School of Accountancy

110.380
Estate and Tax Planning
Administration Guide
Extramural
Semester One, 2009

<www-accountancy.massey.ac.nz>
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Introduction

Welcome

Welcome to this course. I hope you will find it stimulating and useful to you, now or in the near future.

As you may be aware, estate and tax planning, property ownership, successions and tax are all a part of everyday life to most New Zealanders. This paper therefore focuses on the needs of taxpayers who are either individual investors or small business owners. It covers the principles relating to estate planning, property ownership, successions upon death and incapacity, tax planning in relation to income from various investments, and how various business structures facilitate or detract from successful estate and tax planning.

The course material provided here is designed to help you to organise and progress smoothly with your studies. It comprises three sections:

- An Administration Guide section which details the important information about studying and passing this paper. Please read it thoroughly now. A copy of the 2008 exam is also included in this section.

- An Assignments section which sets out Assignment 1 and Assignment 2.

- A Study Guide section which sets out to assist you with the topics covering each week of study. Included, at the back of this section, are the suggested solutions which provide guidance to the review questions/case studies set for each week.
Paper coordinator

Hi, I am Lin Mei Tan and I would like to welcome you to this course. I came from Malaysia many years ago after having taught there for a couple of years in the Department of Business Studies. Before joining Massey University, I spent some time in the United Kingdom pursuing my Masters in Accounting and Finance at the University of Lancaster. I am now a Chartered Accountant as well as an Associate Member of the Institute of Chartered Secretaries and Administrators (UK).

Over these years at Massey, I have been involved in teaching a number of accountancy subjects such as Introductory Accounting, Corporate Accounting, Taxation and Management Accounting. Although I find all these subjects interesting and useful, my primary research interest lies mainly in the area of taxation.

As the coordinator of this paper, I wish you every success and hope you find this course enjoyable and useful. I can be contacted at the number indicated below. Once the course commences, I will advise you of my office contact hours.

My e-mail address, telephone number and fax number are as follows:

Phone  06 356 9099 extn 2172
Fax     06 350 5617
Email   l.m.tan@massey.ac.nz
Postal address School of Accountancy
                Massey University
                Private Bag 11222
                Palmerston North

Office hours  To be advised (see WebCT)

Other staff

Ray Mulholland

Ray is a senior member of the Business Law academic staff. Currently he is involved in tutoring first year Business Law students and assisting with the law component of this paper, Estate and Tax Planning.

Ray’s e-mail address, telephone number and fax number are as follows:

Phone  06 356 9099 extn 7397
Fax     06 350 5617
Email   r.d.mulholland@massey.ac.nz
Postal address School of Accountancy
                Massey University
                Private Bag 11222
                Palmerston North

Office hours  To be advised
> Aims

The main aim of the paper is to provide you with an understanding of the practice of contemporary estate and tax planning for individuals, investors and small businesses in New Zealand. The emphasis is on estate and tax planning concepts and the effect of taxes on a wide variety of business and personal financial decisions. At the end of the course, you should also be familiar with the applicable legislation and relevant case law.

The degree of coverage extends to considering various ways to achieve the needs or objectives of a resident NZ individual at various stages of his or her lifetime.

This paper provides 15 credits towards a degree or a diploma.

Prerequisites and Corequisites

A prerequisite or a co-requisite is a requirement that is needed to be fulfilled before you can enter a course of study. To enrol in this paper, you must have already completed or be doing either of papers 110.274 Principles of Auditing and Tax, 110.289 Taxation, or 125.211 The Financial Planning Process.

> Learning Outcomes

Students who successfully complete this paper should be able to:

1. Demonstrate an understanding of the legislations and the types of instruments relevant to estate and tax planning.
2. Explain and discuss the underlying principles relating to estate planning.
3. Demonstrate an understanding of tax planning in relation to income from various investments and alternative business structures that facilitate successful estate and tax planning.

> Topics covered

Estate Planning Issues - The role of wills in estate planning (covering wills, gifts under wills, executors, administrators, intestacies etc, Powers of Attorney); the effect of Property (Relationships) Act 1976 on estate planning.

Other assets with Estate Planning Potential - Family home; personal chattels etc; overview of property transactions; life tenancy; joint tenancies; joint interests with right of survivorship, etc.
**Lifetime Gifts** - Dutiable and exempt gifts; programming of gifts.

**Divesting vehicles** -
- Trusts: types of trusts; parties to a trust; trustees’ roles; duties and obligations; advantages and disadvantages; income tax implications.
- Sole Proprietorships and family and limited partnerships.
- Companies – overview of company tax, family owned businesses, qualifying companies.

**Planning for other property investments** – Investments including rental property and land transactions; income tax implications.

**Avoidance and Evasion and Tax planning** - General and Specific anti-avoidance provisions of Income Tax Act 2007; general principles of tax planning.

> **Textbooks and recommended reading**

You should aim to read widely on this subject and not only the required and recommended textbooks.

Reference is made to *Staples Tax Guide 2009*. If you do not wish to buy the book, it is available on-line and is made available by the Massey University Library. However, do bear in mind that sometimes it may take a while to access on-line and some of you may prefer to read from a hard copy. The choice is yours.

You may be asked to authenticate yourself as current Massey University students before you can view this article. If this happens, authentication instructions are provided on the Login page. The website is:


The link will take you directly to the Contents of Staples 2009 Guide. As this link will also be provided on the 110.380 WebCT site, it may be easier for you to access the book by going to the WebCT page. You are allowed to print any sections of the textbook you like. If you have any problems with this link, do contact the library staff for help.

However, if you wish to buy this book, it is available from Bennetts bookstore:

Bennetts University Book Centre  
Freepost 118333  
Massey University  
Palmerston North  
Telephone: (06) 354 6020

For your information, the study material for this course was prepared in late 2008 as required by the University. At the time of writing, the 2009 Staples Tax Guide was not available (and neither were other 2009 tax textbooks). The chapter readings indicated in
the study guide section were therefore selected based on the 2008 Staples Tax Guide. If there are any changes to any of the week’s readings, I will notify you as soon as possible on the 110.380 WebCT site. Please check the 110.380 WebCT site on a regular basis. However, I do not anticipate any major changes to the chapter referencing numbers.

**Staples Tax Guide** is specifically written for practitioners. Students who are finding it difficult to grasp the material in this textbook could refer to other highly recommended reference books, such as:

4. Other reading materials from the Inland Revenue Department website e.g. any relevant IR booklets and Taxation Information Bulletins (TIB) - if you want to read further on a particular topic. An understanding of the general issues is further enhanced by following contemporary articles in newspapers, magazines, and journals.

**Supplementary Readings**

Throughout the Study Guide, you may be asked to read supplementary articles. These are extracted from various books or articles and should provide you with further insights into the subject covered for that week.

