

CORE TAX LEGISLATION AND STUDY GUIDE 2022

25TH EDITION

Core Tax Legislation and Study Guide 2022 is a reference text for tertiary students undertaking tax subjects in law and business schools. It provides well-curated extracts of legislation as well as highly useful guidance on study skills for students.

Part 1: Study Guide is designed to assist students to prepare for a tertiary taxation course and conduct basic taxation research. It refers to key reference material, including useful websites and electronic research tools, and offers useful tips on:

- study techniques
- researching a tax problem
- essay writing and presentation
- answering taxation law exam questions.

It also contains a style guide that sets out how to cite legislation, cases, articles, rulings and reports for assignments.

Part 2: Core Tax Legislation comprises selected extracts from relevant pieces of income tax, goods and services tax, fringe benefits tax, international tax, superannuation and related legislation and regulations. The compilation includes the main provisions that are studied in most tertiary taxation subjects. This part is designed to bring together the core provisions in one convenient text.

An invaluable and essential resource, this text allows students to access the parts of the legislation they will need for a taxation law course in a time-saving and user-friendly way.

Core Tax Legislation and Study Guide 2022 is designed to be used in conjunction with *Foundations of Taxation Law 2022*.

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Stephen Barkoczy
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STEPHEN BARKOCZY

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PREFACE

Core Tax Legislation and Study Guide is a reference text for tertiary students undertaking taxation subjects in law and business schools around Australia. The book is divided into two key parts:

- Part 1 contains a **Study Guide** that suggests various ways that students might go about researching tax problems, writing assignments and preparing for exams.
- Part 2 contains the **Core Tax Legislation** which comprises extracts from relevant pieces of income tax, goods and services tax, fringe benefits tax, international tax, superannuation and related legislation and regulations. The compilation includes the main legislative provisions that are studied in most tertiary taxation subjects.

I would like to thank the team at Cambridge University Press (particularly Lucy Russell, Jodie Fitzsimmons and Angela Damis) for publishing this new edition. I would also like to thank my family for continuing to support me in this annual project.

Stephen Barkoczy
December 2021

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INTRODUCTION

Students undertaking a tertiary taxation law course are confronted with a daunting task. They are required to sift through convoluted legislative provisions spread over several Acts, and grapple with a developed body of complex case law. The reading required often surpasses many other law subjects in both volume and complexity. Furthermore, given the range of diverse topics typically covered in a standard course, and the fact that many introductory courses are taught over just one semester, students will inevitably be required to absorb large amounts of information in relatively short spaces of time. What makes studying taxation law even more difficult is the fact that this field of law is continually evolving through seemingly incessant legislative amendments and the handing down of significant court decisions. A particular change may require an entire discrete area of law to be re-evaluated and re-examined, and placed in a new context in the overall scheme. As a result of the pace of change, it is always important for students to refer to up-to-date references in their studies and research.

To complete a taxation law course successfully, students need to adopt efficient study techniques. As students are typically required to conduct independent research and present written work by way of assignments and exams, it is crucial that they have good research, writing and exam techniques. As with any law subject, it is not just necessary that students understand principles of law; they must also demonstrate their knowledge by applying the relevant principles to practical problems and factual situations posed in their assignments and exams. This book is designed to assist taxation students undertaking law, commerce and business courses, and is intended to serve as a reference text to be used in conjunction with other texts, such as *Foundations of Taxation Law* (which is a general taxation law textbook) and the *Australian Tax Casebook* (which is a casebook that contains summaries of over 650 leading tax cases).

STUDY GUIDE

Part 1 of this book contains a short study guide designed to assist students to prepare for a tertiary course in taxation law and conduct basic taxation law research. This part of the book refers to key reference material as well as useful websites and electronic research tools. There is also a style guide that sets out how to cite references to legislation, cases, articles, rulings and reports for assignments. In addition, there is a section that provides guidance on note taking, essay writing and exam preparation and answering techniques.

