

TAXATION I

LAWS 2029

Schulich School of Law
Dalhousie University

Winter 2019

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COURSE SYLLABUS

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I. Overview

This is an introductory course in tax law and focuses primarily on personal income taxation. We will look at the principles of income taxation, some of the different options available to policy makers who design the income tax system, and (to a limited extent) the development of Canada's income tax system. As we look at these things, the impact of income taxation on the distribution of income and the tax policy issues of equity, efficiency, and administrative practicality will be themes that run throughout the course.

The course will not cover in any detail other types of taxes such as local property taxes, retail sales taxes, or value-added taxes like the Goods and Services Tax. We will discuss these briefly to provide context for our study of income tax law and to give you an appreciation of the fact that the income tax is only one element of the so-called "tax mix". This course also does not substantively deal with the special rules for the income taxation of business vehicles such as corporations, partnerships, and trusts. At some points in the course these entities will arise as part of the discussion because many of the principles of income taxation apply to them as well as to individuals. However, a detailed study of how business organizations are taxed is beyond the scope of this course.

The study of income tax may be attractive to you because it represents an intricate puzzle. The rules are detailed, and the interplay between them is complex. Much of tax practice is devoted to mastering this complex system and finding creative ways to take advantage of it. You may also be attracted to the study of income tax because the tax system is foundationally linked to the way that society is structured. The tax system is the place where we make many fundamental social policy decisions. Nearly every session in the course will engage both of these dimensions, and my hope is that you will find that one or other (or both! or maybe an entirely different angle!) excites and engages you.

II. Learning Objectives

This course aims to help you develop the following knowledge and skills:

- You will understand and be able to describe, apply, and evaluate the basic principles and rules of Canadian personal income tax.
- You will be able to distinguish between, evaluate, and apply different approaches to statutory interpretation in the tax context.
- You will understand and have some confidence in discussing the major policy decisions that inform the personal income tax system.

- You will be able to evaluate the potential advantages of, and problems with, the current tax system, including the impact of income tax law on different groups and individuals.
- You will be familiar with and have experience using the basic tools of tax research.
- You will be able to confidently read, present, and discuss a tax case.
- You will have a framework within which you can understand new areas of tax law doctrine.

III. Course Materials & Bibliography

Obligatory Casebook, *Income Tax Act & Brightspace*

Duff, David et al., *Canadian Income Tax Law*, 6th ed. (Markham, ON: LexisNexis, 2018) (**required** – copies are available at the bookstore).

Income Tax Act, RSC 1985 (5th Supp) c 1. (copies are available at the bookstore, or you may construct your own from online sources; any reasonably recent consolidation will do).

Other materials posted on Brightspace or circulated via e-mail.

Further Reading

The following books are suggested for further reference:

Cook, Ted, *Canadian Tax Research: A Practical Guide*, 5th ed (Toronto: Carswell, 2010).

Edgar, Tim, Arthur Cockfield & Martha O'Brien, eds, *Materials on Canadian Income Tax*, 15th ed (Toronto: Carswell, 2015).

Hogg, Magee, and Li, *Principles of Canadian Income Tax Law*, 9th ed (Toronto: Carswell, 2017).

Krishna, Vern, *Fundamentals of Canadian Income Tax Law* (Toronto: Carswell, 2014).

Krishna, Vern, *Income Tax Law*, 2^d ed (Concord, ON: Irwin Law, 2012).

IV. Coordinates

E-mail: colinjackson@dal.ca

Office: W429

Office Hours: Wednesdays, 1:30 – 4:00

The best way to reach me is via e-mail at colinjackson@dal.ca.

You should feel free to stop by my office, send an e-mail, or stop me in the hall to talk about tax. I'll promise to be in my office during the scheduled office hours, and I'm

happy to meet with you at other times. If you want to make sure that you catch me, send an e-mail to make an appointment.

V. Course Sessions

The scheduled hours for the course are 1:30–3:20 pm on Tuesdays and 1:00–2:50 pm on Fridays in room 207, starting with Tuesday, January 8th, 2018 and concluding on Friday, April 5th, 2018.

