



DIVISION OF ECONOMIC AND FINANCIAL STUDIES
ACCG851 BUSINESS LAW
UNIT OUTLINE—TRIMESTER 3, 2008

STUDENTS IN THIS UNIT ARE REQUIRED TO READ THIS UNIT OUTLINE CAREFULLY AT THE START OF THE TRIMESTER. IT CONTAINS IMPORTANT INFORMATION ABOUT THE UNIT. IF ANYTHING IS UNCLEAR PLEASE SPEAK WITH YOUR LECTURER.

Unit Description

All commercial activity is regulated by a complex legal regime. This unit of study examines the Australian legal system as it pertains to the government of business activity, and includes an introductory study of the following broad areas:

- ◆ An introduction to law
- ◆ Historical context of Australian law, common law and statute law
- ◆ Statutory interpretation
- ◆ Australian legal system, civil/criminal law, court personnel, hierarchies, state and federal systems
- ◆ Business entities, including sole traders, partnerships, companies, trusts, associations
- ◆ Contract law
- ◆ Torts, particularly negligence
- ◆ Agency
- ◆ Bankruptcy
- ◆ Consumer protection and the Trade Practices Act

In addition to introducing the above areas, the unit aims to develop a range of generic skills in:

- ◆ Legal research, writing, and presentation
- ◆ Communication and interpersonal skills
- ◆ Group work and cooperation
- ◆ Problem-solving, analysis, and logical argumentation
- ◆ Legal issue resolution
- ◆ Understanding of different viewpoints and perspectives
- ◆ Appreciation of the broad ethical, socioeconomic and political contexts of business law

◆ Class Contact

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- ◆ Class contact will consist of a single, three-hour seminar session each week, incorporating lecture and tutorial style components. Approximately two-thirds of the time each week will be devoted to lecture and other presentations (including audio-visual material, if appropriate); the other one-third of the time will be spent in tutorial or discussion mode. The course is designed to foster a useful learning pedagogy, therefore group work and general discussions may impact on the time-frame outlined in the Syllabus. Individual lecturers may also choose to emphasise some areas of the weekly reading over others.

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- ◆ Each class will centre on the assigned reading material. Seminar activities will be based on materials contained in the text or on other material to be introduced in lectures on a week-by-week basis, including questions identified by the lecturer and /or problem based case studies. Specific questions for discussion in seminars will be advised during class. Questions and case studies in the text book may not always be utilised, although students are strongly advised to at least consider these materials on a weekly basis. Students will be expected to consistently work on their research projects. Copies of overheads which may be used by the lecturer are provided. The ultimate authority for weekly material presented is the relevant chapter of the textbook.

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◆ Teaching Staff and Classes

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- ◆ Students must attend the seminar time for which they are enrolled, as indicated in the following table. The seminars are not interchangeable, as each class may work at a different pace. If on the odd occasion you are unable to make your allotted class, you may attend a substitute seminar but please speak with the lecturer prior to commencement of the class.

◆ CLASS	◆ CLASS Day and Time	◆ CLASS LOCATION	◆ LecturerS
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◆ 1	◆ Tuesday 9:00 - 12:00 am	◆ C4A315	◆ Chip Van Dyk
◆ 2	◆ Tuesday 12:00 – 3:00 pm	◆ C4A315	◆ Chip Van Dyk
◆ 3	◆ Tuesday 3:00 pm – 6:00 pm	◆ C4A315	◆ Vijaya Nagarajan
◆ 4	◆ Thursday 3:00 – 6:00 pm	◆ C5A304	◆ Gordon Floyd
◆ 5	◆ Thursday 6:00 – 9:00 pm	◆ C5A304	◆ Gordon Floyd

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◆ Lecturer contact details

◆ Gordon Floyd Email — floydcbg@ozemail.com.au

◆ Vijaya Nagarajan Email ---- Vijaya.Nagarajan@law.mq.edu.au

◆ Chip Van Dyk (lecturer-in-charge) Email — cvandyk@efs.mq.edu.au

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◆ Prescribed text

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◆ Andy Gibson and Douglas Fraser, *Business Law*, Third edition, Pearson Education Australia, 2007.

