Examples

W13-150 Changing systems

W13-160 Changing accounting practice

W13-200 s21 and Cash derivation

W13-210 Cheque derivation

W13-220 Constructive receipt

W13-230 Taxpayer delays payment

W13-300 Accruals derivation

W13-320 When is income “earned”

W13-325 Income subject to a discount

W13-330 Income subject to a refund

W13-335 Deposits and warranties

W13-340 Income related to future goods and services

W13-345 Income and unresolved dispute

W13-360 Income for which no invoice has been issued

W13-370 Income with “amount uncertainty”

W13-380 Work in progress

W13-400 Wages and salaries

W15-200 Tax Accounting and the Simplified Tax System

NB You should have read W15-100 to W15-110 already – if not read it before W15-200

Some International Issues

W24-010 Introduction and international norms

W24-020 Basic jurisdictional rules

W24-040 to W24-058 Residence of Individuals

W24-060 to W24-078 Residence of Companies and trusts

W24-080 & W24-090 Dual Residence

W24-100 Source of Income Overview

W24-110 Sale of Goods – trading stock

W24-130 Services

W24-140 Interest

W24-150 Dividends

W24-170 Rule Summary

W24-200 Background to taxation of foreign source income of non-residents

W24-550 Overview of taxation of foreign source income of non-residents

W24-600 Withholding tax overview

NOTE there is far more to international tax than we have covered – you will need more depth and breadth of knowledge in your professional life.

L4 Student Presentation Topics (due L5)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class.

L4SP1 Schultz Schultz is a German-born national who lived in Australia for 10 years from 1996 to 2006 as a permanent resident (immigration status). During that time Schultz worked in Australia as a musician. In December 2006 Schultz travelled to Berlin and performed two concerts there. Schultz was thrilled with his reception in Germany and did not return to Australia. In March 2007 Schultz decided to stay in Germany. At that time in fact he abandoned his wife and two children who remained in the family home in Melbourne. In March 2007 Schultz claims he set up house “permanently” in Germany.

Schultz received AUD\$16,000 for his December 2006 concerts in Berlin. He received half the money prior to departing Australia for Germany and the remainder immediately after the concerts were performed in Germany. Schultz earned a further AUD\$30,000 from work he was offered in Germany between January and March 2007 and \$40,000 between March and June 2007. He also received AUD\$80,000 from Australian royalties in July 2007.

Advise Schultz fully on his tax position with full reasons.

L4SP2 Webster Nicholls Webster Nicholls & Co is a public accounting partnership with eight partners, 15 employed salaried accountants and 20 support and secretarial staff. The partnership has offices in Brisbane, Townsville and Toowoomba. Although it is involved in some long-term projects, approximately 75% of turnover is represented by work taking less than three months to complete. Up to and including the year ended 30 June 2007, the partnership submitted its income tax returns on a cash received basis and the Commissioner assessed them on this basis. However, due to the increasingly complex nature of their activities the partnership has decided to submit its return for the year ended 30 June 2008 on the earnings basis of income recognition.

The Commissioner of Taxation seeks your full advice, with all reasons, on the following:

- a. Is the change in method justified?
- b. How should work in progress be treated?
- c. Are there any effects on overall tax liability across the years – explain fully?
- d. Can the Commissioner reject the change?
- e. Are there any other relevant issues?

L4SP3 Tax Accounting Services Tax Accounting Services has a series of clients and you have been asked to identify tax accounting issues and to provide explanatory solutions for each of the following clients:

a. **Ferdinand Hardenwerker**, is an employee who is due to receive a payment in respect of wages not properly paid relating to the tax years ending 30 June 2005, 2006 and 2007. He has asked that the amount (\$90,000 in total) not be paid until July 6 2007. His normal pay for 2008 is expected to be \$94,000.

b. **Can Jump Gymnasium** received payments of \$40,000 for 400 hundred lessons to be taken over 4 years (\$100 per lesson) on 30 July 2007. CJG allows customers who have good reasons to obtain refunds in the case of cancellation, less 20% administration charge but this is a matter of goodwill as there is no contractual requirement to pay any refunds whatsoever.

Lecture 5 INCOME FROM BUSINESS

“W” refers to paragraphs in the Woellner text. “NE” indicates not examinable – topic is included for completeness of material coverage.

This topic is CRUCIAL and must be understood. If you do not understand this area well you cannot pass this unit. Read it and read it again and again – ensure you read and understand the relevant legislation identified in the text.

Class will commence with approximately 45 minutes student presentations of L4 Problems.

BUSINESS INCOME – AND OTHER THAN BUSINESS INCOME...

W6-000 Overview

W6-010 to W6-150 Identifying a business

W6-250 to W6-260 Commencement of a business

W6-400 to W6-420 What activities *within* a business entity lead to **tax income** from business

W5-420 – yes back to Ch 5 to back up discussion of the ‘business’ of lease premium sales (note that the textbook does not mention that TR94/24 is replaced by TR2002/14 which totally reverses the approach of TR94/24 as from April 2000 when TR94/24 was withdrawn).