At this point, I do not anticipate needing to cancel any classes. Should the need arise, I will inform you via e-mail and give you as much notice as possible.

VI. Teaching Format, Preparation, and Class Participation

Many students have misconceptions about what the introductory tax law course will be like. Our treatment of tax law will have much less to do with mathematics and accounting than with legal concepts, statutory interpretation, and public policy issues. A background in business, accounting, or economics may be helpful, but is not needed for you to do well. In fact, you will find that your knowledge, interest, and training in other fields – literature, history, political science, women’s studies, public administration, science, or engineering – will be helpful in different ways in the study of tax law. Throughout the course, my assumption will be that most of you are not familiar with business or accounting concepts, and so I will try to ensure that I explain any unfamiliar terminology.

My teaching methods in this course will primarily rely on class discussion and team-based problem solving. I will include some comments to frame the discussion, to add context, to help with unfamiliar terminology, and to clarify difficult concepts or details in the cases. At times we will discuss the assigned reading in detail, and I am always happy to answer questions about it. However, you should not generally come to class expecting me to deliver a rehash of the assigned reading.

Class Case Review

One class in January has been set aside for “Class Case Review”. During this class you will, together with several colleagues in a small group, present a case to your classmates. No preparation (other than the assigned reading) is expected. The goal of the exercise is to help you get comfortable talking about a tax case and to build toward the case presentation in February.

What You Should Expect from Me

As teacher, I am committed to working hard to help you succeed in the course. You should expect me to come prepared to class and to lead in creating a positive, challenging, engaging, and inclusive learning environment.

I will ensure that the class begins and ends on time, that I am available to you outside of those hours, and that I respond to your e-mails promptly.

I will endeavour to provide regular feedback to you to help you gauge your progress in the course. This feedback should include, but not be limited to, returning your assessments promptly and with useful, constructive comments.

I am committed to improving my skills as a teacher and to improving this course. You should expect me to take seriously the feedback that you give me.

What I Expect From You

I expect you to contribute to the creation of a positive, respectful, and challenging learning environment. Consistent with the pedagogical approach, I expect you to come to class having read and reflected upon the assigned readings. Depending upon the assigned material, you may be called upon to contribute to a classroom discussion. If you find yourself unable to prepare for a particular session, please let me know in confidence either before or at the outset of class. This will avoid any uncomfortable situations for both of us.

I expect that you will have access to both the assigned reading and the *Income Tax Act* during the class sessions.

I expect that you will regularly monitor both the Brightspace site and your dal.ca e-mail for updates related to the class. I have been asked to advise you that you “will be deemed to have received anything sent” to your @dal.ca e-mail address.

I also expect you to make use of both formal and informal methods of providing feedback to me.

VII. Evaluation

You are required to complete four written assessments and one presentation over the course of the term. Each of these exercises will be worth 20% of your overall grade for the course. The format has several goals: to encourage you to learn the material and be engaged in the course throughout the term, rather than waiting until the end; to help you develop skills relevant to the practice of law (and tax law in particular); to enable

me to provide feedback to you both individually and as a group; and to allow you to make use of that feedback and improve your work over the course of the term.

Written Assessments (80%)

The four written assessment you will complete are distributed as follows: you must complete **one employment assessment** (of three), **two business/capital gains assessments** (of four), and **one final (stretch) assessment** (of two). The dates of the assessments are provided in the schedule below.

Parameters

The topics for the employment and business/capital gains assessments will be drawn mostly (though not exclusively) from the section of the course they are meant to assess and will be limited to the material covered up to that point. The final (stretch) assessment may cover topics from any point in the course, but is mainly intended to push you beyond the substantive topics covered in the course. It is meant to assess your ability to apply the skills and theoretical frameworks developed in the course as you approach a new area of tax law.

You are expected to properly cite all sources using McGill guide style.

