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# Syllabus

# Tax Law

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Revised July 2021

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.

<b>TOPIC</b>	<b>READINGS</b>
<b>I. Introduction: Policy, Politics, Design</b>	
<b>A. The Tax System's Role as an Economic and Social Policy Instrument</b>  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	<b>FCIT</b> Chapter 1 32-68
<b>B. ITA: Overview of Basic Structure</b>  1. Who, What, and When 2. Income from a Source 3. Section 3 4. Surrogatum Principle 5. Tax Unit	<b>FCIT</b> Chapter 4, 145-197 <b>FCIT Chapter 12</b> , 506-509 <b>MCIT</b> 72-93  ITA Sections 2, 3, 4
<b>C. Statutory Interpretation</b>	<b>FCIT</b> Chapter 2 78-93  <b>MCIT</b> 737-745



<b>II. Who is Subject to Tax</b>	
<b>A. Residents</b>	<p><b>FCIT</b> Chapter 3, 99-113;116-119;</p> <p><b>MCIT</b> 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>B. Non-Residents and Tax Treaties</b>	<p><b>FCIT</b> Chapter 3, 113-116; 135-136</p> <p><b>MCIT</b> 140-145; 156 -167</p>
<b>C. First Nations Taxation</b>	<p><b>FCIT</b> Chapter 3, 137-139</p> <p><b>MCIT</b> 168-196</p>
<b>III. Employment</b>	
<b>A. Who is An Employee</b>	<p><b>FCIT</b> Chapter 6, 254-265</p> <p><b>MCIT</b> 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>B. Employment Income: Inclusions</b>	<p><b>FCIT</b> Chapter 6, 266-288; 309-310</p> <p><b>MCIT</b> 217-267 (omit Sorin and Campbell cases)</p> <p>ITA 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>
<b>C. Employment Income: Deductions</b>	<p><b>FCIT</b> Chapter 6, 311-319</p> <p><b>MCIT</b> 267-284</p> <p>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>
<b>D. Terminating Employment</b>	<p><b>FCIT</b> Chapter 12, 510-512</p> <p>ITA 248(1) retiring allowance; death benefit 56(1)(a)(ii)(iii); 60(j.1); 60(o.1) 62.</p>



<b>IV. Income from Business and Property</b>	
<b>A. Overview and Characterization</b> <ol style="list-style-type: none"> <li>1. What Constitutes a Business</li> <li>2. Distinguishing Business Income (An Adventure in the Nature of Trade) from Capital Gains.</li> <li>3. Business v Property Income</li> </ol>	<b>FCIT</b> Chapter 7, 328-351 <b>MCIT</b> 285-303; 303-306; 503-523  ITA S 9, Sub-s 248(1) "business", "property"
<b>B. Types of Property Income</b> <ol style="list-style-type: none"> <li>1. Interest Income</li> <li>2. Stock Dividends</li> </ol>	<b>FCIT</b> Chapter 8, 361-363; 368 <b>MCIT</b> 306-310; 315; 318-319 ITA Para 12(1)(c), Sub-S 12(3),(4)
<b>C. Deductions to Determine Profit</b> <ol style="list-style-type: none"> <li>1. General Approach</li> <li>2. Personal and Living Expenses</li> <li>3. Expenses of an Illegal Business</li> <li>4. Fines, Penalties, Bribes</li> <li>5. Interest</li> <li>6. Reasonableness</li> </ol>	<b>FCIT</b> Chapter 9, 377-410  <b>MCIT</b> 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
<b>D. Capital Expenditure</b> <ol style="list-style-type: none"> <li>1. Current vs Capital Expenditures</li> <li>2. Repair or Replacement</li> <li>3. Tax Depreciation (Capital Cost Allowance)</li> </ol>	<b>FCIT Chapter</b> 11, 464-487 <b>MCIT</b> 445-478
<b>V. Capital Gains and Losses</b>	
<ol style="list-style-type: none"> <li>1. Overview</li> <li>2. Capital Gains Framework</li> <li>3. Specific Issues and Transactions               <ul style="list-style-type: none"> <li>• Intra-Family Transfers</li> <li>• Principle Residence</li> <li>• Change of Use</li> <li>• Small Business Corporations</li> </ul> </li> <li>4. Capital Losses</li> </ol>	<b>FCIT</b> Chapter 13, 527-539;543-547;551-555; 561-566;571- 580 <b>FCIT</b> Chapter 19 717; 720-523;527-528;732-735;  <b>MCIT</b> 497-558  <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)
<b>VI. Refining the Basis of Liability</b>	
<ol style="list-style-type: none"> <li>1. Subdivision e deduction</li> <li>2. Tax Credits</li> </ol>	<b>MCIT:</b> 577-671



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## 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](http://www.canlii.org)). That includes all decisions of the Supreme Court of Canada, and all federal, provincial, territorial and appellate courts.

Your exam registration fee also includes free access to the Advance 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.

Sign in to Quicklaw via <http://www.lexisnexis.com/ca/legal>. The first time you sign in to Quicklaw you will be asked to change or personalize your password. Remember your User ID and password are personal, and should not be shared with anyone.

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