

EXAMINATION FOR THE DEGREE OF M.SC IN TAXATION

REPORT OF THE BOARD OF EXAMINERS FOR 2017-2019

1. Introduction

This report contains a brief commentary on various central aspects of the second cohort of examinations, and raises any points which the Examiners believe may be important for those who have oversight of the examination of MSc Taxation candidates in future years.

2. Timetable

Candidates are required to complete nine courses over two years – three compulsory courses and six elective courses. The norm is for candidates to take five courses in Year 1 and four in Year 2. With permission, they may take four courses in Year 1 and five in Year 2 or six courses in Year 1 and three courses in Year 2.

With permission, a 12,000 word dissertation in lieu of two elective courses is also available.

The assessment regime involved the writing of an extended essay for the Tax Research Round Table course and an examination held in Oxford for the Tax Principles and Policy course. The remaining courses employed one of the following two options for assessment: (i) two 3,000 word essays or (ii) one 3,000 word essay and one case study or problem question of similar length.

All assessments were submitted electronically via WebLearn.

The courses are split into groups with three deadlines throughout the year (February, May and September). In both 2017-18 and 2018-19, candidates had at least eight weeks to write and submit their assessments.

3. Statistics

Attached as Appendix 1 are the number of entrants, distinctions and passes. This is the 2nd cohort of students to complete the MSc in Taxation.

Seven of the twenty-nine candidates received a distinction (24%) and twenty-two received a pass (76%). This is lower than in 2018, when ten of the twenty-nine candidates received a distinction (34%) and seventeen received a pass (59%).

Four males, out of twenty-one males studying the MSc in Taxation, obtained a distinction (19%). This is lower than in 2018, when eight out of twenty-one males received a distinction (38%).

Three females, out of eight females studying the MSc in Taxation, obtained a distinction (38%). This is more than in 2018, when two out of eight females received a distinction (25%).

There are fewer females completing the degree and this is evident in the degree classifications. The Admissions Committee are continuing to try and recruit more females to complete the degree.

Attached as Appendix 2 are the marks distribution between the courses in 2017-2019. Although electives are open to both year groups, the statistics only refer to candidates who started in 2017 and graduated in 2019.

Due to the small size of EU Tax and Law (in 17/18), Value Added Tax (in 17/18) and Taxation of Global Wealth (in 18/19) the marks distributions have not been included.

4. Turnitin

Turnitin software was used to check for plagiarism on all assessed essays. Candidates submitted electronic copies of their essays via WebLearn which automatically checked the essays through Turnitin. Results were provided to the Chair of the Exam Board. This did not lead to any concerns about suspected plagiarism.

5. Plagiarism and late submission of essays

There were no occasions when an assessed essay written by a candidate was referred to the MSc in Taxation Chair of Examiners or Proctors as a result of suspected plagiarism. Candidates do receive guidance on the issue of plagiarism to ensure they are clear on what good academic practice looks like for the purpose of assessed essays.

Fourteen essays were submitted after the stipulated deadline. The Proctors excused the lateness of two of these essays and no academic penalty was applied. The Proctors rejected the application to excuse the lateness of six of these essays and an academic penalty was applied in accordance with the established conventions. The examiners were authorised to mark the six remaining essays and to apply the academic penalties in accordance with the established deadlines.

The Proctors granted four candidates extensions of the deadline for one or more courses for the submission of assessed work.

6. Setting of papers

The MSc in Taxation Board of Examiners reviewed all draft papers carefully via the secure WebLearn site, making text changes for clarity and consistency as required and referring queries back the setter, which were then discussed and resolved.

7. Information given to candidates

The MSc in Taxation Examination Conventions for 2017-18 and 2018-19 were emailed to all candidates and made accessible on the MSc in Taxation WebLearn site for all candidates to view.

The MSc in Taxation Notice to Candidates' for 2017-18 and 2018-19 were emailed to all candidates and made accessible on the MSc in Taxation WebLearn site for all candidates to view.

8. The written examination

The Tax Principles and Policy exam was organised for the first day of the January residential course so that all students would be in Oxford. In 2017-18 the exam was in week 0 of Hilary term at the Examination Schools.

The exam ran smoothly. The setter attended the start of the examination. No questions were raised by candidates.

One candidate received permission from the Proctors to sit the exam later as if for the first time. This was in week 10 of Trinity term at the Examination Schools.

9. Materials provided in the examination room

Candidates were provided with extracts from tax legislation in the written exam.

10. Illegible scripts

No candidate had an illegible examination script needing to be typed in 2017-19.