W6-430 to W6-435 “One-off” transactions and calculating one-off assessable amounts

W6-440 to W6-445 Extraordinary transactions, including *Whitfords Beach* and the *Myer Emporium Case* (1987) – YOU MUST KNOW THE TWO strands of the Myer decision! Also be familiar with the understandings given by the Court in *Statham* and *McCorkell* in W6-430

W6-448 Lease incentives and a series of important cases...

W6-455 Myer’s second strand – conversion of income streams

W6-480 & W6-490 s15-15 – VERY limited operation [replaced s25A(1)]

W6-560 an example of business income issues – sale of know-how and related items – see cases discussed in this area ...

W CHAPTER 14 TRADING STOCK [NE] NOTE that accountants must understand the rules and the regime – including the Simplified Tax System trading stock rules. Generally, trading stock tax rules coincide with those required by AASB public reporting requirements – although the tax “language” is at times differently stated. While you can learn these mostly quite straight-forward rules yourself you should be aware the rules will be examined in CPA and ICAA tax units.

L5 Student Presentation Topics (due L6)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class.

L5SP1 Chitrapruin Charuchinda. Chitrapruin Charuchinda (Chitty, to her friends) is an Australian citizen and tax resident. She is an experienced horticulturalist. She is employed in a retail plant nursery close to Sydney. Also, she has acquired a farm near Oberon in New South Wales where she has begun some planting of purely experimental Thai herbs as well as very small-scale lamb farming. Because her job is in Sydney she has employed a local farmer to manage the farm from Monday to Friday and she spends each weekend working on the farm. She thinks it is unlikely that she will make a profit in the first three years of her new activity. She keeps good records of her activities on the farm and wants to know if she can claim tax deductions for her expenditure on buying and running the farm. In your advice, do not deal with deductions in any detail (nor with depreciation). All you need to know about deductions for the purpose of this question is that outgoings can be deducted insofar as they relate to a person gaining assessable income or carrying on a business and are not capital items. You should advise her clearly on the relevant general law giving both cases and statutes and also on any special rules that may have been relatively recently introduced and which may have a bearing on her situation. [*Research Hint* – on this latter point you might like to jump ahead a little and look at W14-550]

L5SP2 Fairweather Fishing. Fairweather Fishing Pty Ltd was a small company owned by a group of fishermen. It was formed in 1962 as the entity to buy a farm on the Thredbo River, which

was to be used by a group of keen trout anglers. Over time, the land increased in value substantially due to growth in snow tourism. In 1996, Fairweather was offered \$4 million to sell the farm. Fairweather rejected the offer, and as most of the original owners were by then rather too old to fish (some had died, leaving their shares to their children) they instead decided to develop the farm as a tourist village involving building villas and recreation facilities across the entire farm. Because of the general poor health of the fishermen all development work was undertaken by a contractor and not by the fishermen. The tourist village undertaking cost \$8 million and, once the developer had been paid and all villas had been sold and the residual land and common amenities were sold to the Strata Plan, the total amount realised was \$21 million. You are required to advise on whether the sale is taxable under s6-5. If so, why, if not why not. You should not consider Capital Gains Tax. You should be aware that if CGT applies then s15-15 does not apply. However, you should discuss whether (as you are not discussing CGT you can assume it does not apply) whether s15-15 could apply.

L5SP3 PMCE Accountants. PMCE is a firm of accountants. PMCE has decided to move into a new building partly because of problems with its existing building and partly because a developer has offered favourable terms to move into his new, and vacant, central Melbourne building. They have been offered a lease on the top six floors of the building – with rentals at the same rate as ground floor accommodation. Because the developer says their name is valuable and deserves recognition they have naming rights on the building – a factor that will help to attract other tenants. In return for agreeing to take a lease on the building PMCE is free to choose to take any one of:

- A. a lump sum of \$2,000,000 to be shared between the partners
- B. a rent-free period of 24 months, or
- C. a free fit-out of all workstations, wiring, furniture and partitions

Using relevant case law, and referring to the cases, discuss the potential tax implications of choosing amongst these alternatives for PMCE. [Hint – for C consider whether Montgomery has in fact overruled Selleck...]

NOTE – materials to this point are potentially examinable in the mid-trimester exam. This does NOT exclude them from also being examinable in the final exam. Issues and topics following this point will not be in the mid-trimester exam.

Lecture 6 DEDUCTIONS first lecture

You will need to do a lot of reading for this class. All of the materials in the outline are to be read and all are examinable – in the final exam. Only the content included up to Lecture 5 (including L5 SPs) is in the mid-trimester exam.

Class will commence with approximately 45 minutes student presentations of L5 Problems.