> **Assessment**

This paper requires students to submit two assignments, and sit a final exam. The relative weightings and due dates are as follows:

<table>
<thead>
<tr>
<th>Assignment</th>
<th>Due Date</th>
<th>Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Assignment 1</td>
<td>7 April 2009</td>
<td>10%</td>
</tr>
<tr>
<td>2 Assignment 2</td>
<td>12 May 2009</td>
<td>20%</td>
</tr>
<tr>
<td>3 Final Examination</td>
<td></td>
<td>70%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100%</td>
</tr>
</tbody>
</table>

**To achieve a pass in this paper, 110.380, students must at least:**

1. Attain a **minimum of 40%** of the marks in the **final examination**; and

2. Attain an **overall** assessment of 50% for the semester’s total work (i.e. assignments and final exam)
Relevant Legislation

You are expected to know and be examined on the tax law as it applies at 31 December prior to the date of the examination. An awareness of the broad concepts of any relevant changes after 31 December may also be expected if we informed you of the latest changes.
> Massey University Credit System

The University has converted from a 100 point standard equivalent full-time year for academic programmes to one of 120 credits. As from February 2007, the expression ‘credits’ replaced ‘points’.

For existing Massey students, the change will have minimal impact. They will be required to pass the same number of papers to complete their programmes.

The conversion from points to credit is straightforward. Credits for papers completed to date are multiplied by 1.2. For example, current 12.5 point papers become 15 credit papers and 25 point papers become 30 credit papers. Transitional arrangements will be put in place to see to papers with odd numbers of points to ensure that no students will be disadvantaged.

In the past, the point system gave an indication of the total amount of time that a student might reasonably expect to spend on each paper in order to satisfactorily complete the assessment requirements (including lectures, laboratories, tutorials, visits and study time for an internal student, or campus and/or regional courses, study groups and private study time for an extramural student). Converted into a number of hours per week, this was referred to as the effective weekly hours for the paper.

With the introduction of the credit system, the total hours required for a student to study a paper remains the same. On average, a student is expected to spend approximately 12.5 hours per week for a 15 credit paper. The course outline for each paper should indicate the effective weekly hours and how these might typically be spent.

> Suggested study programme

Study Time

It is of utmost importance that you must get organised.

Study at this level requires independent work from you. Many students prejudice their chances of passing 110.380 by not getting started soon enough, and always struggling to catch up. Indeed, an all too common occurrence with extramural students, is the complete “no show” leading to a DNC (did not complete) grade. Too many students pay their money, are sent the materials, and then procrastinate, freeze, stall etc. Please, if it seems like this is going to happen to you, get help, including from the paper coordinator or another member of the teaching team.
Get focused, have fun, enjoy your studies

You can improve your chances of success by planning now for the learning ahead. The paper carries 15 credits and therefore requires an average of 12.5 hours work per week. This involves spending time reading the set texts and any relevant readings, as well as preparing for the assignments and the examination.

Although, the amount of private study time will be dependent on each individual’s ability and study patterns, you should plan now how you are going to use your time. Key dates, such as assignment deadlines and the examination, will serve as milestones in your own personal learning schedule. Within your domestic and work routines, you will need to put aside times for learning and absorbing the material.

Ensure that you have a suitable place to work, free from distractions, and think ahead so that you will have the books and other materials to work with when needed. Avoid rushed assignments; commence them in plenty of time to answer the questions and submit answers in a presentable form. Make time also to prepare properly for the exam.

Keep the aims of the paper and your learning objectives firmly in mind. As you implement your learning plan, watch, listen, read, think and write in the context of your learning objectives. Know, in outline, what comprises each assignment question from the start, and make jottings of ideas, sources, angles etc right from the word ‘Go’. Get interested and excited about the subject matter.

Study Programme

Your studies will be driven by your reading of the topic for each week, going through the activities set aside for each week, and tackling the review questions and case studies. Passing the paper entails showing you:

- understand the subject matter;
- can analyse situations and apply your understanding of the subject matter to various situations; and
- can provide suggestions or recommendations for achieving estate and tax planning objectives.

The next 12 weeks provide you with an opportunity to study the different tools and practices associated with estate and tax planning.

The areas covered in this course are listed in the scheme of work in the course calendar provided on the next page and the weekly study programme follows this scheme.
# 110.380 Course Calendar

- **Introduction**: Concepts of Estate and Tax Planning, Overview of Income Tax
- **Date**: 23 February

## Part 2: The Legal Environment
- **Succession Issues**: Testacy and Intestacy
- **Property Ownership**
- **Trusts I**
- **Property (Relationships) Act 1976**
- **Dates**: 2 March, 9 March, 16 March, 23 March

## Part 3: The Tax Environment
- **Gift Duty**
- **Date**: 30 March
- **Assignment 1 Due**: 7 April 2009
- **Contact Course**: 15 April 2009, Palmerston North
- **Tax Planning – Structuring business ownership**: Sole Proprietorships and Family Partnerships and Trusts II
- **Evasion, and Avoidance, and Tax Planning**
- **Easter and Semester Break**
- **Date**: 6 April

## Dates
- **Week 4**: 16 March
- **Week 5**: 23 March
- **Week 6**: 30 March
- **Week 7**: 6 April, 13 April
- **Week 8**: 27 April
- **Week 9**: 4 May
- **Week 10**: 11 May
- **Week 11**: 18 May
- **Week 12**: 25 May
- **Revision**

## Assignment Deadlines
- **Assignment 1**: 7 April 2009
- **Assignment 2**: 12 May 2009
> Assignment Details

There are two assignments in total. Please see the Assignments Section (page 33) for details.

For Assignment One students should direct their queries to Ray Mulholland, and for Assignment Two queries should be directed to Lin Mei Tan.

> Assignment Submission

Please post your assignments to:

The Extramural Assignments Office
NSATS
Massey University
Private Bag 11555
Palmerston North

Remember to complete all cover sheet details.

Please note that I am not involved in receiving and despatching assignments. All queries relating to this (e.g. have not received assignments back after marks have been released on webct etc.) should be directed to NSATS.

> Dues Dates, Extensions and Penalties

Strict rules apply to late or non-submission of the assignments in order for us to service your needs.

1. The assignment may be couriered on the due date. It will then be counted as having been received on the due date.

2. As a general rule, no extension of time will be allowed for submitting assignments. However, an extension of one week may be allowed, only in extenuating circumstances such as a death in the family. Under the circumstance you need to attach the appropriate evidence/details on submission of your assignment – we will consider each case accordingly.

3. Late assignments may be rejected for marking, or attract a penalty of up to 15% per day for a late submission.

4. IRRESPECTIVE OF THE ABOVE, NO ASSIGNMENT WILL BE MARKED ONCE SOLUTIONS HAVE BEEN PROVIDED, REGARDLESS OF THE REASON FOR LATE SUBMISSION.

‘Pressure of work’ is not considered a reasonable excuse for late submission of assignments.
Note:

It is the student’s responsibility to ensure that:

(a) The assignment arrives by the submission date – only the assignment documents submitted on time shall be marked. Any documents and/or additional pages of work submitted at a later date shall be returned unmarked;

(b) Assignments are submitted to the correct address and within the accepted mode: do not email assignments to the paper co-ordinator;

(c) A written explanation and evidence accompany the submission of (qualified) late assignments; and

(d) The coversheet notes the correct paper number and title, and name of the paper co-ordinator.