11. Marking and remarking

Scripts and essays were marked and where appropriate were second marked in accordance with established practice as set out in the MSc in Taxation Examination Conventions, with final marks agreed between the two markers before the Exam Board meeting.

Results were released during the two years, following interim Exam Board meetings.

13. Mitigating Notice to Examiners and Special Examination Needs

Three candidates submitted a Mitigating Notice to Examiners.

All notices were considered under the procedures set out in the Examination Regulations for the Conduct of University Examinations, Part 13. All decisions were recorded and all candidates were notified of the outcome.

No candidates requested adjustments under Examination Regulations for the Conduct of University Examinations, Part 12.

Thanks

The Examiners would like to conclude by expressing their thanks to all assessors and in particular to the External Examiner, David Salter, for his helpful advice and judgement, and to Hannah Porter for her exemplary administrative support.

E. Simpson (Chair)

M. Devereux

G. Loutzenhiser (MT & LV)

J. Freedman (HT19 and TT19)

D. Salter (External)

Appendices to the report:

Appendix 1: Statistics for the MSc 2017-2019 Examinations

Appendix 2: Marks Distributions

Appendix 3: MSc Taxation Course Prizes

Appendix 4: Reports on Individual Papers

Appendix 5: External Examiner's Report

APPENDIX 1:
STATISTICS FOR THE MSC TAXATION 2017-19 EXAMINATIONS

	2019						2018					
	Male		Female		Total		Male		Female		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Dist	4	19	3	38	7	24	8	38	2	25	10	34
Pass	17	81	5	63	22	76	11	52	6	75	17	59
Fail	0		0		0		1	5	0		1	3
Incomplete	0		0		0		1	5	0		1	3
Total	21		8		29		21		8		29	

N.B. All percentages have been rounded to the nearest whole number, which may result in the overall percentage result totally 99 or 101 instead of 100.

APPENDIX 2:
FINAL MARKS STATISTICS, MSC TAXATION 2017-19
MARKS DISTRIBUTIONS, AS PERCENTAGES

Paper name	Avg. Mark	No. Sitting	Mark rangers (%)					
			49/less	50/54	55/59	60/64	65/69	70/over
2017-18 Core Courses								
Tax Principles and Policy	66	30			13	13	37	37
Principles of International Taxation	65	28			4	46	43	7
2017-18 Electives								
EU Tax Law*		1						
Value Added Tax*		2						
Comparative Corporate Tax	67	7				29	43	29
Tax Treaties	68	17				29	18	53
Comparative Tax Systems	67	3			33			67
Tax and Public Policy	66	4				25	50	25
Taxation of Global Wealth	61	6			50	17	33	
Transfer Pricing	67	14				21	50	29
Tax and Human Rights	66	4				50	50	
Tax and Accounting	67	7				14	43	43
Current Issues in Taxation	68	16				13	38	50
2018-19 Core Courses								
Tax Research Round Table	66	28				36	36	29
2018-19 Electives								
EU Tax Law	66	7				14	71	14
Comparative Corporate Tax	68	6				17	67	17
Taxation of Corporate Finance	67	20				10	70	20
Tax Treaties	66	5				20	60	20
Tax and Public Policy	67	12				8	58	33
Dissertations	68	5				20	40	40
Taxation of Global Wealth*		1						
Transfer Pricing	68	4					75	25
Ethical Issues in Tax Practice	67	5					80	20
US International Tax	68	16				6	69	25

*Due to the small class size of EU Tax Law, Value Added Tax and Taxation of Global Wealth, the results have not been recorded.

N.B. All percentages have been rounded to the nearest whole number, which may result in the overall percentage result totalling 99 or 101 instead of 100.

N.B. The statistics only refer to candidates who started in 2017 and graduated in 2019.

