



**THE UNIVERSITY OF AUCKLAND**  
**BUSINESS SCHOOL**

## **The University of Auckland Business School**

### **Course Outline 2014**

### **COMLAW 749**

### **Semester 2**

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#### **Course Prescription**

This course offers an advanced study of all aspects of the general anti-avoidance provision (GAAR) contained in the Income Tax Act 2007. It provides a detailed analysis of the structure, function and application of the general anti-avoidance provision and its relationship to the “black-letter” tax law. Comparisons with the statutory and common law responses to tax avoidance in other jurisdictions, including Australia, Canada, the UK and US, provide a deeper understanding of the policy behind New Zealand’s general anti-avoidance provision.

#### **Goals of the Course**

The paper is an advanced course studying New Zealand’s GAAR. The objectives of the course are to provide students with both a theoretical background and high level of technical knowledge of the scope and application of the most significant aspects of the law and practice of this extremely controversial provision under the Income Tax Act 2007. Where appropriate, a comparison is made with the regimes of our major trading partners, in order to provide a deeper understanding of the policy behind New Zealand’s regime.

The course provides students with an opportunity to increase their research, writing and group presentation skills. The final exam (which is by way of answering a case study) requires students to apply all aspects of avoidance jurisprudence which they have mastered during the course. Emphasis is therefore placed on good analytical skills and presentation of researched, comprehensive and well reasoned solutions. In addition the course gives the student the opportunity to participate in a group discussion and legal moot which is conducted in a supportive and entertaining environment.

#### **Learning Outcomes**

Students who take and pass this course will be able to:

1. Identify and comprehend the major aspects of the operation of the GAAR in the Income Tax Act 2007
2. Analyse the policies and principles underlying this regime
3. Analyse the application of the GAAR regime to business transactions for the purposes of providing advice and administering the tax system
4. Demonstrate by synthesis enhanced research, writing and presentation skills

## **Learning and Teaching**

Tax avoidance is a mix of lecturing and research and a seminar-based course.

The course will be taught on an intensive basis over 3 days each on:

- Thurs – Sat, 11 to 13 September 2014

Times for the sessions each day will be detailed with a course contents schedule but broadly is 9am to 5pm. It is likely that the finishing time for Saturday is earlier than 5pm.

### *Teaching Staff:*

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There will also be a number of guest lecturers presenting throughout the course.

## **Learning Resources**

There is no prescribed text but it is essential that students have a copy of the Income Tax Act 2007. A recommended text is the book *Tax Avoidance Law in New Zealand* by James Coleman (CCH in the latest edition). In preparation of their papers, students will be expected to be able to make use of the appropriate library and internet resources, including but not limited to:

- New Zealand, United Kingdom, Australian and other case law;
- Academic journals (held in the Auckland University collections or on Lexis/Nexis);
- New Zealand Government materials, including:
  - All published New Zealand IRD material
  - New Zealand Government Discussion Documents
  - New Zealand Consultative Committee Documents
  - Statutory material both current and historical.
- Tax treaties.

There are a variety of on-line resources available that will assist students in this course. Davis Law Library staff are available to assist students in accessing all on-line materials available. A course book will be distributed to students prior to the course. Please endeavour to have read as much as you can.

### **Assessment**

The final grade for the course is made up by the following:

Attendance and Participation in seminars	20%
Final Take-home Exam	80%

Due to the technical nature of the Income Tax Act 2007, the course assessments test research and analytical skills. Each piece of written work requires students to demonstrate knowledge of a number of different regimes of the Act, thereby testing their depth of knowledge and understanding of the underlying policy.

Plusage does not apply.

Refer to the Postgraduate Guide 2014 for further information.

### **Final take-home exam :**

Your course lecturer will indicate the **maximum** word limit for the answer to that case study, which is to be strictly observed.

Papers are expected to be well researched and considered works, which set out clearly their intended scope and deal with the subject in a well-structured fashion. Perspectives on a topic may be gained from a historical or comparative analysis, or from insights provided by other disciplines, eg accounting or economics. Their presentation should be of a high standard, similar to that required for submission to an academic journal. Case, text and journal citations should be in the format prescribed by the New Zealand Law Style Guide. Grades will be awarded in accordance with the Department's policy "*The Basis for Assessment of Legal Writing*".

### **Attendance and Participation**

Attendance and participation are worth 20% of the final grade. Allocating marks to class participation reflects the desire to encourage feedback and discussion within the course. As all seminar papers are circulated one week before presentation, all students need to have read and considered these papers prior to the class, and be prepared to discuss them. The small size of the classes encourages interaction and student participation.

### **Programme and Course Advice**

Prerequisite: Selected Applicants with BCom, BCom(hons), LLB, LLB(hons) or similar.