

# TABL3025/5525 TAXATION OF EMPLOYEE REMUNERATION

## Course Outline Semester 2, 2017

### Course-Specific Information

The Business School expects that you are familiar with the contents of this course outline. You must also be familiar with the Course Outlines Policies webpage which contains key information on:

- Program Learning Goals and Outcomes
- Academic Integrity and Plagiarism
- Student Responsibilities and Conduct
- Special Consideration
- Student Support and Resources

This webpage can be found on the Business School website:

<https://www.business.unsw.edu.au/degrees-courses/course-outlines/policies>

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## COURSE-SPECIFIC INFORMATION

### 1 STAFF CONTACT DETAILS



**Dr Alex Evans**

PhD (Tax), LLM (Tax), LLB (Hons), BA Sydney

Email: [alex.evans@unsw.edu.au](mailto:alex.evans@unsw.edu.au)

Consultation times are by appointment

Alex Evans is a lecturer in Taxation Law in the School of Taxation and Business Law. Before joining the School in 2014, Alex taught undergraduate compulsory courses at Sydney Law School and Sydney Business School, and worked as a research assistant to several of the tax academics at the Ross Parsons Centre of Commercial, Corporate & Tax Law at Sydney Law School. Before academia, Alex practised as a tax lawyer for over four years with Ashurst (then Blake Dawson) in Sydney.

Alex holds a Bachelor of Laws with Honours, a Masters of Laws and PhD, both specialising in taxation, from Sydney Law School, The University of Sydney. Alex attended Harvard Law School in Spring 2013 under Sydney Law School's Harvard Law Doctoral Exchange Program and Antonin Scalia Law School's 32<sup>nd</sup> Economics Institute for Law Professors in July 2016.

#### Communication with Staff

When you contact staff by email, please:

- Use your University (not personal) email address
- Specify the course TABL3025/5525 as appropriate; and
- Sign off by using your name and student identity number.

### 2 COURSE DETAILS

#### 2.1 Teaching Times and Locations

This course is fully online using the University's learning management system, Moodle.

#### 2.2 Units of Credit

The course is worth 6 units of credit.

## 2.3 Summary of Course

This course examines the treatment of employee remuneration in the Australian taxation system.

We start by examining the employer/employee relationship, contrasting it with the principal/independent contractor relationship. This distinction is central to understanding our tax laws. Tax collection obligations imposed on employers, including under PAYG and the pay-roll tax system, are considered in detail.

Employers' obligations and employees' rights under the superannuation guarantee system are examined, as are tax concessions for contributions and the taxation of payments made on termination of employment (e.g., arising from redundancy, unfair dismissal or death).

The course examines the treatment of personal services income when it is derived through an interposed entity, and the tax consequences of salary sacrifice arrangements and salary packaging. Finally, we look at the legislature's response and the Tax Office's response to arrangements aimed at avoiding tax on payments for services performed.

The study guide for *Taxation of Employee Remuneration* comprises six modules:

- Module 1 Fundamentals
- Module 2 Tax collection
- Module 3 Fringe Benefits Tax
- Module 4 Superannuation and the workplace
- Module 5 Termination payments
- Module 6 Remuneration planning

## 2.4 Course Aims and Relationship to Other Courses

On completion of this course, students should be able to:

- distinguish, in broad outline, between an employee and an independent contractor, and explain the importance of the distinction
- explain and evaluate the rationale and workings of the PAYG system and the pay-roll tax system
- detail the major operational features of the fringe benefits tax and its consequences for employers and employees
- describe the operation of and rationale for tax concessions for employers and employees when they make superannuation contributions
- describe the tax penalties that may be imposed or remedial action available if excess superannuation contributions are made for, or by, an employee
- explain the superannuation guarantee obligations imposed on employers and the implications for employees
- distinguish the various types of payments that may be made on termination of employment and the tax treatment of those payments
- explain various anti-avoidance provisions aimed at preventing the minimising of tax through remuneration planning.

This course highlights the rules applying to the taxation of employee remuneration, whether it is provided while the employee is providing services, or on retirement or death of an employee. It examines the obligations imposed on employers when they provide such remuneration and employees' reciprocal rights. The two aspects of superannuation as it affects the workplace—one compulsory and the other voluntary—are examined, as are the tax concessions available to employers and employees when they make superannuation contributions.