APPENDIX 3:
MSc in Taxation course prizes

2017-18	
Course courses prizes	
Tax Principles and Policy	Charlotte Soman, Christ Church
Principles of International Taxation	Marcel Roche, St Hugh's
Elective Prizes	
EU Tax Law	Thomas Gernay, St Anne's
Value Added Tax	Adrian Gaina, St Anne's
Comparative Corporate Tax	Kate Shearer, St Anne's
Tax Treaties	Tom Ickeringill, Christ Church
Comparative Tax Systems	Paul Brice, St Hugh's
Tax and Public Policy	Kyran Thomas, St Hugh's
Taxation of Global Wealth	Kyran Thomas, St Hugh's
Transfer Pricing	Valentina Telushkina, Harris Manchester
Tax and Human Rights	Dan Lambeth, Christ Church
Tax and Accounting	Brian Wright, Kellogg
Current Issues in Taxation	Charlotte Soman, Christ Church
Best performance by a non-degree student	Tom Roth, Sydney University
2018-19	
Core Courses	
Tax Research Round Table	Jean Morcos, St Anne's
Electives	
EU Tax Law	Dominic Foulkes, Harris Manchester
Comparative Corporate Tax	Catherine Richardson, St Hugh's
Taxation of Corporate Finance	Brian Wright, Kellogg
Tax Treaties	Joel Emery, Harris Manchester
Tax and Public Policy	Brian Wright, Kellogg
Taxation of Global Wealth	Dominic Foulkes, Harris Manchester
Transfer Pricing	Joel Emery, Harris Manchester
Ethical Issues in Tax Practice	Byron Thomas, Harris Manchester
US International Tax	Matt Andrew, St Anne's
Best overall performance in the MSc in Taxation	Tom Ickeringill, Christ Church

APPENDIX 4: **Reports on Individual Papers**

1ST and 2nd year students attend the same electives. Therefore, the figures in the below reports may not match the statistics provided in appendix 2, which only provides statistics for candidates who started in 2017 and graduated in 2019.

2017-18

Tax Principles and Policy examination

29 students sat this paper in January 2018. 11 were awarded distinctions, a further 11 obtained marks of 65 and above and 4 obtained marks between 60 and 64. No-one received a mark below 55. As these marks indicate, a number of students showed a very pleasing understanding of the materials studied. The best papers showed that those students had done a considerable amount of reading on the core and foundational concepts studied in the course and were capable of constructing logical and tight arguments, addressing the question asked.

However there were some students who did not focus on the question asked sufficiently and their marks suffered as a consequence. In some cases it appeared that a student might have written an essay for their formative assessment and then was keen to repeat that essay, but the questions asked in the examination were obviously different and the wrong question was being answered. Even though the topic might have been the same, the treatment required was different.

Some students seemed to make their own lives difficult by not having taken sufficient notice of the reading lists and PowerPoint slides provided (and on which lectures were based), which should have been a good guide to the focus of the examination. Some students who did less well based their answers on their personal opinions without drawing enough on the readings and examples drawn from the course, or any other reading: it was simply unsubstantiated opinion. Some gave only general propositions with no concrete examples. Others failed to build their arguments carefully enough to allow their thinking to be followed. At times the case list provided in the exam seemed to be a distraction, with students trying to fit in cases on the list that were not relevant. The list is supposed to be an aide memoire, but it is not necessary to mention every case on it, relevant or not.

All questions were attempted but only 2 people answered question 3, based on a Murphy and Nagel quote. 17 students answered the question on the GAAR, with answers ranging from the somewhat confused, through very descriptive standard descriptions on the GAAR and the surrounding case law on avoidance, through to the very best answers which addressed the quote in the question and either supported it or took issue with it. To obtain a distinction mark the third approach was required.

Fairly even numbers of students addressed all the other questions. Answers to question 4 on horizontal equity could become vague, but the answers obtaining good marks used examples, as the rubric required.

A final point is that, while it is helpful to cite literature wherever possible, putting the name of the teachers on the course in brackets after every statement, however basic, is not particularly helpful or impressive, unless they have actually written on the topic, which they might have done.

On the whole, the results of this examination showed that students had studied well and obtained a good background for their further studies.

EU Tax Law

As in 2016-17, the EU Tax Law exam incorporated two types of questions.

Question 1 invited students to carry out legal analysis of the judgments delivered by the Court of Justice of the European Union in two specific contexts which were studied during the course. Students were offered a choice between two lines of cases to demonstrate consistency (or inconsistency) arising from the case law. Generally, all students answered this question well. Common mistakes included answers which did not fully address the question asked. Such answers would discuss the relevant line of cases, whilst disregarding the specific angle from which the analysis needed to be carried out. It is important that students read carefully what exactly they are asked to discuss, e.g. consistency, clarity, gaps, etc., and focus on that particular aspect. Another crucial aspect which allowed some students to obtain a distinction-level mark was the ability to demonstrate knowledge of relevant cases beyond landmark rulings.

Question 2 was an essay-type question. Students were asked to address a topical policy issue. There are two key challenges in answering this type of question. First, students need to read the statement cited in the question carefully and formulate a clear opinion as to the answer to be provided. Second, due to the word limit, students need to select the arguments which will be relied upon to defend the position chosen. The students who obtained a distinction-level mark for this question were able to pick persuasive arguments and put them forward in an analytical manner. Lower grades were given for mostly descriptive answers.

Value Added Tax

The examination for the module required the students to answer two questions, namely one essay (question 1) and one problem question (question 2). The marks were on the whole, very good, with no final marks below 60.

