



## TACKLING LAW EXAMS

### Use this sheet to help you:

- Formulate an effective approach to sitting law exams.

### 5 minute self test

Should non-law students studying law subjects approach a law exam differently to law students?

## Exams in context

Ideally, a good law examination tests how well a student has understood and indeed mastered the course material.

For a non-law student studying law, law examinations (amongst other things) seek to gauge a student's ability to apply this knowledge to novel situations, deal with time pressure and develop effective written communication skills that can be applied in practices.

While the above is also true for a law student, law examinations have an added dimension of developing legal writing skills that may be transposed to drafting briefs, writing law office memoranda, and writing and interpreting judicial opinion.

Developing proper skills of exam writing will have, therefore, permanent returns for both law students and non-law students alike.

## So, where do we start?

This helpsheet aims to provide students with some subtle tips to approaching a law exam, including highlighting some common strengths (on the one hand), and traps or oversights (on the other) that many students frequently stumble across.

Being alert to these potential pitfalls will result in improved examination results.

## Preparing for a law exam

For an outline of techniques to prepare for a law exam, see the helpsheet *Preparing for law subjects and law exams*.

## The exam

There are a number of approaches that can be used to address a law exam. The most common is "IRAC" – Issue, Rule, Application, and Conclusion. However, applied too rigidly, this approach does not produce a well-written exam answer.

An answer should be well thought through. In other words, it should read almost as it is spoken – seamlessly.

## Answering a Tax Law question – suggested method

When answering a question, it may be useful to implement the following approach:

### MAIN HEADING

Identify the relevant **parties** (e.g. in a taxation law exam, this may be the taxpayer/s) – This may be a main heading.

### SUBHEADING

Identify the **transaction/subject-matter** (e.g. an item, service or scenario) – This will establish a relevant subheading.

### YOUR ANSWER should be under each subheading

- **Issue** – Identify the issue.
- **Rule** - Identify the relevant law(s).
- **Application** – Discuss the relevant rule(s)/law(s) by applying them to the facts.
- **Conclusion** – Round-off your discussion by forming a conclusion. Where a conclusion cannot be drawn, for example because of insufficient information, then identify what further information may be required.

Your answer should be written in FULL sentences (NOT dot-points). Refer to the example on the next page.

## Example

This example is derived from a taxation law question focusing on Goods and Services Tax (GST), where "X" is the taxpayer. The question involves the sale (i.e. supply) of a desk, where X is registered for GST.

X	Taxpayer (main heading)
Desk	Transaction (sub-heading)
The issue is whether the sale of a desk by X (i.e. the taxpayer) amounts to a taxable supply. In order to be a taxable supply, certain criteria under GSTA Div 9 must be met (identify these and their corresponding sections). In applying the above rules,	Issue
there is a supply of an item under GSTA s 9-10 being the desk, there is consideration, pursuant to GSTA s 9-15, that is provided by a customer in the form of cash, X is registered for GST and is therefore a relevant entity under GSTA Div 23, X is supplying the desk in the course of running a business under GSTA s 9-20 and the desk is supplied in Australia, pursuant to GSTA s 9-25. It appears that all 5 criteria are satisfied and, therefore, the supply of the desk is a taxable supply. Pursuant to GSTA s 9-75, X must charge GST and remit 1/11 of the price of the taxable supply to the ATO.	Rule/s
	Application
	Conclusion

Remember, that this is a suggested approach only (not a prescribed or compulsory approach), and you or your lecturer may indeed prefer you to adopt another approach.

## Common “Traps”

### Poor time management

Law exams can vary between 1.5 hours and 3 hours, and often comprise multiple questions.

If you know the number of questions prior to the exam, consider planning to allocate only a specific amount of time to each question. Ideally, it is a good idea also to leave around 10 minutes spare at the end of the examination to proof-read your answer.

### Lack of organisation

One of the most common mistakes is to fail to organise an answer well. Answers that lack thought and structure often overlook issues and connections between issues.

This helpsheet provides an example of how to organise an answer, but it should be remembered that there is no one ultimate scheme of organisation.

### Read the instructions

Students often fail to pay attention to the exam instructions. This could be as simple as using pen and not pencil (which can smudge or be illegible), writing double-spaced, not performing calculations or performing calculations.

### Read the facts

Remember, prior to organising your answer, it is important that you know what you are in fact organising. Avoid merely skimming over the facts, and launching into writing without structuring your answer first. A good approach is to read the question once to form a general idea of the facts, parties, issues; and then re-read the question with care.