W10-000 Deductions overview – and the role of objective ‘PURPOSE’

W10-040 s8-1 Positive deduction limbs

W10-050 Nexus 9 (this means ‘connection’) between income and expenditures – what does the word “loss” mean in the context of the legislation?

W10-160 “Necessarily incurred in carrying on a business”...

W10-170 Gaining or producing your assessable income...

W-10-180 Connection with income earning activity required ... but income in future ok...

W10-200 Apportionment and *Ronpibon Tin* 1949

W10-210 to W10-240 The shift from “legal rights” literal approach to a “purposive” or substance of transaction approach. The cases in this area of text discussion are particularly important – for example, what was new in *Ure’s Case*?

W10-250 s8-1 Negative limbs

W10-260 **Capital nature** – same issues as in capital/income distinction. English tests...

W10-270 **Sun Newspapers Case** (1938) and Justice Dixon’s “business entity” test

W10-280 **Leading Australian Decisions** – support for “business entity test”? OR do the Australian test more cleverly replace the outmoded English tests (almost completely)?

W10-310 **“Private or domestic nature”**

W10-320 “exempt and non-exempt non-assessable income” deduction exemption

W10-330 specific outgoings denied deduction by the Act

Some Deductions (of a far larger number) of individual expenses we might have considered...

W10-420 Introduction

W10-430 Home Office

W10-440 Self-Education Expenses under s8-1 – related role of s82A

W10-450 Insurance

W10-460 Interest

W10-470 Legal Expenses

W10-475 Travel expenses (including car expenses) – note that the tax form for individuals separates ‘car expenses’ and ‘travel expenses’. Ensure you refer to s25-100 which is also discussed at W11-635

W10.600 Entertainment Expenses

W10-680 to W10-705 Substantiating expenses for tax purposes

L6 Student Presentation Topics (due L7)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class.

L6SP1. Tuffy FM Ltd. Tuffy FM has a viable business as an FM radio station in the small country town of RumTumba. Three times in the past three years Tuffy has taken potential rivals before the FM Radio Broadcasting Tribunal to stop their ambition to become licensees in RumTumba. Tuffy has been claiming these expenses as tax deductions and is amazed to find that, after a tax audit, their claims have been declared invalid by the ATO. Tuffy has been charged penalties as well as General Interest Charge (please explain the GIC and the current GIC rate – but itself a deduction if paid) on all moneys outstanding. **They have come to you for detailed tax advice.** They believe

they will be bankrupted by the ATO if the ATO is right. In your first interview you discovered that if any of the rivals had obtained a licence Tuffy's commercial viability would have been jeopardised. As you are not a lawyer, you advise that your "legal advice" cannot be relied upon, and you would be guilty of breach of the Legal Practitioners Act unless you advised Tuffy of this fact. Accepting this (and you can ignore this point as long as you understand it), Tuffy wants your opinion on how the law applies so they can approach a solicitor you may recommend.

L6SP2 Marissa. Marissa has approached you as a tax agent and wants you to complete her tax return for her. You discover that she is an assistant in a large delicatessen chain with prospects of promotion. Marissa is studying food technology at MacMine University. She has some specific questions for you – she wants to know whether she can she claim deductions for:

- A. Bus fares for travelling from home to work in the morning. Bus fares from work to university for evening classes. Bus fares from university to home.
- B. The cost of her evening meal eaten between classes at the MacMine.
- C. Fees and textbook expenses for study at MacMine. She also wants to know if there are any other things that are relevant in respect of deductions for education expenses.
- D. Child care costs she incurs in order to study and in order to work.
- E. Further, she wants to know what records she needs in order to claim expenses.

L6SP3 Petra. Petra works as a scriptwriter for the Six Television Network. She is provided with an office by Six where she is also provided with all necessary equipment. For creative reasons and to maximise productive output, rather than work at her Six office, Petra often works at home in an office she has set up specifically for this purpose. Six are quite happy about this but they do not provide any facilities for Petra to use at home.

Petra wishes to claim a deduction for expenses related to the home office (interest on mortgage, rates, electricity, insurance). Advise her carefully on deductibility under the law and on the records that she will need to keep for any available deductions. What would the role of 'purpose' of expenditure be if she were to install a SECOND phone line at home?

Lecture 7 DEDUCTIONS (second lecture on deductions)

Class will commence with approximately 45 minutes student presentations of L6 Problems.

W11-000 Overview of specific deduction provisions

W11-012 Preventing double deductions – interaction of provisions

W11.020 to W11.130 Repairs, Initial repairs and Improvements – looking at the cases too...

W11.440 to W11.470 Bad Debts

W11.500 to W11.540 Tax Losses of earlier years as deductions

W11-550 Non-commercial loss anti-avoidance rules – since 2001 – why introduced?