Assessments will have their own instructions and requirements, but will usually involve writing a memorandum of no more than 1000 words. Some assignments may require a modest amount of research, and, if so, they will say so directly.

The assessments will be released on Brightspace at 8 am on Wednesday and will be due at 1 pm on Friday, giving you 2 ½ business days. You must hand in a hard copy at the start of class on Friday, as well as submitting an electronic copy via Brightspace (because we have no class on February 1st, no hard copy will be required). **No late assessments will be accepted.**

Evaluation

I will endeavour to evaluate and return all assignments promptly. In general, I will be looking for the following in your written work:

- a) Writing
 - free from errors in grammar or punctuation
 - individualized and interesting style
 - skillful transitions between paragraphs and arguments
 - well-chosen vocabulary and variety in sentence structure
 - topic sentences to paragraphs and appropriate paragraphing
 - technical terminology used appropriately
 - citations flawless

- writing precise and clear
- b) Organization
- arguments identified separately
 - each argument contains an assertion and evidence to support the assertion
 - possible objections are identified, arguments that cannot be rebutted are conceded
 - conclusion reached is supported by the evidence
 - ideas presented logically and coherently
 - no irrelevant information included
 - appropriate emphasis placed on each argument,
 - headings and argument have parallel structure,
 - reader is given direction (a road map) of the arguments if necessary,
 - good use of headings (if they have been used)
- c) Substance
- reveals a superior understanding of the focused subject being explored
 - the perspective presented is more than a mere repetition of the material readily available and instead adds a fresh perspective
 - shows original, critical thought or advanced insight

Case Presentations (20%)

Instead of a written assessment during the week of February 25th, you will present a case to a small group of colleagues and provide feedback to your colleagues on their presentations. The goal of this exercise is to help you develop the ability to talk comfortably about a case and answer questions and to listen to your colleagues, ask questions, and engage with their work.

Parameters

You must sign up for a case presentation time on Brightspace by **January 18th, 2018**. Cases will be assigned by early February, and presentations will happen during the week of February 25th. You will be presenting to a small group of 3-5 other students and me. You will have 15 minutes, including 10-12 minutes for your presentation and 3-5 minutes for questions and discussion.

Evaluation

Together, we will come up with a grading rubric for the case presentations. You will be evaluated both on the substance and style of your presentation and on your engagement with and feedback on your colleagues' presentations.

Grading Guidelines

This course must have a median of 70 – 72 with the following grade distribution:

A	10 – 20%
B	40 – 60%
A & B together	60 – 75%
C	15 – 25%
D	0 – 15%
F	0 – 5%

Independent Work

Unless the instructions specifically state otherwise, you are expected to complete each assessment independently. Working with another student on an assessment is a violation of our academic integrity policies, and I will be deeply disappointed if any of you contravene the requirement for independent work.

VIII. Diversity and Inclusion – Culture of Respect

Every person at Dalhousie has a right to be respected and safe. We believe inclusiveness is fundamental to education. We stand for equality. Dalhousie is strengthened in our diversity. We are a respectful and inclusive community. We are committed to being a place where everyone feels welcome and supported. Please do not hesitate to speak with me if you have questions or concerns, read more about Dalhousie's Diversity & Inclusiveness Strategy at www.dal.ca/cultureofrespect.html, and see dal.ca/dalrespect for further information on resources and supports.

IX. Integrity

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <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.

X. 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, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require 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) at the outset of the regular academic year. Please visit 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 (902) 494-2836.

XI. Faculty Policy on the Submission of Major Papers and Assignments

Major papers and assignments must be submitted in hard copy. Students should hand papers in to the place stipulated by the instructor and ensure they are date and time stamped. Please read the law school policy on late penalties:

<https://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>

Please note students may also be required to provide an identical electronic copy of their paper to the instructor by the due date. Papers may be submitted by the instructor to a text-matching software service to check for originality. Students wishing to choose an alternative method of checking the authenticity of their work must indicate to the instructor, by no later than the add/drop date of the course, which one of the following alternative methods they choose:

- a) submit copies of multiple drafts demonstrating development of their work
- b) submit copies of sources
- c) submit an annotated bibliography

XII. Schedule of Classes and Readings

Please refer to the table below for important dates and assigned readings for the course. To maximize student learning, I may adjust the schedule and the assigned readings from time-to-time. If so, I will inform you via e-mail with as much notice as possible.