What the question asks of you can influence the structure that you adopt – e.g. calculations to be performed, written response, or combination of both. Be mindful also of sifting through the dense facts presented in a question so that you focus on answering the question, and do not get caught up on tangential matters.

Ask yourself: “Why is this fact being told?” “Why this date?” “Why these parties?”

## Writing for the sake of writing

Further to the above point, do not just write for the sake of writing. Remember, marks are not awarded for *quantity* of words. It is the quality of the exam paper answer/s that matters.

Avoid regurgitating the facts and copying out slabs of legislation (i.e. statute), case law or lecture notes. Marks are awarded for application of the relevant law to the facts, and for due thought.

## Creative Facts

When under exam pressure, it can be tempting to invent facts. This is also a trap students fall into particularly in open-book exams, where they may have a pre-written answer to a question with similar facts. Your examiner will not award marks for this.

Remember, if you know your material, have a good structure or outline to address the exam question, and have read the question and facts properly, then marshalling facts should not arise.

## Issue spotting and beyond

Once you identify an issue in question, or that a rule, doctrine or a statutory section applies, then ask yourself:

- Are there any implications or ramifications for parties?
- Are there present or future difficulties raised?
- Can the rule be distinguished or should it be modified and why

Sometimes an issue presented may not fit into a present rule of law. Such subtleties are often present in questions to see whether students can distinguish facts, or present two different arguments or opinions.

Essentially, it is important for you to identify which facts give rise to an issue and how the issue affects the rights of the parties.

## Rules and Cases

When you raise or refer to a rule, always remember to acknowledge its source (e.g. statute or legislative provisions, case names, and judgements).

Sometimes, professors and lecturers may prefer you to **cite full references**, or may allow **abbreviated citations or references**.

For example:

	<b>Case</b>	<b>Statutory provision</b>
<b>Full citation</b>	Calvert v Wainwright (1947) 27 TC 475	A New Tax System (Goods and Services Tax) Act 1999 (Cth) s 9-5
<b>Abbreviated citation</b>	*Calvert	GSTA s 9-5

## Application, not copying

One shortcoming of students is the tendency to repeat the contents of lecture or course material, as well as case outcomes, or statutory provisions.

It is important to remember that you are examined on the use or application of the knowledge learnt, not whether you fill the exam script book. In other words, quality not quantity. Remember that you are not required to discuss every single aspect or issue that could arise from the facts presented in the exam paper.

A stronger student may go beyond the application of relevant law to the facts, and utilises knowledge learnt such as raising potential future issues with the present state of the law, or need for reform. Mastering this comes down to not only knowing your material, but personal inquiry into seeing different facets of a problem and, of course practice, practice and more practice of questions provided to you throughout the semester.

## Advocacy and resolution

Legal analysis often presents a “grey” field. In other words, there may be more than one side to an issue – often which presents opposing positions. This is a good thing – from an examiner’s perspective, at least.

Where you do identify more than one way to discuss an issue, then certainly do so. In other words, seek to master the technique of arguing in the alternative. The degree or depth to which students discuss an issue (i.e. how relevant rules apply to the facts) can often depend on time management and allocation.

So, once you have identified and discussed the different views, how do you know which is “correct”? A good examination answer suggests not only the preferred solution, but it seeks to develop both sides of the problem. Do not avoid issues that the facts invite you to elaborate on or discuss.

Deciphering which result or outcome is best depends on your application of the relevant rules (e.g. law) to the facts, and a strong exam answer may highlight why weight is attached to a certain outcome as opposed to another. It is not preferable (unless the exam question or facts are unclear), to leave an answer “up in the air” by merely stating that “these doctrines may apply”.

## **Going a step further: policy questions**

Sometimes, an examiner may raise a question about a legal issue in general that prompts students to provide an opinion. For example, “Do you agree with the outcome of such-and-such a case, and why?”

Often such questions catch students by surprise in an exam, as providing “opinion” or “comment” may be outside one’s comfort zone. Yet, often policy questions are raised and discussed throughout the semester, so it may be important to pay close attention to themes or topics raised. It is often helpful to discuss these issues throughout the semester in study groups, and/or take up the opportunity to actively participate in lectures by providing comments.

The beauty of answering a policy question is that there may be no right or wrong answer. Rather, the examiner is looking to see how well you can apply the knowledge acquired to a broader question not limited to a particular factual setting. With such questions, it is important that you justify the position you take by asking yourself, for example: “Why am I forming this opinion? On what basis? How relevant is my opinion in the present year? Are there changes in the law that have been discussed and are these relevant?”