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◆ The text has an online component, “activebook”, which requires a student access key code. This code is specific to Course Compass, the website where the online material for this course can be accessed. You must either purchase the code with the book, or the code may be purchased separately if you buy a used book. Online material is not accessible without a Course Compass code.

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◆ The activebook is an online interactive version of the textbook, with chapter warm-up quizzes, concept checks within the chapter, hyperlinks to cases referenced and interactive

- ◆ The compulsory mid-trimester examination will be held after the completion of Week 6. It will be a closed-book examination of three hours duration. Students will be examined on material from the first 6 weeks of the course. It may consist of multiple-choice, short answer, and problem-based questions. More information will be available closer to the exam date.
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- ◆ Examination Rules and Procedures: University exam rules and procedures apply. Please familiarise yourself with these: <http://www.accg.mq.edu.au/ss/macc/examinations>. Take special notice that electronic dictionaries are not allowed. Paper translation or English dictionaries are allowed, however, dictionaries containing business or law content are not permitted.
- ◆
- ◆ Dictionaries must not contain notes, papers, formulae, or any course-related materials or information. Students are responsible for all materials in their possession in the exam room, and should make certain that these materials are not in violation of University examination rules.
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- ◆ Cheating is a serious academic offense. Penalties include, but are not limited to, failure, and exclusion from the University.
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- ◆ Preparation and materials provided
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- ◆ Regular attendance at seminars is an expectation of the course. Weekly reading is to be done prior to class. It is suggested that students take notes as they read, as a memory aide. Students should also summarise key cases as they progress through weekly readings. Students often ask how much time they should spend on this subject. There is no hard and fast rule, however you need to read and summarise/take notes in order to really understand the material. If this is your first introduction to matters legal and/or you are from overseas or a non-English speaking background then clearly a quick read will not be enough. Somewhere in the order of 6–10 hours outside of class time per week is probably required.
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- ◆ Weekly seminar overheads are provided. These summarise key points in the area of law under consideration and are a guide only. They are based on the material from the textbook. It is suggested that students use these as an indication as to required content, and that you supplement them with your own notes, taken from both the textbook, and from lectures each week. Individual lecturers may diverge from the overheads as they choose the manner in which they treat key concepts for each topic, however, it should be noted that the textbook provides the consistent core content for each topic. Questions in the weekly tutorial outline are suggestions only and your lecturer retains discretion as to whether any or all are used.
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- ◆ Support services are available for international students. If you experience study-related difficulties, do not hesitate to contact the International Office or the Master of Accounting

office. In addition, the Lecturer-in-Charge of the unit, Chip Van Dyk, may be contacted regarding course-related questions. There is also an on-campus counselling service. Your individual lecturer should be consulted if the matter relates to weekly material or to organise a consultation to discuss progress or problems in understanding lecture/textbook material. (See NCELTR services discussed later)

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- ◆ Students should remember that this is a post graduate qualification where the ability to organise and independently study is an accepted part of academic life. All students entering this program have completed a prior degree (across a range of academic disciplines) and are therefore expected to possess analytical and study skills superior to those of an undergraduate student.

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- ◆ Students should be aware that the University takes plagiarism very seriously. 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.

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- ◆ 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.

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- ◆ The issue of plagiarism will be very important as you write up your research project. Do not use the words of another person or even their ideas without referencing the source. Paraphrasing is fine but you must still appropriately cite the source of the idea. For a fuller explanation and examples see the source below.