W11.560 Tax Related Expenses

W11.562 to W11.575 Others including “Borrowing Expenses” & Miscellaneous Expenses

W11-580 to W11-630 Other items

NOTE THAT AS ACCOUNTING STUDENTS YOU ARE EXPECTED TO READ AND UNDERSTAND THE FOLLOWING AREA EASILY – WHILE IT IS EXAMINABLE, LITTLE TIME WILL BE SPENT IN CLASS ON THIS RELATIVELY EASY (for accounting students) TOPIC.

W12.000 to W12.270 Capital Allowance deductions (depreciation rules)

W12-230 Car Depreciation Limit

W12-300 Blackhole Capital Expenditure

W12-400 to W12-440 Capital Works Deductions

W15-300 to W15-340 Capital Allowances and the Simplified Tax System

L7 Student Presentation Topics (due L8)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class.

L7SP1 ICN Dance Today Pty Ltd. ICN Dance Today Pty Ltd (ICN) bought an old cinema on 28 July 2007 for use as its new dance studio. ICN borrowed \$2 million to buy the building and is paying 6% interest. Borrowing expenses were \$14,000 and Stamp Duty was \$130,000.

On 8 August 2007 a storm struck the building causing what turned out to be poorly fixed roofing iron (it was in very poor condition at the time of purchase) to be dislodged. Water penetrated and damaged the ceiling. ICN decided to fix the whole roof to the same general standard as it had been before the storm – a difficult task as this involved repairing it so that it was still a ‘bad’ roof! ICN also decided to undertake work on the whole of the ceiling. Half the ceiling, in the lobby, retail areas and in the bathrooms was replaced to the same standard as it had previously been – this job was separately quoted and invoiced for \$30,000. The other half of the ceiling area, which was over the main dance floor, was replaced with better materials that both enhanced the appearance of the hall and improved the acoustics. The total cost of fixing the roof was \$28,000. The total cost of fixing the ceiling was \$74,000 – this included the separately priced work that cost \$30,000 and which was invoiced for this amount and \$44,000 for the remainder of the ceiling work.

ICN wants to know what deductions are available in respect of the above items. Explain each item VERY carefully and consider all possible variations.

L7SP2 Chan Sen. Chan Sen is an employee of Chan Sen Books Pty Ltd a company in which Chan Sen owns 100% of the shares and which purchased a small retail bookstore on 1 August 2007. In September 2007 Chan Sen approached you to prepare his and his company’s tax returns when due for the 2008 tax year and also to gain tax advice. You discovered the following two issues which concern you and you need to prepare advice for Chan Sen on all issues relevant to deduction of these items:

A. The purchase price of the bookstore included an amount of \$14,000 for debts outstanding. By 30 June 2008, Chan Sen Pty Ltd will have collected \$9,000 of the debts and it will write off the remaining \$5,000 as a bad debt.

B. In July 2007, Chan Sen took a trip to the US where he visited various publishers and authors in order to enhance his learning about the book publishing industry. While he had not arranged before the trip to call on particular businessmen or to inspect specific businesses he was most successful in achieving a profitable trip and learnt a great amount. He was so happy with the outcomes that he added on a 6 week holiday while he was in the USA. He says the real purpose of his trip was entirely for the work activity and that the holiday was just 'tacked on'. He wants advice about his personal deductions for this trip.

L7SP3 MarlyAnn. MarlyAnn is a wealthy investor who needs you to provide good and thorough tax advice on the following issues:

A. In December 2007, in respect of earlier work by Gilligan Tax Services, MarlyAnn had made the following cash payments to them:

Preparation of MarlyAnn's June 30 2007 tax return	600
Objection to MarlyAnn's June 30 2007 assessment	800
Financial advice to MarlyAnn on investment in shares	900
Advice to MarlyAnn on tax planning	2000
Total	4300

You are aware of Gilligan and you think it is likely that while the firm has qualified Accountants who have studied tax working within it, you believe that nobody in the firm is registered as a Tax Agent.

B. MarlyAnn recently borrowed \$10,000 from Westpac in order to assist her husband to buy a rental property. MarlyAnn is paying 6.5% interest and her husband has indicated that he expects to be able to afford to pay her 3% as he does not want to negative gear because he has little income on which to take advantage of reducing his tax bill.

L7SP4 Explaining Capital Allowances. Present an original example to the class on capital allowances which explains the diminishing value method, the prime cost method and how and why balancing adjustments occur. Might a small business be interested in the STS for depreciation?

LECTURE 8 CAPITAL GAINS TAX

Class will commence with approximately 45 minutes student presentations of L7 Problems.

YOU WILL NEED TO READ AND STUDY THE RELEVANT TEXTBOOK PARAGRAPHS AND THE UNIT PROBLEM QUESTIONS CAREFULLY IN THIS AREA OF CGT. THE CLASS WILL COVER BASIC ISSUES ONLY

ITAA97 Part 3.1 – General rules for ascertaining liability to CGT – we will look at the following [examinable – read and study for full knowledge]:

ENSURE YOU LOOK CAREFULLY AT relevant legislative provisions – CGT is greatly legislation driven.

