



Syllabus

Tax Law

(Revised July 2021: effective for 2022)

Candidates are advised that the syllabus may be updated from time-to-time without prior notice.

Candidates are responsible for obtaining the most current syllabus available.



Tax Law

COURSE SYLLABUS

MATERIALS

Required Readings

- Krishna, *Fundamentals of Canadian Income Tax* 2nd Edition Volume 1: Personal Tax Law, (Toronto: Carswell, 2019). **(FCIT)**
- Cockfield, O'Brien, Brown, *Materials on Canadian Income Tax*, 16th ed. (Toronto: Carswell, 2020) **(MCIT)**
- Income Tax Act Sections as Indicated

Recommended Supplemental:

- Scott Wilkie, Li, Magee, Li *Principles of Canadian Income Tax Law*- 9th ed. (Toronto: Carswell, 2020)



An introductory overview on Canada's income tax system, concentrating on personal income tax. The readings in **FCIT** and **MCIT** explain the concepts, provisions and many of the cases. In addition, **MCIT** includes excerpts from the cases that demonstrate how the courts apply the concepts and provisions. Both are important. The exam will draw from both texts

TOPIC	READINGS
I. Introduction: Policy, Politics, Design	
<p>A. The Tax System's Role as an Economic and Social Policy Instrument</p> <ol style="list-style-type: none"> 1. Criteria: Equity, Efficiency, Simplicity 2. Economic and Financial Concepts 3. Tax Bases and Tax Mix 4. Tax Expenditure Concept and Criteria 5. Overview of Tax Process: Filing, Assessment, Appeals, Burden of Proof 	<p>FCIT Chapter 1 32-68</p>
<p>B. ITA: Overview of Basic Structure</p> <ol style="list-style-type: none"> 1. Who, What, and When 2. Income from a Source 3. Section 3 4. Surrogatum Principle 5. Tax Unit 	<p>FCIT Chapter 4, 145-197 FCIT Chapter 12, 506-509 MCIT 72-93</p> <p>ITA Sections 2, 3, 4</p>
<p>C. Statutory Interpretation</p>	<p>FCIT Chapter 2 78-93</p> <p>MCIT 737-745</p>



II. Who is Subject to Tax	
A. Residents	<p>FCIT Chapter 3, 99-113;116-119;</p> <p>MCIT 107-135</p> <p><u>ITA</u> S 2(1); 2(3); S 114; Sub-s 250(1)(a); 250(3); 250(5). S 253, 250(4)(a)(c) S 248(1) definitions: "individual"; "non-resident"; "resident"; "person"</p>
B. Non-Residents and Tax Treaties	<p>FCIT Chapter 3, 113-116; 135-136</p> <p>MCIT 140-145; 156 -167</p>
C. First Nations Taxation	<p>FCIT Chapter 3, 137-139</p> <p>MCIT 168-196</p>
III. Employment	
A. Who is An Employee	<p>FCIT Chapter 6, 254-265</p> <p>MCIT 197 – 216</p> <p>Also read <i>1392644 Ontario Inc. (c.o.b. Connor Homes) v M.N.R.</i>, 2013 FCA 85</p>
<p>1. Independent Contractors</p> <p>2. Personal service business</p>	
B. Employment Income: Inclusions	<p>FCIT Chapter 6, 266-288; 309-310</p> <p>MCIT 217-267 (omit Sorin and Campbell cases)</p> <p><u>ITA</u> S 5; 6 (1)(a); 6(1)(b); 6(1)(e); 6(1)(f); 6(1)(j) 6(3) - (3.1); 6(9); 80.4; 6(15)-(15.1); 6(16), 6(19)-(23); 7;</p>
C. Employment Income: Deductions	<p>FCIT Chapter 6, 311-319</p> <p>MCIT 267-284</p> <p><u>ITA</u> S 8 (1)(b); 8(1)(f); 8(1)(h);</p>



	8(1)(i); 8(1)(j); 8(1)(q); 8(1)(p); 8(1)r; 8(13) 8(2)
D. Terminating Employment	FCIT Chapter 12, 510-512 ITA 248(1) retiring allowance; death benefit 56(1)(a)(ii)(iii); 60(j.1); 60(o.1) 62 .
IV. Income from Business and Property	
A. Overview and Characterization 1. What Constitutes a Business 2. Distinguishing Business Income (An Adventure in the Nature of Trade) from Capital Gains. 3. Business v Property Income	FCIT Chapter 7, 328-351 MCIT 285-303; 303-306; 503-523 ITA S 9, Sub-s 248(1) "business", "property"
B. Types of Property Income 1. Interest Income 2. Stock Dividends	FCIT Chapter 8, 361-363; 368 MCIT 306-310; 315; 318-319 ITA Para 12(1)(c), Sub-S 12(3),(4)
C. Deductions to Determine Profit 1. General Approach 2. Personal and Living Expenses 3. Expenses of an Illegal Business 4. Fines, Penalties, Bribes 5. Interest 6. Reasonableness	FCIT Chapter 9, 377-410 MCIT 319-393 ITA S 9, para 18(1)(a),(b),(h), S 67, 67.1, 67.2;67.6; 20(1)(c)(i)(ii);20(3); ITA 67.5
D. Capital Expenditure 1. Current vs Capital Expenditures 2. Repair or Replacement 3. Tax Depreciation (Capital Cost Allowance)	FCIT Chapter 11, 464-487 MCIT 445-478
V. Capital Gains and Losses	
1. Overview 2. Capital Gains Framework 3. Specific Issues and Transactions <ul style="list-style-type: none"> • Intra-Family Transfers • Principle Residence • Change of Use • Small Business Corporations 	FCIT Chapter13, 527-539;543-547;551-555; 561-566;571- 580 FCIT Chapter 19 717; 720-523;527-528;732-735; MCIT 497-558 ITA paras 3(b)(d), S 38, paras



4. Capital Losses	39(1)(a),(b), Sub-s 39(9), paras 40(1)(a)(i),(b)(i),&(b)(ii), Sub-s 41(1), S 45, para 46(1)(a), Sub-s 46(2), scan SS 53, 54 & 68, paras 54(c),(h),(g)
VI. Refining the Basis of Liability	
1. Subdivision e deduction 2. Tax Credits	MCIT: 577-671
VII. Tax Evasion, Tax Avoidance	
1. Judicial Limits 2. GAAR: General Anti-Avoidance Rule	FCIT Chapter 22, 827-858 MCIT 752-795



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Online Resources

The majority of case law and legislative resources needed by NCA students are available on CanLII, the free legal information resource funded by the Federation of Law Societies of Canada (www.canlii.org). That includes all decisions of the Supreme Court of Canada, and all federal, provincial, territorial and appellate courts.

Your registration fee also includes free access to the Quicklaw resources of Lexis Nexis. Your ID and password will be arranged and emailed to your email address on file a few weeks after the end of the registration session.

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