(e) An honesty declaration is attached to the assignment.

> Presentation of written work

- All machine printed/handwritten work must be submitted on A4 (21cm x 29.7cm) sized paper.
- Please print/write on one side of the paper only.
- Leave a 4cm margin on the left-hand side for marker’s comments.
- Use double-spaced or 1½ line spacing.
- Each page should be numbered in one continuous sequence. Commence numbering from the page following the title page. Print your last name at the top of each page.
- All sheets should be stapled together at the top left-hand corner. Do not clip, pin or fold pages to secure them.
- Do not embellish the paper with a cover. Attach the appropriate extramural cover page on top of the work. This should give your full name and local address, your student number, the title, paper coordinator, the paper, assignment number and paper title.

> Suggested Solutions

Students shall be provided with a suggested solution when a graded assignment is returned, generally via WebCT. Please note that the suggested answer is not intended to represent a ‘model’ answer. Its primary objective is to note the main points that should have been covered in a complete answer, to explain the marking system used,
and to highlight common problems experienced in answering the question. Students should check the reasonableness of their answers against the suggested answer.

Suggested answers are typically more comprehensive than the answer expected from students and, therefore, it is not uncommon to find that they exceed the word limit suggested for a question.

> **Assignment Ethics**

It is important that you develop the habit of always behaving ethically. In the professional world the penalty for failure to behave ethically can be severe.

For all course assignments it is acceptable (and helpful) to discuss the issues with other students. You may freely ask and answer questions that promote learning.

However it is **NOT** acceptable to:

- divide the assignments up with each person doing part of the whole
- copy another student’s work, an official answer, or an official answer from either the current class or from a pervious class
- allow another students to copy your work
- provide students in future years with copies of your assignments
- have one person do the data entry for computer assignments and then turn in multiple copies

Each student is expected to submit for marking his or her own work. Discussion promotes learning. Copying does not!

The University’s policies and regulations regarding plagiarism are outlines in the Massy University Calendar.

> **Academic Dishonesty**

In completing your assignments or sitting an examination, if you use the words of another author, you **must enclose** them in quotation marks. You **must** also **cite** a page number. When you have included the ideas of another author, you are required to **reference** the source of those ideas. To use the words or ideas of another author without citing the source is **plagiarism** and **is not acceptable** under any circumstances. The University Calendar states that there are strict penalties for plagiarism and these will be enforced. Plagiarism in an assignment may result in your assignment not being awarded any marks.

For guidelines on referencing, please refer to the section on Library Services and Referencing.
> **Posting of materials**

In this posting you will receive a folder which contains:

- an Administration Guide Section;
- an Assignments Section (with questions for Assignment One and Assignment Two);
- a Study Guide Section.

> **Contact Course**

- Extramural students are strongly recommended to attend the Contact Courses, especially if you wish to do well in the course.
- Before attending you should familiarise yourself with the topics covered up to the Contact Course date.
- The Palmerston North Contact Course is on **15 April 2009**.
- Starting time is usually 9.00am, finishing time 5.00pm.
- If you wish to attend the Contact Course, please ensure you register **three weeks prior** to its commencement. NSATS require a decision to be made at this time and the Contact Course will be cancelled if less than 12 people are registered.

Many past students have appreciated us in making an effort to provide this sort of contact. At the very least, the course serves as a point of personal contact between you, staff and fellow students.

NSATS will contact you soon with more administrative details.
> Contacts

<table>
<thead>
<tr>
<th>Problem</th>
<th>Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>I have changed my address</td>
<td>Phone Massey Contact 0800 MASSEY (627739) or write to the Enrolment Office (copy to Paper Coordinator)</td>
</tr>
<tr>
<td>Did you get my assignment?</td>
<td>Phone Massey Contact 0800 MASSEY (627739)</td>
</tr>
<tr>
<td>I think I’ve missed a posting</td>
<td>Phone Massey Contact 0800 MASSEY (627739)</td>
</tr>
<tr>
<td>I’m not sure about the Contact Course</td>
<td>Phone the Paper coordinator, Extn 2172</td>
</tr>
<tr>
<td>I don’t understand the assignment</td>
<td>Phone Paper Coordinator, Extn 2172</td>
</tr>
<tr>
<td>I think my grade is incorrect</td>
<td>Phone Paper Coordinator, Extn 2172</td>
</tr>
<tr>
<td>I think I should withdraw</td>
<td>Contact Paper Coordinator before proceeding, Extn 2172</td>
</tr>
<tr>
<td>I am going to withdraw</td>
<td>Phone Massey Contact 0800 MASSEY (627739) or write to the Enrolment Office (copy to Paper Coordinator)</td>
</tr>
<tr>
<td></td>
<td>(If you have the Registration Workbook use the “Application For Change of Papers or Programme” form)</td>
</tr>
<tr>
<td>I am having trouble/help!!</td>
<td>Phone Paper Coordinator, Extn 2172</td>
</tr>
</tbody>
</table>

For general Massey University enquiries, phone 0800 MASSEY (0800 627739) or email contact@massey.ac.nz as your first point of call.
In Case of Emergency

“Many of life’s failure are people who did not realize how close they were to success when they gave up.” Thomas Edison (in *The Learning Revolution*, p. 280)

Your first objective should be to persevere in the paper. By far the greater hazard for extramural students in particular is not staying the distance to the final examination, rather than not passing the paper. If at any time during the semester you contemplate withdrawing from 110.380 because of falling behind or other difficulties, or because of outside circumstances (e.g. being exceptionally busy in other aspects of life or changing circumstances), please contact me to help review your prospects in the paper. Depending on your circumstance, sometimes arrangements can be made to help you over the period and your efforts will not be wasted.

If you decide to withdraw you must notify the Enrolments Office, Massey University, Private Bag 11 222, Palmerston North as soon as possible.

Before You Do, Ask Yourself

- Will I regret this later?
- Will I feel better after a cup of coffee/the baby has gone to sleep/the weather has improved?
- Do I really have to decide now?
- Should I write to or phone those nice understanding lecturers about it?
- I have got this far, shouldn’t I might as well finish the course?

If you have any concerns or complaints about this paper, you should contact the Paper Coordinator in the first instance. If Paper Coordinator is unable to resolve the matter or if you feel uncomfortable bringing this matter to the Paper Coordinator, you should contact the Head of School.
Internet Resources

> WebCT

Your online learning environment

This paper makes use of the internet to help create an "online learning environment". At Massey University we use WebCT (Web Course Tools) as the preferred “online learning environment”.

The facilities in WebCT are comprehensive and allow for on-line discussions, real-time chat, course information, participant homepages, schedules, and links to other sites and resources on the internet. In addition, it enables material that supplements the set text and study guide to be disseminated, for example: lecture notes, issues for consideration and discussion, and supplementary worked examples.

This paper is categorised as:

**Web-supported:** You are encouraged to access the supporting online materials and resources. Access is voluntary, as online participation is likely to be a minor component of study.