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- ◆ A further note of caution: in a recent Supreme Court of Qld Appeal Case (Liveri, Re 2006 QCA 152 (12 May)) a law student applied for admission to practice upon completion of her studies. The legal Practices Admission Board opposed her registration for practice on the grounds that she had engaged in plagiarism whilst a student at James Cook University. A key factor was the dishonesty and lack of remorse the student demonstrated bringing into question whether she was a “fit and proper person” to act as a legal practitioner. So for those of you who intend to seek professional registration remember fitness to hold office/registration is often an important consideration. This case may set a precedent for other professional bodies when considering applications from students who have been guilty of plagiarism.

- ◆ The case referred to above is accessible via —

- ◆ <http://www.Austlii.edu.au/au/cases/qld/QCA/2006/152.html>

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- ◆ The University policy on plagiarism and examples of plagiarism, scaled from the mildest to the most serious offences is available at: <http://www.student.mq.edu.au/plagiarism>

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- ◆ Applications for Special Consideration in the case of illness, accident, or unavoidable disruption must be made on the appropriate form and be accompanied by supporting evidence and documentation. Further information is available from the administrative staff in the Postgraduate Accounting Program office on Level 2 of building C4A.
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- ◆ See <http://www.reg.mq.edu.au/Forms/APSCons.pdf> for further details.
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- ◆ University Policy on Grading
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- ◆ 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).
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- ◆ 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.
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- ◆ 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.
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- ◆ In ACCG851, students must achieve satisfactory results on the written components of the examination. These questions are designed to test knowledge of substantive course content and writing, comprehension, and critical analysis skills. Students who do not meet a satisfactory standard on their examined written work will be unable to achieve a Pass grade (or better) in the unit overall. This means that your score on multi choice components will not be sufficient to pass you overall if you have performed at a fail standard on the problem based questions. I am sure that most students would agree that to secure a pass in business law it would be an appropriate expectation that a student should be able to express themselves on paper in a clear, logically argued and coherent manner. Students are given time in class to practice a number of problem based responses and hone their skills. Many of the problems are drawn from past exam papers and provide good practice for what to expect in the examinations. For those students experiencing difficulties with written English expression or in need of additional academic support NCELTR runs free workshops designed to improve academic competence and address study skill problems. It is your responsibility to seek out information relating to these additional services.
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- ◆ These are the official descriptions of the various grades, as published by the University:
- ◆ HD High Distinction (SNG 85–100)—performance that meets all unit objectives in such an exceptional way and with such marked excellence that it deserves the highest level of recognition

- ◆ D Distinction (SNG 75–84)—performance that clearly deserves a very high level of recognition as an excellent achievement in the unit
- ◆ Cr Credit (SNG 65–74)—performance that is substantially better than would normally be expected of competent students in the unit
- ◆ P Pass (SNG 50–64)—performance that satisfies unit objectives
- ◆ PC Conceded Pass (SNG 45–49)—performance that meets unit objectives only marginally
- ◆ F Fail (SNG 0–44)—failure to complete the unit satisfactorily.

