

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
de juristes du Canada*

NATIONAL COMMITTEE ON ACCREDITATION

SYLLABUS

TAXATION

JANUARY 2010

TAXATION

Required Readings: Krishna, *The Fundamentals of Canadian Income Tax*, 9th ed. (Toronto: Carswell, . 2006). **(FCIT)**

Edgar, Sandler, *Materials on Canadian Income Tax*, 13th ed. (Toronto: Carswell, 2005) **(MCIT)**

Income Tax Act Sections as Indicated

Recommended: Hogg, Magee, Li *Principles of Canadian Income Tax Law*- 6th ed. (Toronto: Carswell, 2007)

The reading in this syllabus provide an introductory overview to the structure and workings of Canada's fiscal system. The syllabus concentrates on personal income tax with only an introduction to corporate taxation. The readings in **FCIT** provide explanations of the concepts, provisions and many of the cases. The readings in **MCIT** provide explanations and case law examples. Both are important for understanding and applying the material. The exam will draw from both texts. Cases that are separately listed in the readings are generally those that are not covered in **MCIT**, usually because they were decided after the publication date.

TOPIC	READINGS
<p>I. INTRODUCTION: POLICY, POLITICS, DESIGN</p> <p>A. The Tax System's Role as an Economic and Social Policy Instrument</p> <ol style="list-style-type: none"> 1. Qualitative Characteristics: Equity, Efficiency, Simplicity; Certainty 2. Economic and Financial Concepts 3. Tax Bases and Tax Mix 4. Tax Expenditures 	<p>FCIT Chapter 1 MCIT 10-19; 35-75, 609-617</p>
<p>B. ITA: Overview of Basic Structure</p> <ol style="list-style-type: none"> 1. Who, What, and When 2. Section 3 3. Source concept 4. Tax Unit 5. Personal Income Tax Rates 6. Corporate Income Tax Structure 7. Overview of Tax Process: Filing, Assessment, Appeals, Burden of Proof 	<p>FCIT Chapter 4 FCIT Chapter 10 pgs 421-426, 429-434 FCIT Chapter 14 (Income attribution) MCIT 79-97 MCIT 111-112 top (Income Splitting) 128-130 top (Income Attribution) MCIT 744-750 FCIT Chapter 17 (basic principles of corporate tax)</p>

	ITA Sections 2, 3, 4
C. Statutory Interpretation	FCIT Chapter 2 MCIT 750-770 The Queen v. Canada Trustco Mortgage Co., SCC 2005 Mathew v. The Queen, SCC 2005
II. WHO IS SUBJECT TO TAX	FCIT Chapter 3 MCIT 149-176 MCIT 179-181 <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"
A. Residents 1. Individuals 2. Corporations	
B. Non-Residents and Tax Treaties	FCIT Chapter 3 MCIT 182-183 (Skip case);189-193
C. First Nations Taxation	FCIT Chapter 3 MCIT 212-223
III. EMPLOYMENT	FICT Chapter 6 MCIT 225-239 <i>Royal Winnipeg Ballet</i> 2006 FCA 87
A. Who is An Employee 1. Independent Contractors 2. Personal service business	
B. Employment Income: Inclusions	FICT Chapter 6 MCIT 243 - 247 (skip Sorin) 248 # 2 - 254; 258-284;288 allowances-290;293 Huffman ITA S 5; 6 (1)(a); 6(1)(b) (v)(vi) (vii.1) (x) (xi); 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 (stock options skim) IT-470R; IT 522R
C. Employment Income: Deductions	FCIT Chapter 6 MCIT 295-311 ITA S 8 (1)(b); 8(1)(f); 8(1)(h); 8(1)(i); 8(1)(j); 8(1)(q); 8(1)(p); 8(1)r; 8(13) 8(2)

<p>D. Terminating Employment Relationships</p>	<p>FCIT Chapter 10 pgs 426-430 MCIT 736-737 ITA 248(1) retiring allowance; death benefit 56(1)(a)(ii)(iii); 60(j.1); 60(o.1) 62</p>
<p>IV. INCOME FROM BUSINESS AND PROPERTY</p> <p>A. Overview and Characterization</p> <ol style="list-style-type: none"> 1. What Constitutes a Business 2. Business or Property Income 	<p>FCIT Chapter 7 MCIT 313-314, 318-332;</p> <p>ITA S 9, Sub-s 248(1) "business", "property" <i>Leblanc v. The Queen</i>, 2006 TCC 680</p>
<p>B. Types of Property Income</p>	<p>FCIT Chapter 7 FCIT Chapter 8 pgs 306-309 MCIT skim the following 332-338; 342-348 ITA Para 12(1)(c), Sub-S 12(3),(4)</p>
<p>C. Deductions to Determine Profit</p> <ol style="list-style-type: none"> 1. General Approach 2. Personal and Living Expenses 3. Expenses of an Illegal Business 4. Fines, Penalties, Damages 5. Interest 6. Capital Outlays: CCA and ECE 7. Specifically Prohibited Deductions 	<p>FCIT Chapter 9 MCIT 348-360; skip Benton; 362-390;398-406; 407-408; 417-422; 424-429; 434-443;486-517;532</p> <p>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</p> <p><i>Lipson v. Canada</i> , 2009 S.C.J. No. 1</p>
<p>V. CAPITAL GAINS AND LOSSES</p> <p>A. Overview</p> <p>B. Capital Gains v Adventure in the Nature of Trade</p> <p>C. Capital Gains Framework</p> <p>D. Specific Issues and Transactions</p> <ol style="list-style-type: none"> 1. Intra-Family Transfers 2. Principle Residence 3. Change of Use 4. Small Business Corporations 	<p>FCIT Chapter 11 pgs 439-506 FCIT Chapter 7 pgs 281-301 MCIT 540-547 MCIT 547-568</p> <p>MCIT 568-570;573 (item 4); 574-579;584-585 item 7;588-592; MCIT 596-607</p> <p><u>ITA</u> paras 3(b)(d), S 38, paras 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),</p>

<p>VI. REFINING THE BASIS OF LIABILITY FROM INCOME TO TAXABLE INCOME COMPUTATION OF TAX</p>	<p>FCIT Chapters 12, 15, 16 (629-648) MCIT: 618-636; 655-bottom -658 notes.</p>
<p>VII. PLANNING, EVASION, AVOIDANCE</p> <p>A. Review Statutory Interpretation</p>	<p>FCIT Chapter 2</p> <p>MCIT 750-770 <i>The Queen v. Canada Trustco Mortgage Co.</i>, SCC 2005 <i>Mathew v. The Queen</i>, SCC 2005</p>
<p>B. Tax Evasion, Tax Avoidance</p> <ol style="list-style-type: none"> 1. Judicial Limits 2. GAAR: General Anti-Avoidance Rule 3. Other provisions 4. Tax Shelters 	<p>FCIT Chapter 24 MCIT 770-797; 813-815 <i>The Queen v. Canada Trustco Mortgage Mathew v. The Queen</i> <i>Lipson v. Canada</i> , 2009 S.C.J. No. 1</p> <p>ITA Secs 245, 69, 67, 248(10)</p>

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www.canlii.org

This is a listing for all the provinces and is highly recommended

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<http://www.attorneygeneral.jus.gov.on.ca/english/legis/>

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