Participation in the online environment is voluntary. I will post on the notice board any clarifications required regarding any part of the course or assignments. Also, if you would like to get in touch with other students to discuss any questions relating to this course, etc, do make use of the discussion forum. For your information, we **do not participate** in the discussion forum. This is a forum set up for students’ discussion.

**IF YOU HAVE ANY SPECIFIC QUESTIONS THAT YOU ARE UNCLEAR ABOUT, YOU SHOULD EMAIL ANY MEMBER OF THE TEACHING TEAM OR CALL ME DIRECT.**

> Internet Links

http://www-accountancy.massey.ac.nz

From time to time, important information (e.g., employment opportunities, School of Accountancy Handbooks, etc.) will be placed on the School of Accountancy home page for general dissemination. This site will also provide notice of any technical problems that the WebCT site might be experiencing.

The following School of Accountancy Handbooks can be downloaded from the School’s website. Each contains detailed paper descriptions and contact information for Paper Coordinators.
The following web sites should also provide useful information:

- www.ird.govt.nz  Official web site of the Inland Revenue Department of New Zealand
- www.govt.nz  Official web site of the New Zealand Government
- www.cch.co.nz  CCH tax website

> Accessing the Online Resources

In your web browser enter the following web address exactly as shown:

http://webct.massey.ac.nz

Click on here for WebCT login.

Welcome to the Massey E-Learning website

Your gateway to Massey Online courses with the latest edition of WebCT Campus Edition 4.1

IMPORTANT NOTICE WebCT online courses for 2004

[Updated 13/03/2004]
Enter your WebCT Student ID Number and your WebCT password (4 digit pin). If you have previously changed your password, your new password will need to be entered.

This will take you to the myWebCT page, which will list all the WebCT courses you are enrolled in.

To enter the WebCT site, click on the paper name. You will then be greeted with the home page.

**Any queries:** Phone 0800 MASSEY (627 739)  
Email: contact@massey.ac.nz

**Contact hours of operation are 8.30am to 5.00pm, Monday–Friday.**
Library and Referencing

> Massey University Library

The Library provides resources and help to support your study. Please contact us if you need help finding information or requesting Library material.

Phone: 0800 MASSEY (0800 627 739)
Email: library@massey.ac.nz

Distance Library Service
The Distance Library Service delivers course-related Library materials to students who are eligible (students studying predominantly extramural or block mode courses in a semester). For key information about using the Distance Library Service, see the Library For Extramurals section of our web site http://library.massey.ac.nz/patrontype/extramural.htm, and the printed Library Services for Extramurals brochure. If you are uncertain about your eligibility, and/or you need a copy of the brochure, please contact the Distance Library Service.

How the Distance Library Service can help:
- Books: We deliver course-related books to your home and pay return postage within New Zealand for the books we send out.
- Photocopies: We photocopy study materials and post them to you, including journal articles, copies of three previous exam papers, and chapters of books not available for loan.
  Note: The Library must comply with the Copyright Act which restricts the amount that can be copied (normally one chapter or article, or 10 percent from any one publication).
- Subject Searches: If you are having trouble finding information, we can help with advice on how to search. We may also be able to get you started by carrying out a brief search on your behalf and sending you a list of useful material to select from.
- Studying outside New Zealand: We will supply materials to help you with your studies, but there may be some restrictions. Please contact us for more information.

When you are using the Library from a distance it is especially vital to plan ahead to allow plenty of time just in case the material or assistance you need is not immediately available.

Library Web Site (http://library.massey.ac.nz)
You can use the Library web site to find useful resources by:
- searching the Library catalogue to find books, journals, theses and more held at any of the Massey Libraries
- using Subject Guides (for article databases, encyclopedias and dictionaries, web sites in major subject areas)
• searching Article Databases (subject access to journal and newspaper articles often full-text online)
• printing copies of past exam papers

You can also Log in to your Lending record online to check your due dates, renew your books and request items from the catalogue.

For advice on finding information see the How to Find section at: http://library.massey.ac.nz/learnit/howtofind/home.htm

Using the Library in Person
You’re welcome at any of the Massey Campus Libraries - in Auckland, Palmerston North (Turitea and Hokowhitu) and Wellington. Services available from these Libraries include access to computers and photocopiers, Information Desks where you can get help in using Library resources, research consultations for postgraduate students and EndNote support. All Massey libraries provide help and support, but not all resources are held in every Library.

Extramural students resident in Hawke’s Bay may join the Twist Library at EIT and borrow in person. ID and proof of enrolment is required.

EndNote
EndNote is specialised software for storing and managing bibliographic references/citations. It allows you to:
1 Create, store, and manage your references
2 Import and store references from electronic databases
3 Annotate, sort and search your references
4 Create bibliographies instantly in a variety of bibliographic styles
5 Insert citations into your Microsoft Word documents.

See the EndNote page for further information
http://library.massey.ac.nz/doit/references/managingreferences.htm

Borrowing books from other NZ University Libraries
Massey University Library is a member of the ULANZ reciprocal borrowing agreement among 7 of the 8 New Zealand Universities. This gives registered Massey University Library borrowers (i.e. staff and students) the right to enrol for limited borrowing privileges at those university libraries.

The other universities offering this service are AUT (Auckland), Waikato (Hamilton), Victoria (Wellington), Lincoln (Christchurch), Canterbury (Christchurch) and Otago (Dunedin). This may well be a service that is useful for extramural students living in these regions, so please publicise it to them.

Full details are available on the Library web site under the heading Borrowing Information - ULANZ Reciprocal Borrowing Scheme.
> Referencing

The reference system used should enable you to indicate the source of facts and opinions without interrupting the flow of your argument, and it must enable a reader to check and pursue these citations quickly and economically. These guidelines are based on the APA (American Psychological Association) referencing system.

When a reference is made in the body of the assignment or report it is sufficient to mention the name of the author, the year of publication, and the page reference, e.g.:

“it has been urged (Kotler, 1986, p.9) that …”, or

“it has been urged by Kotler (1986, p.9) that …”

All references cited in the text must be reported in full standard bibliographical form under a heading “References” at the end of the assignment.

The references should be arranged alphabetically by author’s surname.

When listing references, all lines except the first should be indented five spaces (typically one tab stop). Note the use of italics (or underlining), capitalisation, punctuation and order of elements. For journal articles, the title of the journal, and the volume number, should be italicised. For a book, italics should be used for the title. If your word processor or printer cannot do italics, underline these elements.

The preferred format for different types of publications is as follows:

Books


Occasional publications


Internet

All references begin with the same information that would be provided for a printed source (or as much of that information as possible). The web information is then placed at the end of the reference. It is important to use “Retrieved from” and the date because documents on the web may change in content, move, or be removed from a site altogether. To cite a website in text (but not a specific document), it’s sufficient to give the address (e.g. http://www.apa.org) there. No reference entry is needed.


How to Cite a Personal Communication

Sometimes you will need to acknowledge personal communication as a source of information. This includes lecture notes, memos, e-mail messages, interviews and the like. Personal communication is NOT included in a reference list or bibliography – you should only cite personal communication in the text of your assignment: (e.g., A. Wright, personal communication, 19 October, 1994).