Employee remuneration is not, of course, necessarily in the form of salaries or wages (usually, cash). We consider therefore the various ways employees may be rewarded for their services and the tax consequences that arise.

## 2.5 Student Learning Outcomes

The Course Learning Outcomes are what you should be able to DO by the end of this course if you participate fully in learning activities and successfully complete the assessment items.

The Learning Outcomes in this course also help you to achieve some of the overall Program Learning Goals and Outcomes for all students in the Business School. Program Learning Goals are what we want you to BE or HAVE by the time you successfully complete your degree (e.g. 'be an effective team player'). You demonstrate this by achieving specific Program Learning Outcomes - what you are able to DO by the end of your degree (e.g. 'participate collaboratively and responsibly in teams').

For more information on the Program Learning Goals and Outcomes, see:  
<https://www.business.unsw.edu.au/degrees-courses/course-outlines/policies>

The following table shows how your Course Learning Outcomes relate to the overall Program Learning Goals and Outcomes, and indicates where these are assessed (they may also be developed in tutorials and other activities):

Program Learning Goals and Outcomes		Course Learning Outcomes	Course Assessment Item
<i>This course helps you to achieve the following learning goals:</i>		<i>On successful completion of the course, you should be able to:</i>	<i>This learning outcome will be assessed in the following items:</i>
1	Knowledge	Demonstrate a further development of skills of statutory construction plus the ability to critically review interpretations of legislative provisions, in applying these provisions to the taxation of employee remuneration, whether provided while the employee is providing services, or on retirement or death of an employee.	Module Activities Discussant system Assignment Examination
2	Critical thinking and problem solving	Independently analyse, and advise on, the taxation treatment of employee remuneration across a broad range of contexts.  Consider more complex issues such as the treatment of personal services income when it is derived through an interposed entity, and the tax consequences of salary sacrifice arrangements and salary packaging.	Module Activities Discussant system Assignment Examination

		<p>Critically analyse the Tax Office's response to arrangements aimed at avoiding tax on payments for services performed.</p> <p>Locate and interpret relevant legislation, case law and Tax Office advice (Rulings, Determinations etc.) relevant to the taxation of employee remuneration.</p> <p>Conduct in depth research on topics canvassed in the course.</p> <p>Masters students will be able to demonstrate a critical approach to material presented and evidence of original and independent thought.</p>	
3a	Written communication	<p>Recognise and resolve legal and tax problems.</p> <p>Develop clear, effective and well-reasoned analysis of the tax consequences of practical scenarios using the conventions of legal essay writing.</p> <p>Apply correct citation and referencing conventions in properly acknowledging all source material used.</p>	Assignment Examination
3b	Oral communication	Demonstrate the course learning outcomes in regard to knowledge and critical thinking and problem solving skills set out above.	Discussant system
4	Teamwork	Not specifically addressed in this course.	
5a.	Ethical, social and environmental responsibility	Not specifically addressed in this course.	
5b.	Social and cultural awareness	Not specifically addressed in this course.	

### 3 LEARNING AND TEACHING ACTIVITIES

#### 3.1 Approach to Learning and Teaching in the Course

##### How to Use These Study Materials

If you are new to flexible learning you should carefully read this Course Outline. It contains most of the relevant information about how this course will be run and the expectations of you as a student. You should also refer to the Suggested Study Schedule as a guide to completing your coursework. So as to get the most out of your study we recommend that you follow this study schedule through the course and fit various time demands into a well-organised diary. Systematic study through the Semester is the key to success in a flexible learning program.

The Study Guide (which includes this Course Outline, the individual Modules and supplementary notes and questions that will be provided to you during the semester) can help you in three ways.

1. It sets out a clear path of study over the Semester and helps you plan your workload. It also identifies learning outcomes and key concepts at the start of each module and provides a series of activities to help you learn actively and manage your own progress through the course.
2. It contains the core content for the course (often with reference to legislation, textbooks and other relevant material). The structure and layout of the Study Guide

is designed to highlight key points and assist your revision for assignments, research papers and examinations.

3. It tells you when to refer to textbooks, legislation and other readings, giving precise details of what you should read.