- Six students scored between 60 and 69
- Two students scored 70 or more.

As it would be expected there was no clear trend as regards the marks on each of the questions: some students scored better on the essay-type question, others had better marks on the problem-question. Going forward this indicates that a mix approach to assessment was successful, catering for different strengths amongst the students.

Comparative Corporate Tax

This exam attracted 14 candidates. Five candidates received a distinction and the rest were passes. Generally, candidates demonstrated no difficulty with the material. The comparative nature of the course meant that candidates could demonstrate their ability by reference to different tax systems depending on relevance to the candidate's own circumstances. The group as a whole was very impressive with candidates showing particular skill in identifying and discussing conceptual issues. There was also confidence in illustrating discussion with practical examples of what countries actually do.

The exam was divided into two essay questions and two problem questions. Candidates generally preferred the essay questions with 17 answers to essay questions and 11 to problem questions. The core object of the course is to develop in candidates an ability to identify corporate tax issues at a conceptual level and relate them to what countries do in practice. All candidates showed that they

had developed this sort of skill, with no candidate missing entirely the point of a question. Especially with essay questions candidates need to keep the discussion focused on the question that is asked, not the question that the candidate wished the examiner had asked.

Principles of International Taxation

27 MSc in Taxation students submitted an essay for the course “Principles of International Taxation”. The overall results were satisfactory: 2 marks over 70, 11 between 65 and 69, 14 between 60 and 64.

Students who received the highest marks were able to clearly identify the scope of the question and use a logical structure to support their argument. Their essays covered all the relevant legal and economic issues that were raised in the essay or problem question. For example, for Part A, Question 1, the best answers were well structured: they rephrased the question that was asked and clearly introduced the core concepts used to assess how well the international taxation of profit meets the objective of economic efficiency and fairness. For Part A, Question 2, the best essays paid acute attention to the revenue rule, the taxation of the indirect disposal of assets as well as the role of provisions on the assistance in the collection of taxes in double tax treaties and their (potential) retroactive application.

In the best essays, the relevant literature has been used to highlight different lines of arguments and support the position taken by the student. In these essays, the students clearly distinguished between their opinion and the ideas that they borrowed from the literature. Moreover, the students who received high marks were able to underline the differences and similarities between the question asked and the relevant case-law.

Tax Treaties

In total 17 MSc in Taxation students submitted the summative assessment assignments for Tax Treaties. As in the previous year, students were required to answer one essay (from a choice of two) and one problem question. The standard was very high overall, with 9 marks awarded over 70%. The problem question raised a large number of major and minor issues related to source taxation, including whether a permanent establishment existed under various factual scenarios. The best answers identified the relevant issues and analysed them using the facts provided and referred to the relevant Treaty provisions, Commentary and case law, taking into consideration both the 2014 and 2017 versions of the OECD Model Convention (as directed by the question). Students were offered the choice of writing an essay either on the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) or the Authorised OECD Approach (AOA) to attributing profit to permanent establishments. The MLI essay was slightly more popular with students and in general the answers to that question were a little stronger than the essays on the AOA. The best essays showed clear structures behind the answers, engaged with relevant academic literature as well as OECD material and had applied the knowledge carefully and specifically to the specific questions posed.

Comparative Tax Systems

12 students submitted papers for this course. There were 5 distinctions, and 5 students obtaining marks of 60 or more. The other two papers were in the top half of the 50 range. Thus the overall standard was good.

The course provided a framework for the study of tax systems in a comparative way. It was intended that the students should use the literature and methods of comparative study to which they had been

introduced as a jumping board for further research in their own or other jurisdictions. The questions were widely drafted to allow for this exercise. Question one was compulsory and required students to consider the difficulties of comparative tax studies in the context of examples from the course. There was a choice between questions 2 (tax simplification in more than one jurisdiction) and 3 (taxation of capital gains in a range of jurisdictions).

The best answers used this opportunity well and provided original analysis as well as more descriptive material, ensuring that their answers engaged with the specific requirements in each question to consider a number of jurisdictions. Students who gave competent answers but either did not explore far beyond the textbook and lectures or were too descriptive in their approach obtained marks in the 60s. Where good examples were not used, especially if there was a focus on one jurisdiction to the exclusion of others, or if material had been misunderstood, marks were lower. The best students had gained a very good understanding of comparative tax systems.

Tax and Public Policy

The summative assessment for this course was two 3,000 word essays. Students were given two essay questions to answer with no choice. However, the first question effectively provided students with a wide choice: students were asked to choose, briefly describe and evaluate any tax of their choosing. The second was a direct question on whether the return to savings should be taxed.