How to Reference Study Guide Material

If you cite articles or excerpts from books which are reprinted in Study Guides, refer to the article or book directly (your Study Guide should contain full bibliography information!)

If the material being cited is not part of a reprinted article or book, it should be referenced as follows:

- Where the study guide has an identified author:

- Where the study guide has no identified author:

How to Reference a Periodical

Periodicals are anything that is published on a regular basis – magazines, journals and newspapers. Sometimes it is difficult to distinguish between journals and magazines, but here is a general rule of thumb: if the articles in the periodical have a reference section (i.e. if they are sources in some academically conventional way) then it is regarded as a journal; if they do not have a reference section, then treat it as a magazine.
Periodicals are referenced as follows:

Titles and volume numbers of *periodicals* should be quoted in full and *italicised* (or underlined) followed by page numbers (not italicised).

Titles of *articles* should not be italicised, underlined or placed in inverted commas.

- **Magazine article**

- **Newspaper Article, No Author**

- **Newspaper Article, Author Known**

- **Other examples**

Examinations

> Final examination 2009

The examination comprises 70% of the final grade. The format will be similar to last year’s exam question paper. You will be notified of the format before the examinations.

For the final examination, you are not allowed to bring any books into the examination hall i.e. the exam is a **closed book** exam. Only non programmable calculators are permitted.

The 2008 exam papers are included here for your information and guidance only.

Examination Date

Please check the date and time of the final examination from your enrolment material or Massey Website. If you have problems with this date and time you should consult NSATS.
> Final examination 2008

MASSEY UNIVERSITY
PALMERSTON NORTH CAMPUS

EXAMINATION FOR
110.380 ESTATE AND TAX PLANNING

Semester One – June 2008

Time allowed: **THREE (3) hours**

All students are required to answer **QUESTION ONE in SECTION A**, any **TWO (2)** questions from **SECTION B**, and any **TWO (2)** questions from **SECTION C**.

INSTRUCTIONS:

**SECTION A**
Question One is compulsory. 20 marks

**SECTION B**
Answer any **TWO (2)** out of three questions. 40 marks

**SECTION C**
Answer any **TWO (2)** out of three questions. 40 marks

Total: 100 marks

NON PROGRAMMABLE CALCULATORS ONLY MAY BE USED
SECTION A

QUESTION ONE IS COMPULSORY

QUESTION ONE – ANSWER ALL PARTS

Isabella Black has been self-employed, operating a lucrative retail outlet of specialised kitchenware for the past six years. From the second year of operation the business has provided Isabella with a healthy source of income.

Three years ago Isabella married John and they have an infant son, Brady. John is a police officer. Together they have been looking at changing the ownership structure of Isabella’s business. They are also concerned that provision is made for Brady should anything happen to them. They have talked the matter over with a trusted friend and experienced businesswoman, Julie Williams. To date they have considered the following options:

(a) Forming a partnership between Isabella and John;
(b) Forming a qualifying company with Isabella and John as shareholders;
(c) Forming a trust, with the trust having a share of the partnership or shares in the company, and the beneficiaries being Isabella, John and Brady (who is the principal beneficiary).

Required:

1. When forming a partnership, what factors should Isabella and John consider? Describe two tax and two non-tax factors, and discuss the possible effects they may have on Isabella and John in terms of a partnership structure. (8 Marks)

2. If Isabella and John choose option (b), describe and explain two significant advantages of setting up a qualifying company rather than an ordinary company for Isabella and John. (5 Marks)

3. If Isabella and John decide on option (c) how would the income generated by the trust be subject to income tax? (3 Marks)

4. Which structure would you recommend Isabella and John adopt? Give reasons. (4 Marks)

[Total: 20 Marks]
SECTION B

ANSWER ANY TWO (2) QUESTIONS FROM THIS SECTION.
EACH QUESTION IS WORTH 20 MARKS.

QUESTION TWO – ANSWER ALL PARTS

In relation to a trust:

1. Set out the requirements of a valid trust. (10 Marks)

2. Explain the present/current uses of trusts. (5 Marks)

3. Set out the legal advantages of trusts. (5 Marks)

[Total: 20 Marks]

QUESTION THREE

Jane is a widow and has brought up three children; two daughters and a son, Jack. At the age of 17 Jack approached his mother, Jane, for a loan as he wanted to travel overseas. He used the loan to purchase a ticket and to provide for other expenses such as accommodation. Jane never bothered to recover the loan.

After Jack had been overseas for five years Jane died. When Jack returned home his sisters treated him with contempt and taunted him with such remarks as, “We stayed at home and looked after mother while you rushed off and had a good time”. Jack then discovers that he has been completely excluded from his mother’s will.

Discuss and explain the remedies available to Jack. [Total: 20 Marks]
QUESTION FOUR – ANSWER ALL PARTS

The following questions are in relation to the Property (Relationship) Act 1976. You are required to:

1. Define ‘relationship property’ and distinguish it from other forms of property recognised by the Act.  
   
   (6 Marks)

2. Explain whether parties can contract out of the provisions of the Act, and outline the procedures the agreement to contract out must abide by.  
   
   (4 Marks)

3. Indicate, with relevant examples, how the Act seeks to achieve:

   (a) The principle that men and women have equal status and their equality should be maintained and enhanced,….

   (Part 2 Preliminary provisions, Section 1N Principles)  
   
   (10 Marks)

[Total: 20 Marks]
SECTION C

ANSWER ANY TWO (2) QUESTIONS FROM THIS SECTION.
EACH QUESTION IS WORTH 20 MARKS.

In Questions Five, Six and Seven a number of statements (independent of each other) are presented which relate to a particular scenario. For each of the statements, specify whether they are TRUE or FALSE (you must write TRUE or FALSE clearly), and justify your answer with an appropriate explanation (in no more than 150 words). No marks will be awarded if no explanation is provided to justify your answer.

QUESTION FIVE

Florence Bund is a sole proprietor and has built up a successful cosmetics retailing business which has an annual turnover of $1.5 million and a net income of $200,000. The business is expanding rapidly and Florence is concerned about the appropriateness of the current business structure. Florence has been advised by her Accountant that she can trade through a company, form a partnership or transfer the business to a family trust.

In addition, Florence realises that she will have to employ more staff to assist her. As enticements Florence is willing to provide them with staff discounts on purchases of cosmetic products, and treat them to a “dinner and movie night” once a month.