## Features of the Study Guide

Each module includes a range of features to assist you in managing your learning and developing study skills. These features include:

- Overview page
- Heading levels
- Learning outcomes and key concepts
- Module text
- Activities and feedback
- Readings
- Margin notes
- Instructional icons

## Tax Distance Course Student Guide

The *Tax Distance Course Student Guide* is a vital source of information for students studying flexible learning courses. It provides administrative and other information specific to studying these courses and you should make a point of being familiar with its contents. You can access the 2017 Tax Distance Student Guide from your Moodle course website(s).

## Webinars

Throughout this course, you will have the opportunity to attend live Webinars. Instructions on preparing for and participating in audio conferences and webinars are available on the Taxation & Business Law website and in your course Moodle website.

These Webinars provide an opportunity for you to clarify and extend your understanding of the material in this course. They are designed to try out new ideas and give you a forum to ask questions and discuss issues with your lecturer and other students. Do not be afraid to participate—it is only by trying out new ideas and exploring their dimensions that you will learn in any real depth.

Thorough preparation is essential if you are to gain maximum benefit from a webinar. You can only start to come to grips with material if you work on it actively. As a general rule only, each webinar will cover the module/s between the previous webinar and the week it falls within on the Suggested Study Schedule. However, more specific information on material to be covered in each Conference may be provided via Moodle throughout the Semester. Exact dates and times for webinars will be advised via a timetable that you will find on Moodle and on the TBL Website (under Timetables).

**There are six webinars scheduled for this course during the Semester. Each webinar is of approximately one and a half hours in duration.**

You should remember not to view webinars as pure lectures where you are a passive recipient of information—your active participation is an important part of the learning experience and preparation for assessment tasks!

## 4 ASSESSMENT

### 4.1 Formal Requirements

All assessment items must be submitted electronically through Moodle. Please refer to the *Assignment Preparation and Submission* section for guidelines.

In order to pass this course, you must obtain:

- 50% or more of the total marks available in the course and
- at least 40% of the marks available for the final examination in the course.

### 4.2 Assessment Details

Assessment Task	Weighting	Length	Due Date
Discussant Task	15%	N/A	During relevant audio conference
Assignment	35%	3,200 words	Wednesday, 4 October 2017
Take Home Exam	50%	N/A	Normal exam period

### 4.3 Assessment Format

#### Discussant Task – 15%

**Due Date:** During relevant audio conference - TBA

**Weighting:** 15%

Like the other two components of the course assessment, this component is compulsory. The general idea is that every student will be allocated to be a discussant in one audio class in regard to particular problems (tutorial problems).

You will be expected to contribute to the discussion by addressing the issues raised, applying the law to the facts and reaching defensible conclusions. You may also be required to address questions raised by the lecturer and others in regard to your assigned problems. More detail on this will be provided in the introductory administrative audio class.

#### Assignment – 35%

**Due Date:** Submit via Moodle by **Wednesday, 4 October 2017 (AEDT\*)**

**Weighting:** 35%

**Length:** 3,200 words (plus or minus 10%)

\*AEDT = Australian Daylight Saving Time

**Topic:**

The assignment problem will be posted to Moodle under the Assignment link. This will be done before the end of **July**.



## Evaluation Criteria for Assignment

An important note on word limits

Assignments are exercises in filtering material and communicating it succinctly. Quantity is not to be confused with quality. Your lecturer will uniformly apply this principle in their assessment of assignments.

Most word processing packages indicate word lengths, or otherwise some manual check must be done in the drafting process. Indicate the actual number of words of your assignment in the space indicated on your assignment cover sheet.

The following criteria will be used to grade assignments:

- ability to cut through the undergrowth and penetrate to key issues
- identification of key facts and the integration of those facts in the logical development of argument
- demonstration of a critical mind at work and, in the case of better answers, of value added to key issues over and above that of the source materials
- clarity of communication—this includes development of a clear and orderly structure and the highlighting of core arguments (including, where appropriate, headings)
- sentences in clear and, where possible, plain English (this includes correct grammar, spelling and punctuation), and sentences which are meaningful
- correct referencing and bibliographic style in accordance with a recognised and appropriate citation and style guide (when uploading, check your footnotes have been correctly submitted).

In the end, you have to properly address the tax issues involved in the assignment and reach defensible conclusions.

You are encouraged to read beyond the study materials and references to do the assignment. You are also strongly advised to read relevant parts of the document, *TABL 5551 Taxation Law Student Companion*, in preparing your assignment answer.