12 students submitted essays in all. The average mark was 66.8. 8 students were awarded marks between 60 and 69, and 4 were awarded marks of 70 and above.

Students performed noticeably better on the first question than the second.

For the first question: The average mark was 69.2. 6 essays were awarded marks between 60 and 69, and 6 were awarded marks of 70 and above.

For the second question: The average mark was 64.5. 11 essays were awarded marks between 60 and 69, and no essay was awarded marks of 70 and above.

The examiners were generally pleased with the overall quality of the essays for this course. We were particularly pleased with the performance on the first question, as students produced interesting, informed and thoughtful essays on a wide variety of taxes from a range of different countries. We were happy to see that students undertook a structured analysis of the tax they chose, carefully separating out different issues (e.g. efficiency, fairness, administrability, etc.) as taught on this course. We were somewhat disappointed with the overall performance on the second question. Admittedly, this was a difficult question, and while the answers were broadly good they were not of first class quality.

Taxation of Global Wealth

Question 1:

- 1 Most candidates discussed the options for CGT and IHT reform reasonably well. Better ones considered a wider range of taxes including Council Tax, stamp duty, land taxes and wealth tax.

- 2 Few answers discussed how to identify wealthy people and their assets or looked in any detail at connecting factors. Even fewer attempted to deal with how to tax trusts and other entities despite the specific request in the question.
- 3 Ideas suggested for reform were not always tested critically.
- 4 Very little was said about the impact of EU law e.g. on an exit tax or the difficulties in taxing wealth produced by tax haven countries.

Question 2:

- 5 Many candidates could set out the statutory residence tests reasonably well (although a few still got the law wrong – common errors were on the 90 day tie and muddling home and accommodation tie) and at least half the answers identified the temporary residence rule. However, surprisingly few were able to apply the law to the particular set of facts that had been given, even if they had stated the law correctly, and some people made up new facts to accommodate the answer they wanted to give.
- 6 A common fault was not to answer the question being asked or not to use the information actually given. For example, question C focused on the tax issues if the structure remained unchanged but many replies discussed the position on sale or winding up of the structure.
- 7 The last question on domicile was most variably answered. Some candidates set out the law well but then failed to apply it to the particular facts taking into account the client's age, length of time in the UK, intentions, family connections etc. A couple of candidates gave very good answers (although came to differing conclusions!) on the relevant points to note and how to test whether someone had acquired a domicile of choice. Candidates who cited case-law and applied it logically did better than those who made vague statements about the law of domicile without proper analysis of the facts.

Transfer Pricing

Candidates were asked to complete any two out of a possible three essay questions. Q1 asked candidates to discuss and evaluate the BEPS response to concerns relating to the use of the arm's length principle (ALP) in international tax planning. Q2 required candidates to analyse the advantages and disadvantages of the Authorised OECD Approach (AOA) as compared with the pre-AOA approach to profit attribution. Q3 concerned corporate tax issues raised by "digital" business and the suitability of Articles 7 and 9 of the OECD Model Tax Convention to tax digital business. The responses reflected a reasonable distribution over the three questions, with 20 scripts on q.1, 12 on q.2 and 20 on q.3. The answers to the questions were generally of a good standard and showed a clear grasp of the main issues raised by the questions. No essay was assigned a mark less than 60. There were some excellent essays; approximately 25% of the essays gained a mark of 70 or more. Better essays engaged in greater depth with the relevant OECD material as well as with literature in addition to the main textbook.

Tax and Human Rights

The summative assessment for this course consisted of two 3,000 word essays.

The exam paper contained six questions divided into three sections (A, B and C), with two questions in each section. Students were asked to choose two questions, but the questions had to be from separate sections.

9 students submitted essays in all; the average was 67.23. 7 students were awarded marks between 60 and 69, and 2 were awarded marks of 70 and above.

All six questions were attempted. 4 students attempted question A1, 3 students attempted question A2, 1 student attempted question B1, 5 students attempted question B2, 3 students attempted question C1 and 2 students attempted question C2.

We were generally pleased with the overall quality of the essays for this course, although we would have hoped for a few more first class essays. The better essays answered the question asked directly, with engaging and sustained argument, while displaying a good use of secondary resources and/or understanding of the relevant cases.

No concerns about plagiarism were raised.

Tax and Accounting

All 13 candidates in Tax and Accounting were asked to answer question 1 and then could choose to answer either question 2 or 3. The compulsory question 1 asked candidates to analyse the relationship between tax and accounting, including the relative strengths and weaknesses of using accounting information for tax reporting purposes (and vice versa). Question 2 required candidates to compare IFRS and GAAP, especially in the treatment of accounting for tax uncertainty. Question 3 was a problem question raising a multitude of accounting issues.