1. If Florence transfers her business to a company, in which she is the sole shareholder, and she is paid a salary of $60,000 only, the attribution rules require that the remaining $140,000 be attributed to her. TRUE/FALSE? (3 Marks)

2. If Florence transfers her business to a family trust, any beneficiary income distributed to her will be subject to tax at 33%. TRUE/FALSE? (4 Marks)

3. The staff discounts and ‘dinner and movie night’ are liable for fringe benefit tax. TRUE/FALSE? (4 Marks)

4. Irrespective of which business structure she opts for, if Florence employs her husband as the business manager for an employment package - salary of $80,000 and a ‘business’ car for his use - this package is fully tax deductible. TRUE/FALSE? (5 Marks)

5. If Florence chooses to restructure her business from a sole proprietorship to a trading trust, the restructuring is considered a tax avoidance arrangement. TRUE/FALSE? (4 Marks)

[Total: 20 Marks]
**QUESTION SIX**

Peter Bell and his wife, Tinkle, established the Bell Family Trust (a qualifying trust) by each settling $1 million into the trust. Peter and Tinkle anticipate that their family trust is likely to distribute beneficiary income to the children each year. The debt owed by the Bell Family Trust was left outstanding, and Peter and Tinkle have forgiven the trust $54,000 of the debt each year.

The beneficiaries of the trust are Peter, Tinkle, and their children, Michael (aged 12) and John (17 years old). Recently, Peter transferred a piece of land he owns in Wanaka to Tinkle, under a property relationship agreement, at no cost to her.

Tinkle’s mother, Wendy, passed away two years ago and according to her will, $1 million worth of investments has been settled onto a trust known as Wendy Grandchildren’s Trust. This trust is set up to pay income to Tinkle’s children as the trustees see fit. In addition, Tinkle inherited her mother’s farm under the will.

1. The amount forgiven by Peter and Tinkle, in relation to the debt owed by the Family Trust, is a dutiable gift. **TRUE/FALSE?** (3 Marks)

2. If Peter changed his gifting programme so that he gifts $20,000 on 21 August 2006, $7,000 on 1 April 2007, $10,000 on 20 August 2007, and $10,000 on 4 December 2007, there is no gift duty payable at all. **TRUE/FALSE?** (4 Marks)

3. The transfer of land by Peter to Tinkle is subject to gift duty and income tax. **TRUE/FALSE?** (5 Marks)

4. Any distribution of income over $1,000, from the Wendy Grandchildren’s Trust, to Michael and John will be subject to income tax as trustee income at 33% tax rate. **TRUE/FALSE?** (5 Marks)

5. For tax purposes, the transfer of the farm from Wendy’s estate to Tinkle, must be at market value. **TRUE/FALSE?** (3 Marks)

[Total: 20 Marks]

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**Gift Duty Table**

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<th>Value of gift</th>
<th>Rate</th>
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</thead>
<tbody>
<tr>
<td>Up to $27,000</td>
<td>Nil</td>
</tr>
<tr>
<td>$27,001-$36,000</td>
<td>5% on excess over $27,000</td>
</tr>
<tr>
<td>$36,001-$54,000</td>
<td>$450 plus 10% of excess over $36,000</td>
</tr>
<tr>
<td>$54,001-$72,000</td>
<td>$2,250 plus 20% of excess over $54,000</td>
</tr>
<tr>
<td>$72,000 or more</td>
<td>$5,850 plus 25% of excess over $72,000</td>
</tr>
</tbody>
</table>
QUESTION SEVEN

Henry Potts and Bob Stone have spotted a major development opportunity in Turangi involving the acquisition of 10 hectares of bare land, which can be subdivided into 20 lots, and the construction of 20 exclusive alternative lifestyle townhouses thereon.

Henry and Bob plan to set up a company (Develop Co) with Henry and Bob each owning 50% of the shares in their own names. Net income of $1 million is expected from the development. Henry, who has no previous involvement in property development, will contribute his commercial expertise and arrange finance; Bob will arrange construction (i.e. appoint builders and oversee the work).

Henry and his wife, Hetty, have joint ownership of their family home in Wanganui. Their holiday home in Turangi and rental property in Waiterere are owned by their family trust, Potts Family Trust (Henry and Hetty are trustees, and they and their four children are beneficiaries).

2. Henry’s 50% shareholding in Develop Co will result in any gain on sale on the Potts’ family home and rental property being taxed. TRUE/FALSE? (4 Marks)
3. Henry’s 50% shareholding in Develop Co will result in any gain on sale on properties acquired by Henry and/or Hetty after Develop Co is set up. TRUE/FALSE? (3 Marks)
4. Assume the property is farmland held by Henry’s company, Farm Co, which is used for farming sheep. This land is then sold to Develop Co for subdivision and construction (as outlined above). Any capital gain on sale of this land, by Farm Co to Develop Co, is taxable income to Farm Co in the year of sale. TRUE/FALSE? (5 Marks)
5. Any capital gain, arising in (4), when distributed to the shareholders on the liquidation of Farm Co, will be tax free. TRUE/FALSE? (3 Marks)

[Total: 20 Marks]

* The current section OD 8(4), which applies to land transactions associated person test, is summarised as follows:

OD 8(4)(a) - Company and a company where group of persons:
- whose voting interests (or market value interest if applicable) ≥ 50%; or
- has control by any other means whatsoever of both companies.

OD 8(4)(b) – Company and a person where:
- the person;
- spouse, etc;
- infant child;
- trustee of trust where the person, spouse etc, or infant child benefitted or is eligible to benefit;
hold in aggregate ≥ 25% of voting interests (or market value interests – if applicable).

OD 8(4)(c) – Person and a person where one is:
- spouse etc of the other person;
- infant child of the other person;
- trustee of trust where the spouse etc or infant child has benefitted or is eligible to benefit.

+++++++++
ASSIGNMENTS
SECTION
Assignment 1
Comprises 10% of Overall Assessment
Due: 7th April 2009
Total: 40 Marks

This assignment contains four questions, all of which must be answered. You are required to provide concise and brief answers, preferably not more than 200 words for each answer. You should support your answers with appropriate reference material. If possible, you should type your answers but handwritten answers will be accepted. Do not forget to put your name and ID number on each page of the assignment script and on the assignment cover sheet provided by NSATS. You must also attach the Honesty Declaration Form.

[Note: Any queries relating to this Assignment should be addressed directly to Ray Mulholland]

Question One

(a) Set out the essential requirements of a valid will.

(b) Martha works as a housekeeper for an elderly man, John, whose wife died some years ago. Martha has always worked for a minimum wage but John has frequently said to her, “You have been very good to me Martha. I will reward you in my will”.

When John dies Martha discovers that she has been completely excluded from John’s will. His entire estate being left to a long lost nephew.

Has Martha any remedies? (10 marks)

Question Two

Jack and Jill enter into a de facto relationship. At the time of commencement of the relationship Jill has (living with her) a child from a previous relationship and the child of a friend, who because of her friend’s poor health, is incapable of caring for the child.

Six months after the relationship between Jack and Jill commenced, Jack realise that he cannot tolerate the children any longer so terminates the relationship. At the date of termination of the relationship, the two children are still living with Jack and Jill.

Would the two children be regarded as children of the relationship? (5 marks)
Question Three

Jane and Merv are both quite wealthy and decide to marry. They come to you asking advice as to how they can ensure that both of their estates are kept separate from each other because they “want to maintain their separate estates”.

Advise them as to what procedure they should adopt under the Property (Relationships) Act 1976 to achieve this end.  

