Legal Profession Admission Board of New South Wales

Diploma in Law
12 Taxation and Revenue Law
Examinable Curriculum

Subject Description

This course provides an overview of the *Income Tax Assessment Act* and related legislation. General principles concerning the assessability and deductibility of different types of receipts and items of expenditure are considered, along with more recent developments in relation to the tax treatment of fringe benefits and capital gains.

The differing tax consequences in respect of various legal entities, such as partnerships, trusts and companies, are also considered.

The last part of the course deals with the collection and recovery of tax, and the procedures to be followed by a taxpayer in disputing a tax assessment with the Commissioner of Taxation.

This course proceeds through a study of the legislation and decided cases, and the consideration of hypothetical factual situations that would commonly be encountered in practice.

Subject Objectives

At the completion of this subject, a student-at-law should be able to:

- Demonstrate an understanding of the Australian taxation system, its underlying principles, and fundamental policy and ethical issues relating to taxation.
- Identify tax consequences and issues arising from transactions.
- Apply the legal and ethical principles of the legislation and case authorities to hypothetical cases.
- Critically analyse the ongoing debates which impact this area of the law.
- Demonstrate skills in answering problems, case notes, and essay questions.
- Think critically and form and express their own views on the subject matter of the course.

Prescribed Topics

Topic 1: General Principles

- Legislative framework
- Concept of income
- Residence
- Source
- Derivation
- Exempt income

Topic 2: Income from Personal Services

- Income according to ordinary concepts
- Relevant statutory income provisions
- Fringe Benefits Tax Assessment Act 1986

Topic 3: Income from Property

- Interest
- Annuities
- Rental and lease income
- Royalties

Topic 4: Income from a business

- Concept of a business
- Taxation of business income
- Trading stock
- Compensation

Topic 5: Capital Gains Tax

- Structure of *Income Tax Assessment Act 1997*
- CGT events
- Meaning of “CGT assets”
- Cost base
- Capital proceeds
- Calculation of capital gain/loss
- Exemptions
- Anti-avoidance provisions

Topic 6: Allowable Deductions

- General deductions
  - Relevance of purpose
  - Appointment
  - Meaning of “incurred’
  - Negative limbs: private outgoings
- Repairs
- Capital allowances
- Bad debts
- Losses

Topic 7: Taxation of Companies and Shareholders

- Definition of “dividend”
- Taxation of shareholders
- Deemed dividends
- Operation of imputation

Topic 8: Partnerships

- Definition of “partnership”
- Taxation of partnership income
- Application of capital gains tax to partnerships

Topic 9: Trusts and the Taxation of Children

- Concept of a trust
- Taxation of trust income
- Revocable trusts and trusts for minors
- Taxation of income for children

Topic 10: Goods and services tax

Topic 11: Returns, Assessments, Objections and Appeals

- Obligation to lodge tax return
- Assessment/amended assessment
- Objection
- Appeal to the ART or Federal Court

Topic 12: Collection and Recovery

- Powers of the Commissioner
- Recovery of unpaid tax
- Pay as you go (PAYG) System

Topic 13: General Anti-Avoidance Provisions

- Form versus substance interpreting legislation
- Income Tax Assessment Act 1936, pt IVA
- Ethical conduct and anti-avoidance

This subject is not designed to cover Priestley 11 Content.