The responses chosen reflected a roughly equal distribution over the two optional questions, with 6 candidates answering question 2 and 7 answering question 3. No essay was assigned a mark less than 60. There were many excellent essays; approximately 33% of the essays gained a mark of 70 or more. Candidates who did not answer every part of the question or did not address the question asked fully were penalized. Better answers to question 1 demonstrated a strong understanding of the purposes behind tax reporting and financial reporting. Those essays that engaged in some depth with the literature on book/tax conformity were duly rewarded. On question 2, the examiners were looking for evidence of a high degree of comfort with GAAP and IFRS, and in particular with their conceptual frameworks. On the problem question 3, stronger answers engaged in greater depth with the relevant accounting standards material, used the extensive facts provided in fully developing their answers including working out the effects of the events on the accounting for taxes, and cited relevant literature including professional standards where appropriate.

Current Issues in Taxation

28 MSc candidates submitted essays for Current Issues in Taxation, which in 2018 focused on the international tax regime post-BEPS. The examiners were very pleased with the quality of the submitted work. More than a third of the students secured an overall mark of at least 70 and no essays were marked at below 60. Students were asked to answer two 2-part questions, which allowed the examiners the ability to test the candidates' knowledge across a good range of the many topics covered in the course teaching, but also meant each answer was restricted to a tight 1500 words.

Regarding the first essay question, students could choose between (a) a general question on the role of tax treaties and domestic tax law in dealing with double taxation which arises because both the company and its shareholders are taxed and (b) a problem question on the taxation of partnerships. Weaker answers on (a) lacked a clear structure and/or were overly general. The students who secured higher marks clearly identified the role, limits and effects of domestic tax law and double tax treaties

on double taxation involving companies and shareholders. For the problem question (b), weaker answers were typically incomplete, leaving some aspects of the question unanswered. The answers that received the highest marks were the ones with a clear line of argument that engaged with the relevant OECD material and other literature and provided a complete analysis of all the aspects of the question. This was a difficult task in only 1500 words but a good many candidates rose to the occasion.

Regarding the second essay question, students could choose two out of four questions on (a) the current permanent establishment threshold and the separate entity arm's length principle, (b) the role of the network effect in the international taxation of digital businesses, (c) the treaty issues arising for collective investment vehicles and real estate investment rules and (d) the consistency of rules restricting interest deductions under BEPS action 2 and 4 with tax treaties. Marks on this second question were in general slightly higher than for question 1, possibly due to the wider range of choices provided. The questions were fairly specific and better essays were able to provide well-targeted answers, including references to up-to-date developments at the OECD level.

2018-19

Tax Research Round Table

The summative assessment for this course was a 6,000 word essay. Students were offered five essay questions to choose from.

28 students submitted essays in all. The mean mark was 66.4. 20 essays were awarded marks below 70 (split equally between upper 2.1 and lower 2.1.) 8 essays were awarded marks of 70 and above.

As with last year, we are very pleased with the overall quality of the essays for this course. The word limit for the summative essay for this course is higher than that for other courses allowing stronger students to develop their arguments at greater length and depth. Many essays were impressive – thoughtful, engaging, structured carefully and citing a wide range of literature. These essays were rewarded with high grades even if – in some cases – the examiners did not agree with all the conclusions reached in these essays. The usual weaknesses found in summative essays were found in the weaker essays for this course: unnecessary digressions, unsupported statements, uncritical acceptance of arguments found in the literature etc. We provided short feedback on all essays submitted.

No concerns about plagiarism were raised.

EU Tax Law

14 MSc candidates submitted essays for the course "EU Tax law in the Global Context".

The examiners were pleased with the quality of the submitted work. All the students secured an overall mark of at least 60.

Students were asked to answer two main questions, which covered different topics analyzed during the course.

The first essay question required students to express their opinion on one paragraph of the Opinion of AG Campos Sánchez-Bordona in the case Bevola. Students were asked to critically discuss the case-law of the Court of Justice of the European Union in the field of the cross-border transfer of losses, which was a challenging task. Weaker answers lacked a clear structure and/or overarching thesis. In

some instances, these weaker essays did not fully address the specific question asked. Stronger answers provided clear arguments in support or against the opinion of AG Campos Sánchez-Bordona, referring to the relevant case-law and literature.