In looking at the list below, please consider the cases listed to be **required** reading and the comments prefacing the cases to be **highly recommended** reading. At times, I will draw your attention to the notes following the cases; otherwise, you can consider the notes **optional** reading. There will also be **optional** reading posted on Brightspace from time to time.

	Topic	Reading	If you can't do all the reading...
Jan 8	Introduction	Course Syllabus <i>Casebook</i> , chapter 1	Course Syllabus <i>Casebook</i> , pp. 51–52 on the Haig-Simons definition of income and pp. 80–82 on evaluating income tax provisions.
Income or Loss from Office or Employment			
Jan 11	Introduction & Characterization	<i>Casebook</i> , pp. 201–219	<i>Wiebe Door</i> (p. 204)
Jan 15	Inclusions (Remuneration)	<i>Casebook</i> , pp. 241–283	<i>Curran</i> (p. 246) <i>Moss</i> (p. 252) <i>Cirella</i> (p. 266) <i>Goldman</i> (p. 271) <i>Fries</i> (p. 277)
	Employment Assessment #1 (Jan 16 – 18)		

	Topic	Reading	If you can't do all the reading...
Jan 18	Inclusions (Benefits)	<i>Casebook</i> , pp. 283–315, 336–352	<i>Lowe</i> (p. 285) <i>Savage</i> (p. 302) <i>Spence</i> (p. 309) <i>Krull / Hoefele</i> (p. 338) <i>McArdle</i> (p. 342) <i>Thomas</i> (p. 348)
Jan 18	Deadline to sign up for a case presentation time.		
Jan 22	Inclusions (Allowances) Deductions (Travelling Expenses)	<i>Casebook</i> , pp. 367–378, 391–415	<i>MacDonald</i> (p. 367) <i>Blackman</i> (p. 374) <i>Nelson</i> (p. 395) <i>Cival</i> (p. 402) <i>Yurkovich</i> (p. 405) <i>Luks</i> (p. 410)
	Employment Assessment #2 (Jan 23 – 25)		
Jan 25	Deductions (Misc.) Class Case Review	<i>Casebook</i> , pp. 416–452	<i>Healy</i> (p. 416) <i>Werle</i> (p. 420) <i>Montgomery</i> (p. 425) <i>Lucas</i> (p. 433) <i>Martyn</i> (p. 439) <i>Prewer</i> (p. 445) <i>Cruikshank</i> (p. 450)
Jan 29	Tax Research with Taxnet Pro – be sure to bring your laptop!		
	Employment Assessment #3 (Jan 30 – Feb 1) If you have not done an employment assessment yet, you must complete this one!		
Feb 5	Timing Issues and Employment Review	<i>Casebook</i> , pp. 469-481	<i>Cliffe</i> (p. 471)

	Topic	Reading	If you can't do all the reading...
Income or Loss from a Business or Property			
Feb 8	Introduction to Business Income and Characterization	<i>Casebook</i> , pp. 489–538	<i>Morden</i> (p. 492) <i>Taylor</i> (p. 501) <i>Stewart</i> (p. 516)
Feb 12	Inclusions (part 1)	<i>Casebook</i> , pp. 539–592	<i>No. 275</i> (p. 539) <i>Manley</i> (p. 544) <i>Federal Farms</i> (p. 553) <i>Abraham</i> (p. 562) <i>Perini Estate</i> (p. 566) <i>Groulx</i> (p. 577) <i>O'Neil</i> (p. 584)
Business/Capital Gains Assessment #1 (Feb 13 – 15)			
Feb 15	Inclusions (part 2)	<i>Casebook</i> , pp. 593–620	<i>Morrison</i> (p. 593) <i>Huffman</i> (p. 598) <i>Pitman</i> (p. 603) <i>Iron Ore</i> (p. 612)
Feb 26	Deductions (part 1) No Class! Class to be replaced with individual case presentations in small group meetings.	<i>Casebook</i> , pp. 620–725	Focus on your assigned case.
March 1	Deductions (part 2) Introduction to Timing	<i>Casebook</i> , pp. 725–750, 757–805	<i>Bronfman Trust</i> (p. 726) <i>Publishers Guild of Canada</i> (p. 758) <i>Neonex</i> (p. 780) <i>Dominion Taxicab</i> (p. 792) <i>John Colford</i> (p. 795)