Lecture discussion – why CGT was introduced – “equity” or “revenue”? or both...

W7-000 Important overview

W7-030 Key Design Features of CGT

W7-050 Basic Structure of the CGT Regime

W7-100 and W7-110 CGT Events and their order of application

W7-120 CGT Event A1 Disposal of CGT Asset

W7-145 to W7-165 CGT Event C1 Loss/destruction of CGT Asset; CGT Event C2 Cancellation, Surrender etc; CGT Event D1 Creating Contractual or Other Rights

W7-300 to W7-315 CGT Events G1, G2 & G3 Shares

W7-375 CGT Event I1 Australian Residency Ends

NOTE we only look at a few of many events – A1 is the most pervasive event...

W7-500 to W7-540 CGT Assets – Definition & Classification

W7-525 Collectables

W7-530 Personal Use Assets

W7-540 Separate CGT Assets – rules for land and improvements where some pre-date 19 Sept 1985

W7-550 Acquisition and timing rules

W7-655 Apportioned cost base where assets are dealt with partially

W7-700 to W7-720 Exemptions generally

W8-050 to W8-060 Main residence exemption

W7-600 Overview of capital gain/loss calculation

W7-605 to W7-615 Capital proceeds

W7-620 to W7-655 Cost base etc

W7-655 especially - **Apportioned cost base** where assets are dealt with partially

W7-690 to W7-698 Indexation – still applies for companies BUT frozen since 21 Sept 1999

W7-915 Discount Method (Div 115) for certain gains of certain taxpayers (since 21 Sept 1999)

W7-900 to W7-950 Determining capital gain/loss

W7-960 Record-keeping

ITAA97 Part 3.3 – Capital Gains and Losses – Special Topics – be aware of the existence of the special rules as discussed in W8-000. Aside from W8-050 to W8-060 [already covered above] the rest of Chapter 11 is not examinable in this unit

Problems you may choose to work through – THESE ARE NOT STUDENT PRESENTATION PROBLEMS (problem AND solutions to problems from CCH “Taxation Study Manual” by Nethercott, Richardson & Devos – Latest Edition references will be provided in class)

Problem 41 – Henry – share purchase

Problem 47 – Brian Lester – gift shop and home

Problem 50 – Mr Edwards – main residence

L8 Student Presentation Topics (due L9)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class.

L8SP1 Narita. Narita has been very careless with her tax obligations under CGT (although she has kept all records) and has come to you for advice as she is considering selling a building at Port Macquarie that she is currently renting as a restaurant. You find that contracts for her original purchase (\$200,000 paid) were exchanged 29 September 1996 and settlement took place 6 January 1997. Extensions and modifications were made to the restaurant at a cost of \$70,000 over the period 31 March 1999 to 20 June 1999 under a contract dated and paid 31 March 1999. She made capital improvements in September 2000 at a cost of \$90,000. You further discover that a side annexe to the shop was sold on 29 September, 2001, for \$50,000. You establish that the market value for the remainder of the shop at that date was \$400,000.

Narita wants to know what will happen to her tax liability if she accepts an offer to exchange contracts to sell the restaurant on 30 June 2008 with full payment of \$800,000 to take place 31 December 2008. She also wants to know her CGT position (with full explanation of what and why and when) relating to any relevant tax years if there are any outstanding tax issues. Refer to W7-655 for the rules to help with calculating the cost base for both CGT sales that she made – calculate her tax obligations using the correct tax rates if you can find them yourself.

L8SP2 Ingrid's House

In January 1995 Ingrid purchased a house in Strathfield for \$184,500. Ingrid lived in the Strathfield house until July 1999 when she accepted a job and moved to Cairns. Ingrid rented the house from July 1 1999 to August 1 2007 and at no stage did she own another house as she herself rented in Cairns. On August 1 2007 she returned to Sydney and moved back into the house on that date and made it ready for sale. She lived in the house until 1 November 2007 when it was sold for \$835,300 under a contract dated 1 October 2007.

Required: Advise Ingrid on the income tax issues she faces due to CGT – giving full reasons as well as calculations.