The second essay question invited critical discussion of the Council Directive 2016/1164 and its implementation by the Member States in the light of the BEPS project. Weaker essays did not take a clear position as to whether some of the provisions of Council Directive 2016/1164 “go beyond the BEPS project” and whether the implementation of the directive can affect the good functioning of the internal market. Some of the weaker essays also lacked references to the relevant literature and/or did not engage with the relevant material. Stronger essays identified different line of arguments and expressed a clear opinion on the question asked. These essays also made appropriate use of material mentioned in the reading list.

Comparative Corporate Tax

This assessment attracted 17 candidates. Four candidates received a mark of 70 or above (one was a particularly strong performance), eleven received a merit and two received marks between 60 and 64. Generally, candidates demonstrated no difficulty with the material, whether they had years of experience or comparatively little. The comparative nature of the course meant that candidates could demonstrate their ability by reference to different tax systems depending on relevance to the candidate’s own circumstances. The group was generally very impressive with candidates showing particular skill in identifying and discussing conceptual issues. There was confidence in illustrating discussion with practical examples of what countries actually do, although at the odd time there were stray comments.

The assessment was divided into two essay questions and two problem questions. Candidates generally preferred the essay questions with 24 answers to essay questions and 10 to problem questions. The core object of the course is to develop in participants an ability to identify corporate tax issues at a conceptual level and relate them to what countries do in practice. All participants showed that they had developed this sort of skill, with no participant missing entirely the point of a question. The most common issue with answers related to essay questions was the need to keep the discussion focused on the question that is asked. Another common issue was failure to consult and cite primary law (where this is possible). A failure to do so resulted in some candidates discussing outdated law.

Question 1 This was an essay question on different forms of dividend relief. It was the most popular question, being answered by 14 candidates. Candidates had no problems in identifying and illustrating different forms of dividend relief. The poorer answers didn’t get much further than this. The better answers moved on to consider whether different forms could be designed to produce “similar results” and what this might mean. The corporate level dividend relief systems and the imputation system have greater scope for producing similar results whereas this is far more difficult (impossible) with the other shareholder level systems.

Question 2 This was an essay question on corporate residence and its relationship with dividend relief. It attracted 10 answers which took quite widely different approaches, although the spread of marks awarded did not reflect this. Most answers had no problem in pointing out why corporate residence might be considered a “nonsense” and why taxation based on it may be considered to be “failing”. From here answers struggled with the nature of the question and were typically unclear about the relationship with different forms of dividend relief. Weaker answers hardly discussed this at all. Better answers illustrated the relationship with practical examples, but few reached the conclusion that corporate residence is particularly important if you wish to adopt some forms of dividend relief,

especially more accurate forms of dividend relief. The fundamental question here is whether the increased reliance on more arbitrary (shareholder level) forms of dividend relief is a consequence of the failing nature of corporate residence as a tax base.

Question 3 This was a problem question focused on various dealings between a small company and its shareholders. It was the least popular question, attracting only 2 answers. This was surprising because the issues were not particularly difficult. There was a straightforward dividend and sale of shares. Some consideration would have to be given to the receipt of the bonus shares by Jojo and Gerry but as they had a choice of cash most countries treat this as a dividend. The off-market share buy-back was also reasonably straightforward as it was not proportionate; again, the issue being whether it would constitute a dividend for tax purposes (commonly yes). The loan to buy the shares raised issues of a constructive dividend and at a deeper level whether Gerry could get a deduction for interest paid going forward.

Question 4 This was a problem question dealing with merger in the form of a share for share exchange. It was answered by 8 candidates and the answers were of a high quality. Most answers had no difficulty in identifying that many countries provide tax relief for these types of mergers. The complicating factor on the facts was the loss position of the target. Again, most answers had no difficulty in identifying the relevance of the anti-loss trafficking rules. And most had no difficulty in identifying the potential grouping of the losses of D and P after the takeover. More difficult was whether the existing losses might be available for group relief after the takeover. Answers were varied on the extent to which this issue was addressed.

Taxation of Corporate Finance

The summative assessment for this course consisted of two 3,000 word essays. Students were given two essay questions to answer with no choice. The first question concerned the asymmetric treatment of debt and equity for corporate tax purposes. The second concerned tax arbitrage using financial products.

32 students submitted essays in all. 13 first year and 19 second year students submitted essays.

The mean mark was 67. 25 students were awarded marks between 60 and 69, and 7 were awarded marks of 70 and above (4 from the first year and 3 from the second year).

Students performed better on the first question than the second.

For the first question: The mean mark was 68. 22 essays were awarded marks between 60 and 69, and 10 were awarded marks of 70 and above.