(5 marks)

Question Four

A trust may be defined as “An equitable obligation under which a person having the control of property is bound to deal with that property either:
   (a) For the benefit of definite persons any one of whom may enforce the obligations, or
   (b) For some other object or purpose permitted by law”.  

Garrow’s Law of Trusts (adapted)

Discuss the nature of a trust in terms of the above definition.  

(20 marks)
MASSEY UNIVERSITY
School of Accountancy

Lecturer’s Name
Lin Mei Tan

Paper Number
110.380

Paper Name
Estate and Tax Planning

Honesty Declaration

• I declare that this is an original assignment and is entirely my own work.
• Where I have made use of the ideas of other writers, I have acknowledged (referenced) the source in every instance.
• Where I have used any diagrams or visuals produced by others, I have acknowledged (referenced) the source in every instance.
• This assignment has been prepared exclusively by me for this paper and has not been and will not be submitted as assessed work in any other academic paper.
• I am aware of the Code of Student Conduct on the Massey University web site http://calendar.massey.ac.nz/statutes/dr.htm, clause 2 (f), wherein it states [Students shall] “act with honesty and integrity in submitting material or imparting information to the university”. Assessment & Examination Regulations clause (6) clarifies further that “dishonesty” is a breach of the Code of Student Conduct and will be dealt with accordingly.

<table>
<thead>
<tr>
<th>Family Name</th>
<th>Given Name(s)</th>
<th>ID number</th>
<th>Student Signature</th>
<th>Date</th>
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</table>
Assignment 2
(100 Marks)
You are to use the case study provided below for this assignment

There are various ways to approach Assignment 2 but you should be able to make a good stab based on the material that you have covered in this course. Analyse the question; what does it mean? Overcome any initial panic or blank-mindedness by reading relevant passages of any articles or parts of the textbook.

Do not forget the references and number the pages. It is more important that you cite your references sources in any adequate reference format rather than not at all. Referencing is a form of acknowledgement that you have used other people’s work. The Statutes and Regulation of the University include the statement:

‘Copying or paraphrasing of another person’s work, be it published or unpublished, without clearly acknowledging it, will be deemed to be dishonest.’

Where staff discover work has been copied or paraphrased without due acknowledgement, mark penalties will be imposed on the student and where appropriate on the person who allowed their work to be copied. More severe penalties will be imposed where a student has offended for a second time.

Some of you may have formed a discussion or study group and may discuss the assignment questions. However, if you do that, make sure that you write up the justifications yourself. Groups are great for ‘bouncing off’ and sharing ideas and thoughts but at the end of the day, each of you should go away and do the write up yourself. Our policy is that, where two or more students submit exactly the same written report, only one will be marked and then the marks will be apportioned equally between the students.
Assignment 2

Comprises 20% of the overall assessment
Due: 12th May 2009

Below are a number of tax issues which relate to the Boney family. You are required to state the conclusion for each tax issue listed and to provide the reasoning(s) underlying each conclusion. The reasons provided (preferably not more than 300 words) should be supported by the legislation, case law and/or other sources. All sources must be clearly cited and referenced. They do not form part of the word count limit imposed.

No marks are awarded if no reasoning is provided to justify your conclusion. Please note that “justify your answer” means that you are required to defend your answer by giving reasons in arriving at your conclusion. This assignment is also posted on 110.380 website – so that you can download it. You must remember to attach the Honesty Declaration Form to the assignment.

[Note: Queries relating to this Assignment should be addressed to Lin Mei Tan.]

Case Study: Boney Family

The following is a summary of the family tree:

- George Boney (died in 2003) was married to Matilda (died 30/9/2008).
- Their three children are Jack, Hank and Judith.
- Jack is married to Jill. They have two children James and Jean.
- Jack was previously married to Janet who died; they had a son John.
- Judith is married to Murray.
- Hank is married to Jane.

Facts

1. Jack Boney, a New Zealand resident, aged 38 years, holds 30% of the shares in Bunings Ltd, a company that operates a hardware business employing 15 people including Jack. The company was incorporated in New Zealand.

2. The Boney Family Trust (a discretionary trust), owns 20% of the shares in Bunings Ltd. It was settled by Jack’s father George in 1996 and has a 31st March balance date.
3. Jack got most of his wealth, including his share of the company, as advances from his father, George. George gave these benefits to Jack before he died in 2003. After distributing various legacies, the will of George Boney provided for a life interest in the residue of the estate to be held for Matilda. The Public Trustee was the executor and trustee of the George Boney’s Estate. Jack, Hank and Judith were entitled to the residual capital of the George Boney’s Estate upon the death of Matilda.

4. Bunings Ltd is a loss attributing qualifying company and has a 31st March balance date.

5. Jack’s wife, Jill, works part time for Bunings Ltd. She is paid a salary of $80,000 p.a.

6. Jack has a son John (aged 17 years) from a previous marriage that ended with the death of his first wife, Janet. John earns $30,000 p.a. working at Bunings Ltd after school and during weekends.

7. Jack and Jill have two children; James (10 years) and Jean (8 years) who have no other income apart from distributions received from the Boney Family Trust.

8. Jack’s mother, Matilda, owned 50% of the shares in Bunings Ltd, but died suddenly on 30 September 2008. Bunings Ltd had paid the premiums for Matilda’s life insurance policies that had been taken out on her life and these matured upon her death.

Matilda had been employed by Bunings Ltd on a part time basis. However, prior to her death, she had the use of a car owned by Bunings Ltd and all expenses associated with this vehicle were paid by the company.

Three days before her death, Matilda gifted her debentures, valued at $20,000 to Judith, $16,000 to the Historic Places Trust and $10,000 to a political party.

9. Apart from the change in shareholding arising through Matilda’s death, there were no other changes in the shareholdings of Bunings Ltd from 1 April 2008 to 31 March 2009.

10. Bunings Ltd declared a fully imputed dividend of $70,000 on 20 December 2008. It was paid on 21 December 2008. The Matilda Boney Estate received $35,000, the Boney Family Trust received $14,000, and Jack received $21,000.

11. The trustees of the Boney Family Trust, under the powers given to them in the trust deed, resolved on 22 December 2008 to distribute a total of $10,000 of trust income between Jack’s two oldest children, John and James. Each child received a cheque for $2,500 on 22 December 2008, and the trust retained $2,500 in a personal account within the trust for each child until it was needed at a future date. A capital
distribution of $10,000 was also paid by the trustees to Jill on 22 December 2008. Jill used this payment to upgrade her car to a new model that has just been released in the market.

12. Most of the family are of a benevolent nature and enjoy making substantial gifts to others. Jack made 2 monetary gifts of $13,000 each to James and Jean in May and June 2008 respectively.

13. After Matilda’s death, Jack renounced any entitlement he has to the residual capital of the George Boney Estate as Matilda in her will, had bequeathed all her shares in Bunings Ltd to him.

14. When Judith received her inheritance from George’s estate she entered into a Relationship Property Agreement transferring some of her wealth to husband Murray, a property developer. Murray then purchased an interest in a holiday timeshare unit at Wanaka, as he intends to sell the property when the price is “right”.