◆ Syllabus

◆ Week	◆ Week commencing (Monday)	◆ Topics
◆ 1	◆ August 18	<ul style="list-style-type: none"> ◆ How to study Law. (G&F pp. xxv-xliv) ◆ Legal Framework (Part A). Legal foundations; major sources of law; levels of government and separation of powers; the Constitution and Commonwealth jurisdiction. (G&F Ch 1)
◆ 2	◆ August 25	<ul style="list-style-type: none"> ◆ The Legal System (Part B). The courts: state and federal, legal personnel and trial participants; the adversary system and case law; standard/burden of proof; government tribunals, Ombudsman and related bodies; statute law, case law and precedent; statutory interpretation. (G&F Chs 2-3)
◆ 3,4,5	<ul style="list-style-type: none"> ◆ September 1 ◆ September 8 ◆ September 15 	<ul style="list-style-type: none"> ◆ Contract Law. Key elements of a contract; vitiating elements; terms; discharge; remedies. (G&F Chs 12–20) ◆ ◆ Note: Your lecturer will indicate which of these chapters should be prioritised
◆ 6	◆ September 22	<ul style="list-style-type: none"> ◆ Agency. (G&F Ch 26)
<ul style="list-style-type: none"> ◆ Mid Trimester Examination: September 27 ◆ (50% of final assessment) Attendance is compulsory. All students must attend this examination. Location and time TBA. 		
◆ 7	◆ September 29	<ul style="list-style-type: none"> ◆ The law of torts. Key elements of negligence; defences; professional liability for negligent misstatement. ◆ (G&F Chs 7-8)
◆ 8	◆ October 6	
◆ 9	◆ October 13	<ul style="list-style-type: none"> ◆ Companies and Choosing a Business Entity (G&F 27, 29)
◆ 10	◆ October 20	<ul style="list-style-type: none"> ◆ Bankruptcy and debt recovery. (G&F Ch 32)
◆ 11	◆ October 27	<ul style="list-style-type: none"> ◆ Consumer protection and Sale of Goods. (G&F Ch 21-23) ◆
◆ 12	◆ November 3	
<ul style="list-style-type: none"> ◆ Note: G&F = the Gibson and Fraser textbook 		
<ul style="list-style-type: none"> ◆ Final Examination period: November 10 – November 15 		

◆ Schedule of Tutorial Questions and Discussion Guide

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◆ Week	◆ Topics	◆ Tutorial Tasks
◆ 1	<ul style="list-style-type: none"> ◆ How to study Law ◆ The Legal System ◆ (Part A) 	<ul style="list-style-type: none"> ◆ Chapter 1: Review Questions Nos: 8,9,10,13,14 (lecturer to choose from) Chapter 2: Review Questions: 8,9,10,14,15,16
◆ 2	<ul style="list-style-type: none"> ◆ The Legal System ◆ (Part B) 	<ul style="list-style-type: none"> ◆ Chapter 3: Review Questions 1-6,8-10 ◆ Problem-based Question: Jacques and the Firearms Offences Act (Included in this Outline)
◆ 3	<ul style="list-style-type: none"> ◆ Contract Law ◆ ◆ (Note: Your lecturer will advise of precise timing of the progress through the chapters) 	<ul style="list-style-type: none"> ◆ Chapter 12: Review Questions 2-5. ◆ Chapter 13: Review Questions 4-7,9. ◆ Chapter 14: Review Questions 6,7,9,10. Critical Thinking (CT) #2.
◆ 4		<ul style="list-style-type: none"> ◆ Chapter 15: Review Questions 3,4,6,7. ◆ Chapter 16: Review Questions 3,5,6,9,15 PLUS ◆ Problem-based Question: Choi and the Nursery (Included in this Outline) ◆ Chapter 17: 2,3,5,7,9.
◆ 5		<ul style="list-style-type: none"> ◆ Chapter 18; Review Questions 6,9,10,11. ◆ Chapter 19: Review Questions 8,9,10,13. ◆ Chapter 20: Review Questions 6,9,10,15.
◆ 6		<ul style="list-style-type: none"> ◆ Agency
◆ 7	<ul style="list-style-type: none"> ◆ The law of torts: Negligence 	<ul style="list-style-type: none"> ◆ Chapter 7: Review Questions 7-9,15,16 and Problem-based Question: The Smouldering Stump (Included in this Outline)
◆ 8		<ul style="list-style-type: none"> ◆ Chapter 8: Review Questions 5,6 CT#1,2
◆ 9	<ul style="list-style-type: none"> ◆ Companies and Choosing Business Entities 	<ul style="list-style-type: none"> ◆ Chapter 27: Review Questions 2,3,5,7,9 CT#1 - PLUS Problem Question: Wagon Wheels (Included in this Outline) ◆ Chapter 29: Review Questions 4, CT#1

