

# Taxation - Law 345

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## **LAW 345 - TAXATION**

### COURSE DESCRIPTION

#### **Prerequisites/Co-requisites: None**

Unit Value:	2.0
Hours per week:	4
Term Offered:	Fall 2011
Instructor:	Martha O'Brien

#### **Required Texts**

Materials on Canadian Income Tax, 14<sup>th</sup> edition, 2010  
Student edition of the Income Tax Act, 2<sup>nd</sup> edition, 2010  
(both available from the bookstore)

#### **A. ASSUMPTIONS**

1. Most students will have little or no background knowledge of tax law, policy or terminology.
2. Most students will eventually practice law, in general practice or in a wide variety of specialty areas including corporate and commercial, securities, tax, real estate, labour, family, estates, trade, competition, environmental and intellectual property.
3. In each of these areas of practice it will be useful to have a general knowledge of the principles of Canadian income tax law, familiarity with the provisions which closely affect individuals, an introduction to the interface with international taxation rules, and a methodology for researching tax problems.
4. Whether or not a student eventually enters the practice of law, an

understanding of the basic concepts of tax policy, together with a familiarity with general taxation rules and structures will enhance the student's ability to evaluate tax laws as an instrument and central feature of social and economic policy.

## **B. EDUCATIONAL GOALS**

The goals of the course are that students:

1. Become familiar with the basic features of the Canadian income tax system, including basic concepts of tax policy.
2. Become familiar with the structure of the federal Income Tax Act and most important provisions governing (primarily) personal income tax, and be able to recognize the types of events and transactions which give rise to tax issues. In addition, students will encounter several detailed tax provisions and learn how to approach tax problems.
3. Be able to read provisions of the Income Tax Act with understanding, and become familiar with tax case law in a number of subject areas.
4. Become conversant with a number of tax policy issues and be able to evaluate provisions of law from a policy perspective.

## **C. OBJECTIVES FOR EVALUATION**

The course seeks to achieve these goals by having students meet certain objectives, namely, that on a final examination students be able to:

Demonstrate an ability to (i) identify issues relating to personal income taxation in a given fact situation; (ii) provide a reasonable statement of the law, citing the relevant statutory and case law; and (iii) apply the law to the facts, describing and evaluating opposing arguments, and, where asked to do so, making conclusions as to

advice to be given or compliance measures to be taken.

Answer one or more short exam questions on the meaning or application of a specific rule or provision of tax law, or describing the tax laws applicable to a particular transaction or event, and, if requested, the underlying policy of the law.

## **2. Tax Policy :**

Discuss the underlying purpose of provisions or systems of tax law, and be able to support an argument as to whether a particular provision or system is appropriate and achieves its objectives.

## **C. TEACHING METHODOLOGY**

The teaching method used will be primarily lectures, with analysis of problems and class discussion.

## **D. EVALUATION**

**There are two options for evaluation.**

### **Option 1:**

Evaluation will be by way of a three hour OPEN book final examination for 100% of the mark. Students may bring whatever materials they consider helpful to the exam, including annotated Income Tax Act, textbook, written notes and other paper materials, but may not use computerized databases or library books. Students may bring a calculator if they wish, but the calculator may not be capable of sending or receiving messages (i.e. no smartphones, etc.) The exam will be a combination of short answer questions and longer questions describing a fact situation and requiring students to identify issues, state the law with supporting authority, provide advice and/or comment on the purposes of the law and underlying policy. Students may also be asked to answer one or more questions requiring an essay style answer addressing tax law and policy issues

in the broader social and economic context.

Students will be expected to respond in the form stated in the examination question. An ability to identify issues and apply legal principles to stated facts will be the primary determiner of the student's grade. Organization of the answer and clarity of reasoning and expression will also be factors in the grade assigned. Direct, precise references to statutory provisions and relevant cases are also necessary to achieve a satisfactory grade.

**Option 2:**

Students who choose this option may write a 3000-5000 word paper for 25% of their final grade. They must also write the OPEN book final examination (as described in Option 1 above), but will not be required to answer a specified question or questions totalling 25 marks. They will be limited to 2.5 hours to answer the designated exam questions which will total 75 marks. The paper must be handed in with the final examination questions and booklets in the exam envelope, marked with the student's final exam code name. To elect this option, students must advise Professor O'Brien that they have done so no later than 5:00 pm on November 29 2011.

(Students who have opted to write a paper may change their decision and write a 100% final exam at any time up to and including 4:00 pm on the eve of the final exam.) The paper may be on one of the following topics:

- A. Vander Zalm v. British Columbia (Finance), 2010 BCSC 1320 – case comment
- B. Westbank First Nation v. British Columbia Hydro and Power Authority [1999] 3 SCR 134 - case comment
- C. Kingstreet Investments Ltd. v. New Brunswick (Finance) [2007] SCR 3 - case comment
- D. A topic or case comment suggested by the student and approved by Professor O'Brien by October 27 2011.

The paper will be marked on the basis of quality of writing and legal

and policy analysis and the effective integration of relevant research. It is not meant to be a major research project, but proper footnoting is required. More detailed instructions will be provided in class.

Students will receive a letter grade as set out below:

Percent	Letter Grade	Grade Point Value
90-100	A+	9
85-89	A	8
80-84	A-	7
75-79	B+	6
70-74	B	5
65-69	B-	4
60-64	C+	3
55-59	C	2
50-54	D	1
<50	F	0