15. Jack’s taxable income includes a salary and dividends from Bunings Ltd. He also has the use of a car, owned by Bunings Ltd, for business and private purposes. The car originally cost $45,000 and now has an adjusted tax value (book value) of $30,000 and a market value of $35,000. Jack does not make any contribution towards the running expenses of the car.

16. Jack and his family live in an apartment above the business premises used by Bunings Ltd. Jack owns the whole building. The ground floor is rented to Bunings Ltd for $30,000 but the true market value of the rent is $35,000.

Part of the first floor is rented at $5,000 to Jack’s brother, Hank but the true market value of the rent is $10,000. Hank is in a sole proprietorship business as an artist and uses the premises for an art gallery. His wife Jane helps him with his art gallery accounts and she is paid a salary of $20,000 p.a. Hank uses his privately owned car for his business and claims a tax deduction for using it. He bought this car five years ago. Jane also uses this car from time to time to do her grocery shopping.

The remainder of the first floor is used for a children’s amusement parlour, called the Kids’ Club. The Kid’s Club is a business owned and operated by a partnership comprising Jack and his sister, Judith. It pays the market rent of $10,000 to Jack. Judith works for the Kids’ Club partnership in a bona-fide contract of service. Judith has a business car from the partnership that is also available for her private use.

The second floor comprises two residential apartments, one occupied by Jack and his family, and the other let to his nephew Bob who uses it only for personal residential accommodation and pays rent at $50 per week to Jack, when the true market value of the rent is $150 per week.
17. Judith won first prize in a lottery of a newly built $500,000 luxury home in Taupo on 1 May 2008. She retains the prize and engages an agent to let the property for about 10 months each year, and she uses it privately for the remaining time. Judith is not engaged actively in letting or maintaining the property as her agent attends to all these matters.

18. In the year ended 31 March 2008, Bunings Ltd made a loss of $25,000. In the half-year ended 30 September 2008 (up to Matilda’s death) Bunings Ltd made a profit of $20,000 and in the half-year ended 31 March 2009 it made a further profit of $80,000.

19. Rose Ltd and Violet Ltd (are non qualifying companies) are both owned 100% by Hank Family Trust. On 5th April 2009, Rose Ltd advanced $500,000 to Violet Ltd interest free and repayable on demand.

20. Hank Family Trust invested some of its funds in various portfolio tax rate entities (PTRE) and plans to distribute the income derived from the PTRE to its beneficiaries.
Issue 1  
Since Jack Boney is a New Zealand resident, will he be taxed on all income derived in New Zealand?

CONCLUSION: .................................................................

REASONING: .................................................................

Issue 2  
Since the Kids’ Club is a partnership, will it have to pay tax on the income derived by the partnership and the fringe benefit tax on the car provided for Judith’s use?

CONCLUSION: .................................................................

REASONING: .................................................................

Issue 3  
Are all the gifts made by Matilda before her death non-dutiable gifts?

CONCLUSION: .................................................................

REASONING: .................................................................

Issue 4  
Are the dividends paid by Bunings Ltd to the Boney Family Trust and Jack tax free?

CONCLUSION: .................................................................

REASONING: .................................................................

Issue 5  
Are the distribution made by the trustees of the Boney Family Trust to the beneficiaries in December 2008, the gifts made by Jack to his 2 children of $13,000 each, and the transfer of relationship property from Judith to Murray all non-dutiable gifts?

CONCLUSION: .................................................................

REASONING: .................................................................
Issue 6  Is there a way in which Jack can direct the trustee of George Boney Estate to distribute the trust property differently to what has been set down in his father’s trust deed?

CONCLUSION: ………………………………………………………

REASONING: ………………………………………………………

Issue 7  Will the supply of the motorcars by Bunings Ltd to Jack and his mother Matilda (before her death) be regarded as deemed dividends and the expenses incurred in providing the cars tax deductible?

CONCLUSION: ………………………………………………………

REASONING: ………………………………………………………

Issue 8  Will the rental income derived by Jack from Hank and from his nephew Bob be treated as inadequate rental by the IRD for income tax purposes?

CONCLUSION: ………………………………………………………

REASONING: ………………………………………………………

Issue 9  Can Jack and Judith claim a deduction for any revenue expenditure incurred on the rental properties against the rental income?

CONCLUSION: ………………………………………………………

REASONING: ………………………………………………………

Issue 10  Is Hank liable to pay Fringe benefit Tax since he and his wife use his car for both business and private purposes?

CONCLUSION: ………………………………………………………

REASONING: ………………………………………………………
Issue 11  
Can Bunings Ltd set off $20,000 of the losses for the year ended 31 March 2008 against the profits of the company for the year ended 31 March 2009?

CONCLUSION: ____________________________________________________________

REASONING: ____________________________________________________________

Issue 12  
Will the income derived from future land sales transactions made by Boney Ltd, Jack or Judith be taxable?

CONCLUSION: ____________________________________________________________

REASONING: ____________________________________________________________

Issue 13  
Will the salary payments of $80,000 to Jill and $30,000 to John be considered an excessive amount by the CIR?

CONCLUSION: ____________________________________________________________

REASONING: ____________________________________________________________

Issue 14  
Is it correct to tax the $2,500 received by John and James at their individual marginal tax rate and the other $2,500 retained by the trustee in each of their personal account at the trustee rate?

CONCLUSION: ____________________________________________________________

REASONING: ____________________________________________________________

Issue 15  
Are the premiums paid by Bunings Ltd on Matilda’s life insurance policy, which was owned by Bunings Ltd tax deductible, and are the proceeds received from the policy tax free?

CONCLUSION: ____________________________________________________________

REASONING: ____________________________________________________________
**Issue 16**
Will the interest free loan from Rose Ltd be regarded as a dividend for Violet Ltd and also considered as a dutiable gift?

**CONCLUSION:** ………………………………………………………………………

**REASONING:** ………………………………………………………………………

**Issue 17**
Can the trustee of Hank Family Trust elect a prescribed investor tax rate for the trust of 19.5% being Hank’s marginal tax rate so that the beneficiary income is regarded as excluded income for income tax purposes?

**CONCLUSION:** ………………………………………………………………………

**REASONING:** ………………………………………………………………………
Honesty Declaration

- I declare that this is an original assignment and is entirely my own work.
- Where I have made use of the ideas of other writers, I have acknowledged (referenced) the source in every instance.
- Where I have used any diagrams or visuals produced by others, I have acknowledged (referenced) the source in every instance.
- This assignment has been prepared exclusively by me for this paper and has not been and will not be submitted as assessed work in any other academic paper.
- I am aware of the Code of Student Conduct on the Massey University web site http://calendar.massey.ac.nz/statutes/dr.htm, clause 2 (f), wherein it states [Students shall] “act with honesty and integrity in submitting material or imparting information to the university”. Assessment & Examination Regulations clause (6) clarifies further that “dishonesty” is a breach of the Code of Student Conduct and will be dealt with accordingly.