◆ 10	◆ Bankruptcy ◆ and debt recovery	◆ Chapter 32: Review Questions 2,4,5,6,11, CT #1,2 plus short problem question (included in this outline)
◆ 11	◆ Consumer protection ◆ and Sale of Goods	◆ Chapter 21: Review Questions 4,8,9,13,14 ◆ Ch 22: Review Questions 3,4,5,7,8, CT#1
◆ 12		◆ Chapter 23: Review Questions 5,7 CT#1,2 plus Problem based question: Jo Ng and Frances Ng and the market garden case. (included in this outline)
<p>◆ The above cited Review Questions are to be used as a guide only. Your lecturer will use his/her discretion in determining how these are treated. Some may be set for homework whilst others may be tackled in class. Some may not be covered at all however it is advisable as a method of independent study that you at least consider these questions to help you focus your reading on a weekly basis. Do not expect that written answers to these will be provided. At this level of study it is an expectation that you should be able to take your own notes from a class discussion or from the textbook. These notes will form an important study resource for the final exam.</p>		

◆ THE LAW SEQUENCE



- ◆ You are now commencing the law sequence in the Macquarie Postgraduate Diploma in Accounting and Master of Accounting program. There are 3 law units in these programs:



◆ ACCG851 Business Law	◆ ACCG854 Company and Associations Law	◆ ACCG857 Taxation Law
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- ◆ Carrying on any type of business requires an understanding of applicable law. Advising individuals or companies on business and tax matters also requires an understanding of the impact an area of law may have on proposed business activities or arrangements.



- ◆ Although the three units are different, they interrelate and build upon each other. Many issues and concepts overlap between the units and there is material in each that is helpful to a clearer understanding of the others.



- ◆ Business Law introduces students to the general framework and structure of law in Australia. It provides an outline of the historical context of the Australian legal system and describes key features of the system at both State and Federal levels. The unit examines the difference between criminal and civil law and outlines court personnel, the hierarchy of courts, common law, statute law, and statutory interpretation.



- ◆ It is important that students understand the frameworks and key concepts that underpin the manner in which the legal system deals with many of the substantive legal issues covered later in the unit and in subsequent units (ACCG854 & ACCG857). For many students, this unit will provide new but important foundational knowledge that will underpin understanding of the way law interacts with and impacts on the regulation of accounting and business entities.



- ◆ Building on the foundational knowledge in the first two weeks, the remainder of the unit introduces students to particular areas of law including: introduction to business entities (sole traders, partnerships, companies, trusts, associations); contract law; torts (particularly negligence), agency, bankruptcy, and consumer protection and the Trade Practices Act.



- ◆ Material and concepts covered in the first three weeks of the course are essential to successfully undertaking both the remainder of ACCG851 and the later law subjects ACCG854 and ACCG857.



- ◆ Company and Associations Law deals with the structure and function of business entities such as partnerships and particularly, companies. Students will consider how companies are

formed, the position and responsibilities of management and the issues relevant to insolvency, restructuring and liquidation.

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- ◆ Taxation Law examines the various principles relating to assessable income and deductions. The unit focuses on the Income Tax Assessment Act (1936 and 1997), enabling students to familiarise themselves with the use of the legislation. Students learn how to calculate tax payable and how to deal with Capital Gains, Fringe Benefits, and Goods & Services taxes.

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- ◆ Although you will not be legal practitioners upon the completion of your course you will nonetheless be prepared to become accounting professionals in a highly, and increasingly, legally regulated and litigious environment. You may be relied upon for accurate business advice, and the overall effect of these three law units should greatly assist in your ability to recognise and deal with legal issues. In addition, your knowledge base should also alert you to situations where the legal regime/issues are so complex that the most responsible and professional course of action to undertake is to seek further advice, either from an organisation's "in-house" lawyers or other specialist legal practitioners.

