
Schulich School of Law, Dalhousie University

TAXATION OF CORPORATIONS Laws 2106

Winter 2018 [Revised February 4]

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Introduction

This course covers several topics regarding the taxation of business organizations under the Canadian *Income Tax Act* (“ITA”), focusing on the taxation of corporations and their shareholders. The emphasis is on reading and understanding the statutory language of the ITA as construed by the courts, as well as analyzing the policies and principles that animate the legislation. The initial part of the course addresses the taxation of partnerships and partners, in comparison to the taxation of corporations and shareholders. It then considers corporate income, corporate losses, and the pervasive concept of corporate control, particularly in the context of Canadian-controlled private corporations (“CCPCs”). Next the course deals with the taxation of shareholder distributions, including capital gains and the capital gains exemption, dividends, deemed dividends, shareholder benefits, and anti-avoidance rules aimed at income splitting and “surplus stripping”. Subsequent classes focus on tax-deferred corporate transactions, including incorporations, reorganizations, amalgamations, and wind-ups. The aim is to give students a strong foundation for future practice or research in corporate tax law.

Students should note that this course is one of the “selected classes” that may be chosen further to the Business Law Specialization.

Administrative Matters

Class number: Laws 2106.01 (credit value 3)
Time & Location: Tuesdays 11:00am–12:20pm, Room 204; Thursdays 11:00am–12:20pm, Room 305
Office Hours: Wednesdays 2:00pm–3:00pm, or other time arranged by e-mail

Evaluation

You will be evaluated based on the following elements:

- a take-home mid-term assignment, worth **20%** of your grade; and
- a two and ½ hour final examination, worth **80%** of your grade.

Both the take-home assignment and the final examination are mandatory.

The take-home assignment (**20%**) is due **Monday, February 19th at 6:00pm** [extended from Feb 15]. The assignment will be made available two weeks in advance of the due date (on or around February 1st) and an assignment submission space will be opened on Brightspace. The assignment will consist of three short questions addressing material covered in the early parts of the course. Students are permitted to discuss the questions with each other, as long as the answers you submit are your own work. The total length of your answers must not exceed 1,500 words. In accordance with faculty policy, late assignments will be penalized by two marks (out of 20) for each day late unless an extension has been granted prior to the deadline.

The final examination (**80%**) is scheduled for **Wednesday, April 25th at 9:30am**. It will be 2.5 hours long. Although the suggested time allocation for the questions will include reading time, students will be permitted to begin writing at any time once the exam begins. It will be an **open-book** exam. Students may bring into the exam room a laptop computer or other device for writing the exam, their annotated copy of the *Income Tax Act*, the *Taxation of Business Organizations* casebook, their notes (including slides and handouts), and a calculator. Other books and electronic sources are not permitted. The exam will consist of 5 of 7 shorter questions in Part A (you can choose which 5 to answer) and a longer hypothetical problem in Part B. Evaluation of exams will be in accordance with the standard Schulich School of Law grading scale.

Required Materials

- Thorsteinssons LLP (eds), *Canadian Income Tax Act with Regulations* (104th ed, CCH, 2017) (or other recent edition of the ITA)
- David G Duff & Geoffrey Loomer, *Taxation of Business Organizations in Canada* (LexisNexis, 2015)

A copy of the Thorsteinssons ITA will be provided free of charge to each student in the class. New copies of the Casebook are available at the Dalhousie bookstore. Used copies of the Casebook should be available at the Dalhousie bookstore and from former students.

Overview slides for each class, and any supplemental or review materials, will be made available on the Brightspace System (“Brightspace”) in advance of class.

Scheduled Readings

The following is an outline [revised] of the material to be covered for each class, consisting of Casebook materials and supplemental materials posted on Brightspace. Students should review these materials in preparation for each class, and should also consult the ITA provisions referenced in these materials. Do not worry if the statutory language of some ITA provisions is difficult to follow – the meaning and intent of the legislation will be discussed in class. Classes will largely follow a lecture format, although students are very much encouraged to participate and ask questions.

This is an estimated class and reading schedule only. It may be necessary to revise or supplement this schedule as the term progresses. If this occurs, students will be given advance notice orally in class, and via announcement on Brightspace, of any such revisions or additions.