L8SP3 Ingrid's Shares and Collectables

a. Ingrid also had stock market transactions as follows:

- i.** 500 Lendlease shares acquired on 5 August 1996 at a cost of \$12,000 were sold 20 July 2007 for \$10,000. Brokerage costs of \$140 were incurred at the acquisition of this parcel of shares and a further \$100 at their sale.
- ii.** 2000 CSR shares were acquired on 1 May 1985 for \$16,000. These were sold on 3 October 2007 for \$24,000. Brokerage was \$100 at purchase and \$450 at sale.
- iii.** 3000 Pacific Dunlop shares (received from her father's estate) were sold on 29 January, 2008 for \$4,000. (Her father had purchased these shares on 2 June 1980 for \$1.10 each and they had a market value of \$4.00 per share at the time of her father's death on 2 August 1991). Brokerage fees of \$100 were incurred by Ingrid at the sale of these shares.

b. Ingrid also sold two works of art from her private art collection in January 2008 (both were post 85 acquisitions) and she provides you with the following details:

- i.** The first was an ancient Ming Vase she acquired ten months earlier whilst holidaying in Hong Kong at a cost of \$8,000. This was sold for \$10,000.
- ii.** The second was a painting which was sold for \$2,000 and had a reduced cost base of \$5,200.

Required: Advise Ingrid on the income tax issues she faces due to CGT – giving full reasons as well as calculations.

LECTURE 9 GST

Class will commence with approximately 45 minutes student presentations of L8 Problems.

PLEASE BE WARNED – MANY STUDENT FAILED VERY BADLY THE GST QUESTION IN T1 2006. Complete failure to understand GST was the problem. Like all tax you need to UNDERSTAND it to pass the exams!

W27-045 Overview – we will talk at some length about the underlying concepts

W27-055 What is caught by GST – the Base

W27-065 Registration and turnover **IMPORTANT unfortunately 2008 the textbook INCORRECTLY shows turnover thresholds (it still shows the thresholds that were replaced in July 2007) – the correct thresholds will be examined and will be provided in class.**

W27-075 Charging GST

W27-085 Creditable acquisitions and ITCs

W27-095 Adjustments and changes in creditable purpose

W27-115 Remitting GST

W27-125 Accounting for GST

W27-135 GST-free supplies

W27-145 Input Taxed Supplies

W27-187 GST Returns and Assessment

W27.190 Rulings

W27-196 Anti-avoidance

Read the relevant legislation relating to the core issues... Ensure you download and read this week's BLACKBOARD materials which encompass much more of the introduction to this topic than do most of these BLACKBOARD materials.

L9 Student Presentation Topics (due L10)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class.

L9SP1 Registration

Are the following people required to register for GST purposes? Briefly explain why they need to register and how they go about registering.

- i. a hairdresser whose annual turnover is expected to be \$30,000 pa.
- ii. a video repair operator whose turnover is expected to be \$97,000 comprising parts \$50,000 and labour \$47,000.
- iii. a taxicab operator whose turnover is expected to be \$60,000 pa.
- iv. a greengrocer who sells \$70,000 worth of fresh fruit each year
- v. a residential landlord who rents 25 units for total rentals of \$2 million per year
- vi. a commercial landlord who rents commercial units only for rent of \$1million per year

Ensure you explain your answers fully – with both legal and commercial reasons explained

L9SP2 Pamela and Brian Brian Foster and Pamela, his wife, wife sold their gift shop for \$770,000 (but did not identify the sale as sale of a going concern to the buyer) and their family home in Eastwood (for \$900,000) in January 2008, and moved to Queensland on 20 March 2008. Before moving, they decided to sell many of their household effects, and some things from their business (that the new owners did not want) at a garage sale at their Eastwood home on 15 March 2008. They sold \$7,150 worth of second hand goods to people attending the sale. Items sold included a clothes dryer, old bicycles, an old refrigerator (from the business), old books and a typewriter (from the business).

Advise Brian and Pamela on the GST consequences of these transactions.

L9SP3 Malcolm Malcolm owns and operates a garden maintenance and lawn mowing business. He employs 2 casual staff, and is registered for GST.

For the 2007/08 income year Malcolm has recorded the following transactions:

Receipts (GST inclusive)	\$
Fees from clients	28,000
Sale of second hand ride on mower	2,300

Expenses	\$
Fuel for vehicles and equipment (eg lawn mowers he kept receipts for all purchases over \$75 excl GST)	1,600
Equipment repairs (no ABN provided on tax invoice)	1,080
Rubbish-tip fees (\$10 per visit – receipt only)	210
Wages	3,000
Telephone	1,480
New equipment (no tax invoice provided)	11,400
Stump-grinder hire (see note 2)	500
Landscape supplies	15,800
Repayments of business loan (interest \$1,000, capital \$500)	1,500

Additional Information

1. In February 2006, Malcolm made a gift for no consideration, of an old lawn mower to his son. (The market value of the lawn mower at the time of the gift was \$250)
2. On 28 June 2006, he hired a tree stump-grinder and paid \$200 and a \$300 deposit. The deposit was refundable on the return provided the equipment was not damaged and it was returned by the agreed date.
3. Assume that all supplies are taxable (where appropriate), and that a valid tax invoice has been provided unless stated otherwise.