CORE TAX LEGISLATION

Part 2 is the largest section of the book. It reproduces the major provisions in Commonwealth tax legislation, regulations and treaties that students will confront when undertaking a typical undergraduate taxation law course. It also contains many of the important provisions covered in specialist graduate taxation law courses. In the past, students studying taxation may have needed to use up to five volumes of legislation. In practical terms, this inevitably proved to be

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cumbersome, particularly where students were required to bring their legislation (as well as other texts) to lectures. One of the major purposes of this book is to bring together the core provisions into one user-friendly text.

Part 2 of the book is divided into the following parts:

- Part 2A: Income Tax Assessment Act 1997 provisions
 - *Income Tax Assessment Act 1997* (Cth)
- Part 2B: Income Tax Assessment Act 1936 provisions
 - *Income Tax Assessment Act 1936* (Cth)
- Part 2C: International income tax provisions
 - *International Tax Agreements Act 1953* (Cth)
 - *Convention between the Government of Australia and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income* ('United States Convention')
 - *Protocol Amending the Convention between the Government of Australia and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income* ('United States Protocol')
 - *Agreement between the Government of Australia and the Government of the Commonwealth of the Bahamas on the Exchange of Information with respect to Taxes* ('Australia and Bahamas Tax Information Exchange Agreement')
- Part 2D: Income tax rates and levies provisions
 - *Income Tax Act 1986* (Cth)
 - *Income Tax Rates Act 1986* (Cth)
 - *Income Tax (Dividends, Interest and Royalties Withholding Tax) Act 1974* (Cth)
 - *Income Tax (Managed Investment Trust Withholding Tax) Act 2008* (Cth)
 - *Diverted Profits Tax Act 2017* (Cth)
 - *Medicare Levy Act 1986* (Cth)
 - *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999* (Cth)
- Part 2E: Income tax regulations and transitional provisions
 - *Income Tax Assessment (1936 Act) Regulation 2015* (Cth)
 - *Income Tax Assessment (1997 Act) Regulations 2021* (Cth)
 - *Income Tax (Transitional Provisions) Act 1997* (Cth)
- Part 2F: Goods and services tax provisions
 - *A New Tax System (Goods and Services Tax) Act 1999* (Cth)
 - *A New Tax System (Goods and Services Tax) Regulations 2019* (Cth)
 - *A New Tax System (Goods and Services Tax Imposition—General) Act 1999* (Cth)
 - *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999* (Cth)
 - *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999* (Cth)
 - *A New Tax System (Luxury Car Tax) Act 1999* (Cth)
 - *A New Tax System (Luxury Car Tax Imposition—General) Act 1999* (Cth)
- Part 2G: Fringe benefits tax provisions
 - *Fringe Benefits Tax Assessment Act 1986* (Cth)
 - *Fringe Benefits Tax Act 1986* (Cth)
 - *Fringe Benefits Tax (Application to the Commonwealth) Act 1986* (Cth)
- Part 2H: Superannuation provisions
 - *Superannuation Industry (Supervision) Act 1993* (Cth)
 - *Superannuation Industry (Supervision) Regulations 1994* (Cth)

- *Superannuation Guarantee (Administration) Act 1992* (Cth)
- *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* (Cth)
- *Superannuation (Excess Non-Concessional Contributions Tax) Act 2007* (Cth)
- *Superannuation (Excess Untaxed Roll-over Amounts Tax) Act 2007* (Cth)
- *Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Act 2013* (Cth)
- *Superannuation (Excess Transfer Balance Tax) Imposition Act 2016* (Cth)
- *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007* (Cth)
- *First Home Super Saver Tax Act 2017* (Cth)
- Part 2I: Constitutional, administrative and other provisions
 - *Commonwealth of Australia Constitution Act 1900*
 - *Acts Interpretation Act 1901* (Cth)
 - *A New Tax System (Australian Business Number) Act 1999* (Cth)
 - *Taxation Administration Act 1953* (Cth)
 - *Taxation Administration Regulations 2017* (Cth)
 - *Administrative Appeals Tribunal Act 1975* (Cth)
 - *Administrative Decisions (Judicial Review) Act 1977* (Cth)
 - *Inspector-General of Taxation Act 2003* (Cth)
 - *Tax Agent Services Act 2009* (Cth)
 - *Tax Agent Services Regulations 2009* (Cth)
 - *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth)
 - *Charities Act 2013* (Cth)