## Take Home Exam – 50%

The final assessment for this course will be a take-home exam which will be made available on Moodle during the University exam period (3 November 2017 to 20 November 2017). The final examination timetable is published prior to the examination period via the Atax Weekly Bulletin and on the School's website at: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/student-support/examinations>.

You should check this timetable to find the dates of your take-home exams. **This is not a negotiable schedule.**

Exams will be released at 9am at regular intervals throughout the exam period. Submissions are due at 7am on the third day after the release date. For example an exam released at 9am on 3 November 2017 will be due at 7am on 6 November 2017. All times are based on Sydney time.

Submissions will be made online through a Turnitin submission link on Moodle. Students will be permitted to use a range of resources and materials to prepare responses.

Students will be required to state that they have not consulted any other person in relation to the content of the exam or responses to questions during the date of the exam's release on Moodle and the closing time for submissions of responses via Turnitin.

**Students will only have one opportunity to submit (i.e. no resubmission of drafts) and no late submissions will be accepted.**

For information on studying and preparing for a take home exam, please visit: <https://student.unsw.edu.au/open-book-and-take-home-exams>.

#### **4.4 Assignment Submission Procedure**

The following guidelines are offered as a general indication of what is expected in terms of the presentation of both assignments and research papers in flexible distance (Atax) courses.

Each assessment task may also have particular requirements not covered here. Where information here is in conflict with information provided by the course lecturer, you should follow the advice of your lecturer.

##### **Assignment cover sheets**

You must ensure that you include a cover page with each of your assignments that has the following information:

- your name
- your student ID
- the course code
- the course name
- the due date
- number of words

You should also include your name, ID and course code in the footer of your assignment document along with page numbers. A sample cover sheet can be found on Moodle in the Assessments section.

##### **Margins**

You should allow the following standard margins in your assignments to allow space for the lecturer's comments: Left and right margins — 3.5 cm; Top and bottom margins — 2.5 cm.

##### **Headings/Table of contents**

Headings should be typed in bold. Only capitalise the first letter of the heading. Do not capitalise the entire heading. There is no need for a table of contents.

##### **Style of presentation**

Your assignment should be typed using an 11 or 12 point font. Single line spacing should normally be used, unless your lecturer tells you otherwise. Leave a line after each paragraph. Do not indent the first line of the paragraph. You should number each page of the assignment.

##### **Footnotes and citation system**

You should use footnotes as your referencing tool. Use end notes only if your computer cannot produce footnotes. Use the rules set out in a recognised citation and style guide such as the *Australian Guide to Legal Citation*. Footnotes are not normally included in the word limit, unless you include substantial commentary or discussion in the footnotes.

Do not include a bibliography or reference list.

### **Assignment submissions and deadlines**

This course uses UNSW Moodle for the electronic delivery and submission of assignments.

Please check your submission link – you may only be entitled to submit an assignment once in which case additional and subsequent submissions will not be accepted.

Step-by-step guides have been produced to assist students through the assignment submission process, and are available for download from the UNSW Teaching Gateway at <https://student.unsw.edu.au/moodle>.

### **Due date and time**

Each assignment should be submitted via Moodle by midnight AEST (or AEDT, Australian Eastern Daylight Time, where applicable) on the specified due date unless otherwise stipulated. You are advised to submit your assignment early if possible, and to allow at least 15 minutes for the Moodle submission process. Most assignments will be parsed through Turnitin which will check the originality of your work. If you are given the opportunity to resubmit your assignment up until the due date you should be aware that even though you can submit more than once each day, Turnitin will only produce one originality report every 24 hours so there may be a delay on receiving your updated originality report after the first submission. The version of your assignment that is submitted at the due date will be the version that is accepted for marking. For information on submitting assignments via Turnitin please see <https://student.unsw.edu.au/turnitin>. For information on how to interpret originality reports please see: <http://www.turnitin.com/static/training/student.php>.

### **Name and save your assignment documents**

For identification purposes you are required to name all of your assignment files that you are submitting using the following naming convention:

Surname\_GivenName\_Course Code format.

For example: 'Lawson\_Henry\_TABL1001As1.doc'

You must also retain both an electronic and hard copy of every assignment. No mark can be given or concession awarded should an assignment be lost and no evidence of completion is able to be provided by the student.