	Topic	Reading	If you can't do all the reading...
March 5	Timing Issues (part 1)	<i>Casebook</i> , pp. 820–905	<i>JL Guay</i> (p 822) <i>Johns-Manville</i> (p. 832) Capital Cost Allowance (pp. 875-897), including <i>Ben's Limited</i> (p. 883)
Business/Capital Gains Assessment #2 (Mar 6 – 8)			
March 8	Timing issues (part 2)	<i>Casebook</i> , pp. 905–920	<i>Dominion Stores</i> (p. 906) <i>Odyssey Industries</i> (p. 915)
March 12	Aboriginal Issues in Canadian Tax Law	Readings on Brightspace	
Business/Capital Gains Assessment #3 (Mar 13 – 15) If you have not yet completed a business assessment, you must complete this one and the next!			
Taxable Capital Gains and Allowable Capital Losses			
March 15	Introduction and Characterization	<i>Casebook</i> , pp. 941–1001	<i>Regal Heights</i> (p. 945) <i>Kodak</i> (p. 957) <i>Irrigation Industries</i> (p. 964) <i>Wood</i> (p. 976) <i>Vancouver Art Metal Works</i> (p. 983) <i>Tip Top Tailors</i> (p. 991)
March 19	Computation (General) & Principal Residence Exemption	<i>Casebook</i> , pp. 1002–1024, 1038–1068	<i>Robert</i> (p. 1006) <i>Sterling/Stirling</i> (p. 1013, p. 1016) <i>Avis</i> (p. 1020) <i>Cayer</i> (p. 1041) <i>Flanagan</i> (p. 1051) <i>Yates</i> (p. 1061)
Business/Capital Gains Assessment #4 (Mar 20 – 22)			

	Topic	Reading	If you can't do all the reading...
March 22	Computation (Special Rules)	<i>Casebook</i> , pp. 1026–1038, 1068–1104.	<i>Burnet</i> (p. 1029) <i>Duthie Estate</i> (p. 1072) <i>Mastronardi Estate</i> (p. 1082) <i>Glaxo Wellcome</i> (p. 1090)
Other Income, Deductions, and Computation Rules			
March 26	Inclusions: Prizes, Scholarships, Grants	<i>Casebook</i> , pp 1105–1106, 1157–1187	<i>Savage</i> (p. 1158) <i>Foulds</i> (p. 1162) <i>DiMaria</i> (p. 1168) <i>Amyot</i> (p. 1183)
	Final (Stretch) Assessment #1 (Mar 27 – 29) Complete this assessment OR the next one.		
March 29	Deductions: Legal Expenses, Moving Expenses	<i>Casebook</i> , pp. 1194–1195, 1212–1245	<i>Storrow</i> (p. 1216) <i>Dierckens</i> (p. 1224) <i>Rennie</i> (p. 1230) <i>Giannakopoulos</i> (p. 1237) <i>James</i> (p. 1241)
April 2	Limitations on Deductions and Deemed Proceeds	<i>Casebook</i> , pp. 1297–1339	<i>Cipollone</i> (p. 1299) <i>Stapley</i> (p. 1310) <i>Golden</i> (p. 1322) <i>Marcantonio</i> (p. 1334)
	Final (Stretch) Assessment #2 (April 3 – April 5) If you did not complete the last assessment, you must complete this assessment!		
April 5	Conclusion		