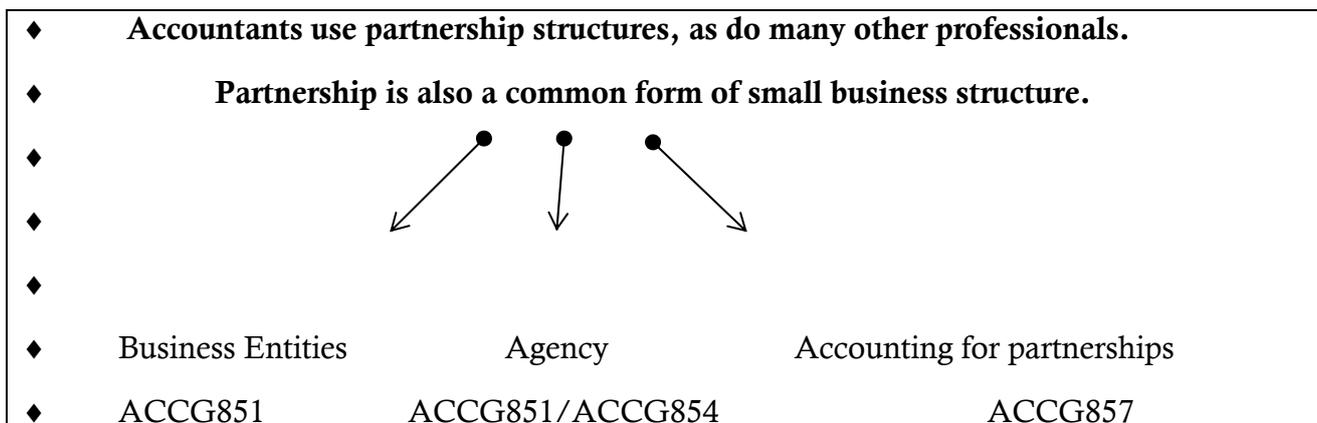
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- ◆ Remember your studies. You will be accountable for professional advice you give (or fail to give)!

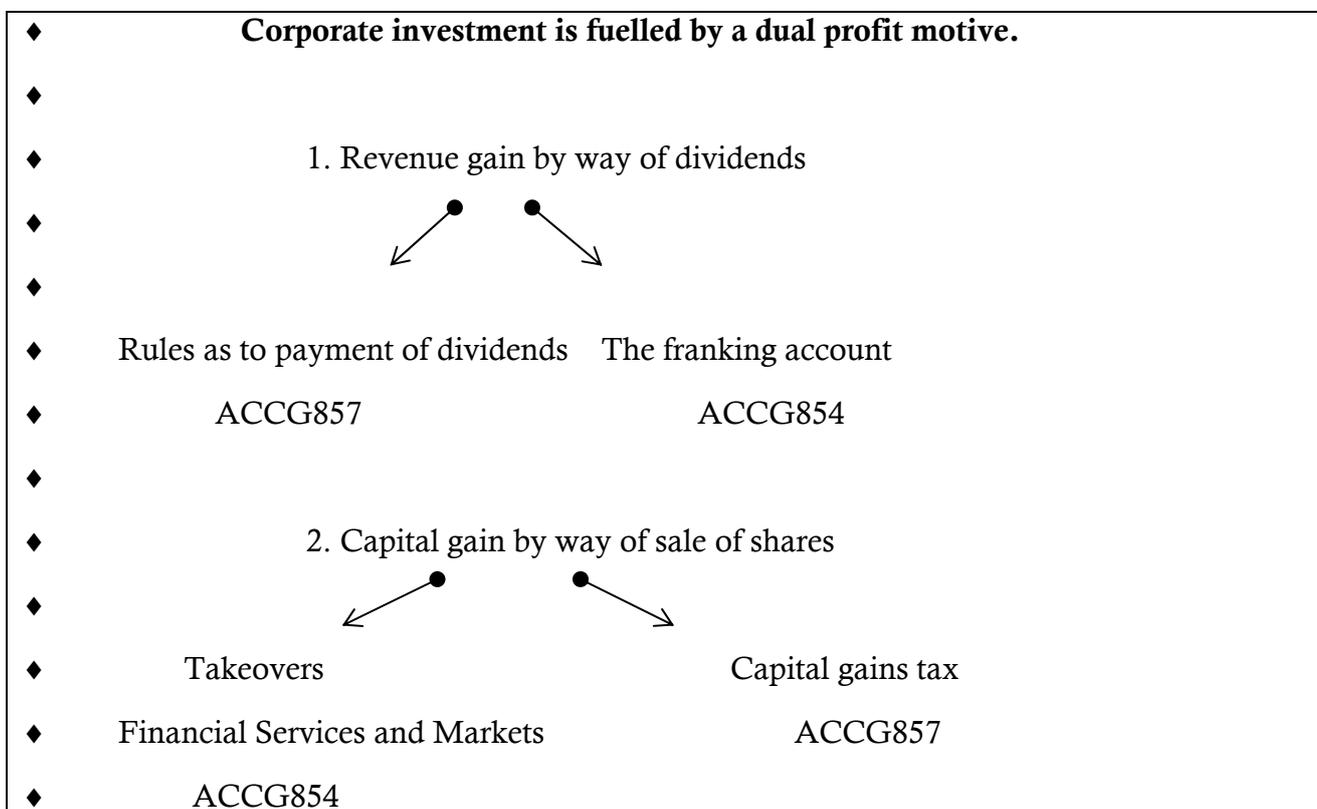
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On this page are just some examples of how each of the units relate to each other and to various aspects of professional practice.