### **Problems with Moodle assignment submission**

If you encounter technical difficulties while attempting to access Moodle, and are unable to submit your assignment, please contact the IT Service Desk by email to [ITServiceCentre@unsw.edu.au](mailto:ITServiceCentre@unsw.edu.au) or by telephone on +61 (2) 9385 1333. Your lecturer will not be able to assist with assignment submission issues, and cannot accept assignments emailed direct to him/her.

### **Assignment return**

Assignments may be marked electronically or on paper. Feedback for electronically-marked assignments will be made available electronically, usually through Moodle. Feedback for assignments marked by paper will be returned in hard copy format to the mailing address you have recorded on myUNSW.

It is therefore important that you keep your address details up-to-date on myUNSW (<https://www.my.unsw.edu.au>). Lecturers will make every effort to return assignments (which are submitted on time) within two weeks with appropriate comments and feedback.

The LIC will post a comprehensive solution and feedback document to Moodle once it is clear every student has submitted their answer.

## 4.5 Late Submission and Penalties

An assignment is not considered to be late if it has been submitted via Moodle on or before the due time and date. Posted, faxed or e-mailed assignments will NOT be marked and should not be sent.

If you submit an assignment after the due date, please be aware that the following penalties will be applied.

- Where assignments are up to one week (i.e. 1–5 working days) late: 10% of the maximum marks available for the assessment item will be deducted.
- Where assignments are more than one week late and up to two weeks (i.e. 6–10 working days) late: 20% of the maximum marks available for the assessment item will be deducted.
- Where assignments are more than two weeks (i.e. 11 or more working days) late: the assignment can be perused, but no marks will be awarded. Assignments will be recorded only as having been submitted.

Please note that the penalties are applied to the maximum marks available for the assignment, not the actual mark awarded. For example, a student is due to submit an assignment by 16 August 2017. The assignment is in fact submitted on 30 August 2017 (10 working days late).

The penalty for lateness will be 20% of the maximum marks for the assessment. If the student's mark before the imposition of the penalty was a credit mark of 65%, after taking the penalty into account this mark will fall to 45%—a failure.

If illness or other verified circumstances beyond your control have a significant effect on your ability to submit an assignment by the due date, the normal penalty may be remitted. Doctor's reasons must be sufficiently detailed and specifically address the effect of the medical condition on your ability to complete assignments. For information on applying for penalty remissions through myUNSW Special Consideration portal, please visit: <https://www.business.unsw.edu.au/about/schools/taxation-business-law/student-support/penalty-remissions>

## General points

- The School's Administration Team supervises all penalty remission requests. Lecturers are not permitted to grant penalty remissions and you should not approach lecturers for this purpose.
- You should not anticipate that a Penalty Remission will be granted, and should endeavour to submit all assignments as soon as possible.
- If you require academic assistance contact your lecturer or the School's Administration Team ([tbl@unsw.edu.au](mailto:tbl@unsw.edu.au)) during the period that you are preparing assignments.
- You have only 13 weeks in the Semester, during which time all assignments must be completed. You also need to prepare for the final examination in all courses. Therefore, your time management is very important.

**The following is very important:**

If your assignment is up to one week (i.e. 1–5 working days) late, your penalty remission request must clearly show that you are seeking a one week penalty remission and you must clearly state your reasons and provide all relevant documentation. If your reasons are judged insufficient you will receive no remission of penalty.

If your assignment is more than one week late but less than two weeks (i.e. 6–10 working days) late, your penalty remission request should indicate whether you are seeking a 10% or a 20% remission. You must clearly show why the penalty remission you are seeking is valid and provide all relevant documentation. If you have requested remission of a 20% penalty and your reasons are judged insufficient, you may receive either a 10% remission or no remission depending on the judged validity of your request. If you requested 10% and your reasons are judged insufficient you will receive no remission of penalty.

**Quality Assurance**

The Business School is actively monitoring student learning and quality of the student experience in all its programs. A random selection of completed assessment tasks may be used for quality assurance, such as to determine the extent to which program learning goals are being achieved. The information is required for accreditation purposes, and aggregated findings will be used to inform changes aimed at improving the quality of Business School programs. All material used for such processes will be treated as confidential.