Advise Malcolm of the correct GST treatment and financial outcomes. (Calculations must be shown where relevant). What is the significance of the deposit in this case compared with say a 'deposit' paid to purchase a car for business purposes.

L9SP4 Alfredo and Elect Ltd

Identify and EXPLAIN FULLY what would be the better accounting system (cash or accruals) and whether the taxpayer should use monthly or quarterly returns in the following circumstances:

i. **Alfredo**, a retailer of fresh fruit and vegetables each month spends (on account) \$12,100 paying for rent on premises, for vehicles, electricity and cleaning. He spends a further \$22,000 (in cash, at the markets) for trading stock of fresh fruit and vegetables. Total monthly sales amount to \$50,000 paid through the cash register. (3 marks) Note that you will be marked for the reasons you give.

ii. **Elect Ltd** is a manufacturer of electrical goods which has monthly sales of \$77,000 including GST. These sales are normally paid by customers after 45 days. Elect Ltd has acquisitions (excluding payroll) of \$44,000 per month including GST and Elect normally pays its suppliers after 7 days. Elect Ltd uses the Simplified Tax System for its income tax obligations. (3 marks) Note that you will be marked for the reasons you give. L9SP4 is a VERY IMPORTANT QUESTION – as it really explores whether you understand GST!

LECTURE 10 PARTNERSHIPS AND TRUSTS

Class will commence with approximately 45 minutes student presentations of L9 Problems.

We will deal with either of Trusts rather than partnerships in detail for exam purposes.

Nonetheless, these LGNs provide a non-examinable overview of partnership taxation which is provided for your knowledge but will not be examined.

PARTNERSHIP

W16-025 Partnerships at general law

W16-030 Partnerships for tax purposes

W16-080 Creation of partnership

W16-090 Tax consequences – creation

W16-200 Outline of taxing partnership income

W16-210 Calculations

W16-250 Allocations

W16-260 Internal transactions

W16-420 Change in composition

W16-460 to W16-490 Assignment and ATO views

W16-800 Liability to lodge partnership returns

Other partnership issues – not examinable but you should read these for professional purposes.

TRUSTS

W17-010 What is a trust?

W17-020 Creation of a trust

W17-030 Some relevant trust law principles

W17-040 Types of trust

W17-050 Trustee or Trust – taxation???

W17-060 Introduction to trust taxation

W17-070 “Legal Disability”

W17-080 “Present Entitlement”

W17-100 Deemed “Present Entitlement”

W17-110 Net income of trust estate

W17-130 Trust losses

W17-140 Transfer of losses – read 18 lines only

W17-160 Source and residence etc – do not read – in class, we will discuss diagram at W17-160 time permitting – which in turn is explained by pars W17-170, W17-180 and W17-190

W17-230 Deceased Estates – not examinable but you should read these for professional purposes

TAXATION OF MINORS

DIVISION 6AA

W21-010 Overview

W21-020 Prescribed persons and excepted persons and excepted income

W21-030 Trust income of minors

W21-050 Calculations

Read all relevant legislation identified in the text – especially s97 s98 s99 and s99A

L10 Student Presentation Topics (due L11)

NB If any questions do not make full sense to you then make assumptions required for the problem(s) to make sense and state these assumptions fully in class.

L10SPs - Generally

In both of the following problems you are required to identify the key issues and explain how relevant trusts taxation and other taxation laws (discussing relevant statutes) will apply to each person in the following situation.

Eileen is trustee of a discretionary trust. Income of the trust for the tax year ending 30 June 2008 is expected to be \$100,000. Note that the two problems are intended to be cumulative. Eileen will have made the following distributions of trust income by June 30 2008:

L10SP1. Tom Robert and Eileen. Tom (aged 40) is mentally unstable and is in a nursing home. Eileen will have paid \$40,000 being his nursing home fees from trust income. Further, Robert is aged 16. Eileen will have exercised her discretion before June 30 and as a result will pay \$5,000 to him from trust income. Robert also works at McDonalds one day a week and will have earned \$7,000 in the year ending 30 June 2008.

L10SP2. Elsa, Eileen and the 3 other children. Elsa is aged 26. She received \$25,000 in trust income as a result of Eileen exercising her discretion. Elsa also wanted to buy a house so Eileen advanced a further \$40,000 of trust capital to Elsa. Further, Eileen did not exercise her discretion to pay income to three other children aged less than 18 years of age. **Then calculate Elsa's (from above) specific current taxation liabilities** using the correct tax and Medicare rates. Include Elsa's trust income from above and ALSO note that Elsa received other income for the year from other sources than the trust which comprised \$10,000 of unfranked dividends and \$35,000 of fully franked dividends (she was advised there were \$15,000 of imputation credits). In your answer ensure you briefly discuss why and how an imputation credit comes into being.