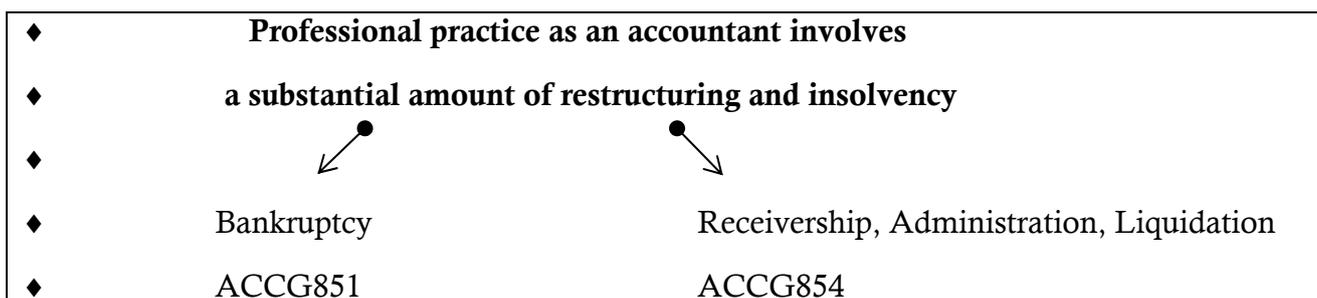
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Making deals underpins the marketplace.

Contracting is the most common means of business interaction

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graph TD
    A[Contracting is the most common means of business interaction] --> B[Contracts]
    A --> C[The company and contracts]
  
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Contracts
ACCG851

The company and contracts
Directors as agents
The effect of the company constitution
ACCG854

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Companies incur liability as individuals.

This is an important factor in providing corporate advice

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graph TD
    A[Companies incur liability as individuals] --> B[FTRA]
    A --> C[Company liability]
  
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FTRA
Tort (negligence) and Vicarious liability
ACCG851

Company liability
in tort and crime
ACCG854

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Financial planning involves the ability to make use of appropriate vehicles

such as the trust structure

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graph TD
    A[Financial planning involves the ability to make use of appropriate vehicles such as the trust structure] --> B[Business Entities]
    A --> C[Trading trusts]
    A --> D[Trust accounting]
  
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Business Entities
Trusts
ACCG851

Trading trusts
Directors' liability re trusts
ACCG854

Trust accounting
ACCG857