## 5 COURSE RESOURCES

**Prescribed text:**

Woellner RH, Barkoczy S, Murphy S, Evans C and Pinto D, *Australian Taxation Law* (Sydney: Oxford University Press, 27th ed., 2017).

**Act/s:**

Students need to refer to several pieces of legislation for this subject including, the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth), the *Fringe Benefits Tax Assessment Act 1986* (Cth) and the *Taxation Administration Act 1953* (Cth). Some (but not all) of this legislation is in:

- Barkoczy S, *Core Tax Legislation and Study Guide 2017* (Sydney, Oxford University Press, 20th ed., 2017).

Students will also need to have a copy of relevant parts of the *Payroll Tax Act 2007* (NSW).

### Citation and Style Guide:

In presenting written work for assessment in this course you must use an appropriate and consistent style for referencing and citation. The following is a selection of acceptable citation and style guides, which you may use as the basis for your written work. You must purchase or have access to one of the following publications.

- *Australian guide to legal citation* (Melbourne University Law Review Association & Melbourne Journal of International Law, 3rd ed, 2010). Available from <http://mulr.law.unimelb.edu.au/go/aglc>.

(This is free to download and is the citation style guide used by the majority of Australian legal journals.)

- Rozenberg P, *Australian guide to uniform legal citation* (Sydney: Lawbook Co, 2nd ed, 2003).
- Stuhmcke A, *Legal referencing* (Sydney: LexisNexis, 4th ed, 2012).

### Recommended References:

Below is a list of further references that you may find useful in this course. Purchase of recommended references is not required.

- Woodley M (ed), *Osborn's Concise Law Dictionary* (London: Sweet & Maxwell, 12th ed, 2013).

This is the classic, concise dictionary of legal terms, which is very useful for students of law based subjects.

- *2015/16 Australian Master Superannuation Guide* (Sydney: CCH Australia Ltd, 19th ed., 2016)
- Deutsch RL, Friezer ML, Fullerton IG, Hanley PJ & Snape TJ, *The Australian Tax Handbook 2016* (Sydney: Thomson Reuters, 2016).
- *2017 Australian Master Tax Guide* (Sydney: Oxford University Press, 59th ed., 2017).

Although you will not be examined on developments that occur after the writing of these materials, students wishing to keep up with changes that affect this course could refer to:

- *CCH Tax Week*
- or
- *Thomson Reuters Weekly Tax Bulletin*

### **Electronic Databases:**

The UNSW library subscribes to several electronic databases. The UNSW library database can be accessed at: <https://www.library.unsw.edu.au/study/information-resources/databases>

The website for this course is on Moodle at: <https://moodle.telt.unsw.edu.au/login/index.php>

## **6 COURSE EVALUATION AND DEVELOPMENT**

The School of Taxation & Business Law's quality enhancement process involves regular review of its courses and study materials by content and educational specialists, combined with feedback from students. Towards the end of the semester, you will be asked to complete an online myExperience survey via Moodle to evaluate the effectiveness of your course lecturer and the actual course content. Your input into this quality enhancement process through the completion of these surveys is extremely valuable in assisting us in meeting the needs of our students and in providing an effective and enriching learning experience. The results of all surveys are carefully considered and do lead to action towards enhance the quality or course content and delivery.



## 7 COURSE SCHEDULE

Wk	Beginning	Webinar Date	Topic
1	24 July	Wednesday, 26 July 9am-10:30am	Module 1 - Fundamentals
2	31 July		
3	7 August	Wednesday, 9 August 9am-10:30am	Module 2 - Tax collection
4	14 August		
5	21 August	Wednesday, 23 August 9am-10:30am	Module 3 - Fringe Benefits Tax
6	28 August		
7	4 September	Wednesday, 6 September 9am-10:30am	Module 4 - Superannuation and the workplace
8	11 September	Wednesday, 13 September 9am-10:30am	Module 5 - Termination payments
9	18 September		
<b>Mid-semester break from Saturday, 23 September to Monday, 2 October 2017</b> <b>(NOTE: Daylight saving begins on Sunday, 1 October 2017)</b>			
10	3 October		<b>Assignment due</b>
11	9 October	Wednesday, 11 October 9am-10:30am	Module 6 - Remuneration planning
12	16 October		
13	23 October		
<b>Examination period from Friday 3 November to Monday 20 November 2017</b>			