

**WESTERN SYDNEY
UNIVERSITY**



TAXATION LAW LAWS3070

Autumn 2022

TAKE-HOME EXAM

**Due Date: Monday 16 May 2022,
5:00 PM**

Assessment Value: 30%

Word Length: 1750 words

**Assessment Criteria: See Learning
Guide**

IMPORTANT NOTES:

- 1) Please read the FAQ posted under the Assessment Information tab in vUWS.
- 2) The exam consists of two (2) questions.
- 3) Questions 1 and 2 are worth 15 marks each.
- 4) You are required to answer both questions.
- 5) An exam exceeding the prescribed word length will incur penalties (viz., deduction of marks for excessive length). See Learning Guide and FAQ
- 6) All answers must be supported with references to relevant legislation, caselaw and/or tax rulings
 - a. Your textbook is only a secondary source of information. Preferably, you should instead rely on *primary sources* (eg, actual sections in the legislation, reported cases, tax rulings, etc)
- 7) The exam must be submitted via Turnitin (which can be located in the Assessment Information tab on vUWS) and must not include a coversheet.
- 8) This assessment is an Exam and therefore must be attempted alone. Students are reminded of the [Student Honour Code](#).
- 9) No late submissions can be accepted.
 - a. Students who do not submit either a Take Home Exam on time or lodge a successful special consideration are at risk of a FNS grade for the unit even if they receive an overall mark of more than 50%.

QUESTION 1 – Residence and source (15 Marks)

Mitchell is an architect and has travelled to Australia from France for a four-month work assignment in March of 2021. Mitchell has been in a relationship for six months with April, his high school sweetheart. Due to work commitments April has not accompanied Mitchell on his trip to Australia. Mitchell's employer has agreed to pay for his hotel accommodation and living costs in addition to his salary for the initial four months. Mitchell is based in Sydney but has made many short trips to Brisbane QLD to visit a few distant relatives.

On completion of the four months assignment, Mitchell's employer has asked him to stay an additional twelve months. Mitchell accepts and arranges for his girlfriend; April, to fly to Sydney to help him negotiate a twelve-month lease on an apartment close to his work. April was pleased to secure a lovely apartment with water views and has arranged with her employer to work from Australia for a trial period of three months with a possibility of extending this period if the trial is successful. Mitchell is thrilled to be joined by his girlfriend but is a bit hesitant to be living so close to water as he does not have any swimming skills. Mitchell has signed up to a twelve month adult swimming course to improve his water skills.

During the 2022 financial year Mitchell travels home twice to see his parents and siblings on both occasions leaving for a four-week period. Mitchell loves being in Australia but at times he does get home sick and is looking forward to returning home one day. However, he finds working on the architectural project rewarding and has agreed to his employer that he will see out construction of the building. The building is expected to be finished in June 2022. April's employer is pleased with how she performed during the trial period and has extended the arrangement until she is ready to return but not longer than 24 months.

Required: Discuss whether and when Mitchell is a resident of Australia for tax purposes? Your answer should include a discussion about timing, and include references to relevant tax legislation cases or rulings. You are not required to identify if April is a resident.

QUESTION 2 – FBT Calculation Question (15 Marks)

Chris is a full-time salesman employed by King; a forklift rental company located in Western Sydney which specialises in the rental and maintenance of a large fleet of forklifts and cranes. On 1 October 2021, King supplied Chris with a new car. The car cost \$50,000 excluding GST to purchase \$55,000 including GST and is garaged at Chris' home on most nights. King also provided Chris with a leather compendium valued at \$250 that allows him to take notes while meeting potential customers.

To date, King has paid \$1,100 for maintenance and repairs of the car, \$700 for its registration and \$1,200 for insurance. Chris has paid \$2,000 in fuel expenses. Chris also keeps all invoices, receipts, and odometer readings. The car needed to be returned to the manufacturers for warranty repairs from the 1st to the 10th of January 2022.

By 30 March 2022, Chris had travelled a total of 10,000 kms in the car, with 5,000 kms being for private use. The deemed depreciation in respect of the car for the 2022 FBT year is \$7,963.

On 1 September 2021, Chris sustained a sports injury and King lent Chris \$20,000 to cover his out-of-pocket therapy costs. This loan was an interest free loan which Chris agreed to repay by the following year. On 1 January 2022 Chris was advised that the loan had been waived out of good faith and he no longer was required to pay it back.

King is unsure how the above will be treated for taxation purposes and has come to you for advice.

Required: By reference to legislation and relevant case law (if any), calculate the total FBT liability for the car, compendium and the loan.

END OF EXAMINATION