

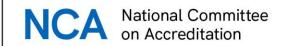
# Syllabus Tax Law

Revised July 2021

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

Candidates are responsible for obtaining the most current syllabus available.





# Tax Law

#### **COURSE SYLLABUS**

# **MATERIALS**

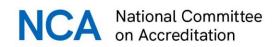
#### **Required Readings**

- Krishna, *Fundamentals of Canadian Income Tax* 2nd Edition Volume 1: Personal Tas 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	
A. The Tax System's Role as an Economic and Social Policy Instrument  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: Filling, Assessment, Appeals, Burden of Proof	FCIT Chapter 1 32-68
<ul> <li>B. ITA: Overview of Basic Structure</li> <li>1. Who, What, and When</li> <li>2. Income from a Source</li> <li>3. Section 3</li> <li>4. Surrogatum Principle</li> <li>5. Tax Unit</li> </ul>	FCIT Chapter 4, 145-197 FCIT Chapter 12, 506-509 MCIT 72-93 ITA Sections 2, 3, 4
C. Statutory Interpretation	FCIT Chapter 2 78-93 MCIT 737-745



II. Who is Subject to Tax		
A. Residents	<b>FCIT</b> Chapter 3, 99-113;116-119;	
	<b>MCIT</b> 107-135	
	<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"; "nonresident"; "resident"; "person"	
B. Non-Residents and Tax Treaties	FCIT Chapter 3, 113-116; 135-136	
	<b>MCIT</b> 140-145; 156 -167	
C. First Nations Taxation	<b>FCIT</b> Chapter 3, 137-139	
	<b>MCIT</b> 168-196	
III. Employment		
A. Who is An Employee  1. Independent Contractors 2. Personal service business	FCIT Chapter 6, 254-265 MCIT 197 – 216 Also read 1392644 Ontario Inc. (c.o.b. Connor Homes) v M.N.R,. 2013 FCA 85	
B. Employment Income: Inclusions	FCIT Chapter 6, 266-288; 309-310 MCIT 217-267 (omit Sorin and Campbell cases)	
	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;	
C. Employment Income: Deductions	FCIT Chapter 6, 311-319 MCIT 267-284	
	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)	
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.	

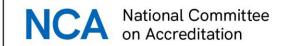


IV. Income from Business and Property		
A. Overview and Characterization     1. What Constitutes a Business     2. Distinguishing Business Income (An Adventure in the Nature of Trade) from Capital Gains.     3. Business v Property Income	FCIT Chapter 7, 328-351 MCIT 285-303; 303-306; 503-523 ITA S 9, 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 • Intra-Family Transfers • Principle Residence • Change of Use • Small Business Corporations 4. Capital Losses	FCIT Chapter 13, 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 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		
Subdivision e deduction     Tax Credits	MCIT: 577-671	



VII. Tax Evasion, Tax Avoidance	
Judicial Limits     GAAR: General Anti-Avoidance Rule	FCIT Chapter 22, 827-858 MCIT 752-795





## Canadian Publishers

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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 (<a href="https://www.canlii.org">www.canlii.org</a>). 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.

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