Lecture 11 ASPECTS of ENTITY TAXATION AND DIVIDEND IMPUTATION

REVISION of ASPECTS of TAX ADMINISTRATION (includes some further EXAMINABLE discussion of topics “rush-covered” in L1) and TAX AVOIDANCE including Part IVA – General Tax Avoidance

Class will commence with approximately 45 minutes student presentations of L10 Problems.

Imputation

For examination purposes you are required to know how the dividend imputation system operates and how it affects taxpayers. Otherwise, this taxation topic belongs in an advanced taxation course and, aside from dividend imputation as it affects shareholders, the topic will not be examined.

W18-100 to W18-130 provide the core explanation you need.

It is likely that trusts and partnerships will not have been finished in L10 so also be prepared to finish these topics in this lecture.

Additionally, you may read Chapter 18 of Woellner generally. There will be an overview lecture on this topic and an explanation of how the dividend imputation system operates compared with the classical system of taxing company distributions.

L1 KEY TOPIC REVIEW – COMMISSIONER DISCRETION

W1.490 ATO practice as a source of “Law”

W1-500 Commissioner’s discretion

W1-510 Review of discretion

L1 KEY TOPIC REVIEW – TAX RULINGS

W30-470 Self-assessment implications

W30-472 ATO Rulings

W30-474 Public Rulings – various types Tax Determinations, Tax Rulings, Miscellaneous Tax Rulings etc – also Product and Class Rulings

W30-475 Public Rulings binding on Commissioner

W30-480 Private Rulings and problems

SELF-ASSESSMENT REGIME

W30-000 to W30-360 Lodging Tax Returns

W30-495 Elections & Notifications

W30-410 to W30-420 Assessments

W30.425 to W30.457 Types of assessment

W30-488 Self-Amendment ie by request of taxpayer

W30-600 Amending by Commissioner

W30-620 & W30-640 Time Limits

L1 KEY TOPIC REVIEW – Brief Discussion of Some Compliance Issues Under Self-Assessment Regime

W32-405 and W32-420 Pay As You Go (PAYG) System Overview

W32-375 Australian Business Number

W32-300 Tax File Number overview

W32-220 Financial Transactions Reports Act

L1 KEY TOPIC REVIEW – Overview of Simplified Tax System for Small Business

W15-000 The optional Simplified Tax System

W15-100 Eligibility to select STS option

Remember how this applied for Capital Allowances?

VARIOUS ISSUES AND CHALLENGING THE ASSESSMENT [NE]

WCh 29 and WCh 30 – generally raise a series of important matters that are not examinable in this unit – but which you will need to read and understand as tax professionals. See for example topics such as Commissioners powers under s263 and s264 and the issue of Legal Professional Privilege.

W Chapter 25 TAX EVASION AVOIDANCE AND PLANNING [NE]

This is an important area that we will discuss briefly in class. It is an area that must never be forgotten or misunderstood by tax advisers. You will encounter this area in detail in future study and in your professional careers as accountants.

FINAL EXAMS START Monday 14 April

**Exam content and other advice will be shown on
BLACKBOARD**

**Check MAcc website for
dates times locations and seating plan**

STUDY WELL and GOOD LUCK

**Please do your best – and remember you, the student
really matter to us!**

ACCG857 Tax Law T1 2008

Student Presentation Feedback and Indicative Marks

This sheet will be used to give you your feedback for your presentations. You should prepare carefully recognising the things we will be looking for in your preparation and presentations. Remember, **you** are helping build study notes for yourself and your fellow students so careful thought, communication and understanding are vital for good marks!

Family Name _____ First Name _____ Called _____

Student Number _____

Student Presentation # _____

Presentation Day & Time _____

Lecturer _____

Your indicative mark as a percentage _____

Note that your indicative mark will be subject to adjustment (upwards or downwards) as all students' marks are standardised across all groups to lead to an overall average of between 70% and 80%.

You will receive this sheet within a few weeks of the in-class presentation and your lecturer may also keep a copy – but you should keep the original safe.

THE STANDARD AT WHICH YOU PERFORMED (rating will be circled)

6 = Outstandingly High (High Distinction plus level – a rare mark!) 5 = Distinction level
4 = Above Average (Credit level) 3 = Average (High Pass level) 2 = below average (needed more work to achieve good Pass) 1 = well below average (equates to a fail for poor or no performance)

Quality of <u>presentation MATERIALS</u>	6	5	4	3	2	1
<u>COMMUNICATION</u> with audience	6	5	4	3	2	1
<u>EXPLANATION</u> to meet class needs	6	5	4	3	2	1
Extent of thorough <u>UNDERSTANDING</u>	6	5	4	3	2	1
Identification of <u>TOPIC DIFFICULTIES</u>	6	5	4	3	2	1
Apparent <u>PREPARATION</u> and Reading	6	5	4	3	2	1
Prepare to and <u>comply with TIME LIMITS</u>	6	5	4	3	2	1

Other Comment: _____