Date	Topic	Casebook	Brightspace
Part I – Partnership Taxation vs Corporate Taxation			
Jan 09	Introduction	-	-
Jan 11	Fundamentals of partnership tax, comparison to trusts & corps.	Ch 1 (pp 1-34, 38, 46-55) Ch 2 (pp 59-68, 77-93)	<i>Entity Taxation – Partnerships, Trusts, Corporations</i>
Jan 16	Fundamentals of corp. tax, shareholder integration	Ch 5 (pp 223-233)	-
Part II – Taxation of Corporate Income			
Jan 18	Classes of corporations, concepts of corporate “control”	-	<i>Corporations and Corporate “Control”</i>
Jan 23	Corporate losses, acquisitions of control	Ch 5 (pp 278-335)	-
Jan 25	CCPC status, small business deduction	Ch 5 (pp 336-364) Ch 6 (pp 365-392)	-
Jan 30	<i>Class cancelled – snow day</i>		
Feb 01	Business limit, relation & association rules	Ch 6 (pp 393-451)	<i>Control / Relation / Association Rules – Examples</i>
Feb 06	Active business, non-active businesses	Ch 6 (pp 451-493)	-
Feb 08	Aggregate investment income, dividend refunds	Ch 5 (pp 243-247) Ch 7 (pp 495-519)	Dept of Finance, <i>Background on Passive Investment Income</i> (Oct 2017)
Feb 13	Review class	-	-
Part III – Taxation of Shareholder Income (Corporate Distributions)			
Feb 15	Disposition of shares, capital gains exemption	Ch 8 (pp 521, 531-569)	<i>Lifetime Capital Gains Exemption</i>
Feb 20	<i>Study break – no class</i>		
Feb 22	<i>Study break – no class</i>		
Feb 27	Taxable dividends, capital dividends	Ch 5 (pp 232-243, 263-277)	-
Mar 01	<i>Class cancelled</i>		
Mar 06	Paid-up capital, return of capital, deemed dividends	Ch 9 (pp 571-607)	-
Mar 08	Surplus stripping	Ch 9 (pp 607-642)	<i>Calculations – ss 82 / 84 / 84.1</i>

Date	Topic	Casebook	Brightspace
Mar 13	Surplus stripping (cont'd)	Ch 9 (pp 643-681)	-
Mar 15	Shareholder benefits, shareholder loans	Ch 10 (683-723, 730-750)	-
Mar 20	Indirect benefits, attribution, income splitting	Ch 11 (pp 761-762, 772-808, 812-836)	Dept of Finance, <i>Backgrounder on Measures to Address Income Sprinkling</i> (Dec 2017)
Part IV – Tax-Deferred Corporate Transactions			
Mar 22	Introduction to “rollovers”, Transfers of property to a corporation	Ch 12 (pp 837-854)	-
Mar 27	Transfers of property to a corporation (cont'd)	Ch 12 (pp 854-889)	-
Mar 29	Share exchanges & conversions	Ch 13 (pp 891-910)	<i>Comparison of Rollovers – ss 85 / 85.1 / 86</i>
Apr 03	Amalgamations	Ch 14 (pp 911-976)	-
Apr 05	Wind-ups	Ch 14 (pp 976-996)	-
Apr 10	Review class	-	-

Optional Reference Materials

The following texts are not required, but some students may find them useful for further reading: (a) NC Tobias, *Taxation of Corporations, Partnerships and Trusts* (4th ed, Carswell, 2013) chs 2–3 and 6–13; (b) V Krishna, *Fundamentals of Income Tax Law* (Carswell, 2009) chs 17–20 (a newer edition is expected in 2018).

Student Requests for Accommodation

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean Michael Deturbide or the Director of Student Services as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require medical documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) prior to or at the outset of the regular academic year. Please visit <http://www.dal.ca/access> for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at 494-2836.

Plagiarism

All students in this course must read the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the <http://academicintegrity.dal.ca/> website, and the Law School policy on plagiarism, available online at <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

Statement of Inclusivity

Dalhousie University is committed to a welcoming and respectful working and learning environment that is free from harassment and discrimination. We encourage open dialogue, however members of the class are expected to refrain from speaking or behaving in ways that are harmful to others, through racism, homophobia, sexism, or other derogatory treatment based on characteristics protected under the Nova Scotia *Human Rights Act*. Please feel free to speak with me if you have questions or concerns.