For the second question: The mean mark was 67. 26 essays were awarded marks between 60 and 69, and 6 essays were awarded marks of 70 and above.

We are generally pleased with the overall quality of the essays for this course. The usual weaknesses were observed in weaker essays. For example, some essays addressed the topic covered in the question in general terms instead of answering the specific question being asked. Some essays had a poor structure, jumping from one point to another rather than building a clear and coherent argument. Candidates often reproduced the arguments found in the literature without questioning them. Finally, a number of essays were formatted poorly. Students are strongly advised to read the guidance on essay writing found in the MSc handbook.

No concerns about plagiarism were raised.

Tax Treaties

The summative assessment for this course consisted of two 3,000 word essays. Students had to answer a problem question on beneficial ownership. They also had to answer one of two essay questions. The first essay question concerned the PE definition and profit attribution rules. The second essay question concerned the non-discrimination article and the Mutual Agreement Procedure.

25 students submitted essays in all.

21 first year and 4 second year students submitted essays.

The mean mark was 66. 6 students were awarded marks of 70 and over, 18 were awarded marks between 60 and 69 and 1 student was awarded a mark between 50 and 59.

For the first question: The mean mark was 66. 3 essays were awarded marks of 70 and above, 20 essays were awarded marks between 60 and 69, and 2 essays were awarded a mark between 50 and 59.

For the second question: The mean mark was 66. 6 essays were awarded marks of 70 and above, 18 essays were awarded marks between 60 and 69, and 1 essay was awarded a mark between 50 and 59.

We are relatively pleased with the overall quality of the essays for this course. However, we would have liked to have seen fewer scripts in the low 2.1 category and more scripts that were comfortably above a 70. The usual weaknesses were observed in weaker essays. A number of essays, particularly those in response to the first question, failed to answer the whole question asked. A number of candidates engaged in unnecessary digressions. Some submissions consisted of a number of points, rather than a well-developed and coherent essay. A worrying number of essays were formatted poorly. Students are strongly advised to read the guidance on essay writing found in the MSc handbook.

No concerns about plagiarism were raised.

Tax and Public Policy

The summative assessment for this course was two 3,000 word essays. Students were given two essay questions to answer with no choice. However, the first question provided students with a wide choice: students were asked to choose, briefly describe and evaluate any tax of their choosing. The second was a direct question on how to evaluate tax policy options, taking into account difficulties in measuring economic efficiency, and identifying fairness in the presence of uncertainty about effective incidence.

23 students submitted essays. The average mark was 64. 5 students were awarded marks of 70 and above, 15 were awarded marks between 60 and 69, and 3 were awarded marks between 50 and 59.

Performance was mixed.

On the first question, the best answers were original, interesting, informed and thoughtful essays on a wide variety of taxes from a range of different countries. The more interesting chose more uncommon taxes that had not been studied directly – for example, Stamp Duty Land tax and Insurance

Premium Tax. Good essays set out the tax clearly and proceeded to evaluate it using a well-defined set of criteria. This gave students the opportunity to apply criteria to a specific tax in an original way. Poorer answers showed less organisation, and less critical thinking. In some cases, where the tax chosen was well-known and already well analysed there was little room for original evaluation.

Many students appear to have found the second question more difficult. The best answers identified and explained the role of economic efficiency and equity, and the trade-off between them, in designing a tax. Few essays gave a good account of the difficulties in measuring efficiency, though rather more explained the problems due to uncertainty around incidence. Most essays also identified the need to take other criteria into account as well.

No concerns about plagiarism were raised.

Taxation of Global Wealth

Question 1

1. Generally the essay style optional questions in 2 and 3 were done better and more consistently than Question 1. On Question 1, many candidates found it difficult to apply the law to the specific facts and then answer the questions accurately. Although there was not always a right or wrong answer it was necessary to take account of all the facts in justifying conclusions and sometimes the law was wrongly applied. Important facts that would help students in answering the question were occasionally overlooked. There was a clear divide between those who answered the trust law questions well and found the tax difficult and vice versa. The best candidates could address both aspects.

IHT question

2. Equal numbers tackled the trusts versus IHT questions. In the case of the IHT question there was sometimes a failure to remember that you were being asked to advise the Chancellor in the context of the UK system; hence there was a lack of practical focus on the overall design issues and the problems that might be caused by a particular change, given the constraints of the UK system. For example, some candidates suggested narrowing BPR and APR to cover only small family companies but did not tackle the disadvantages in doing this.
3. Surprisingly few tackled more obvious IHT reform issues such as the case for abolishing the residential nil rate band or the reduced 36% rate for charities. Some had taken note of the OTS report in July. The discussions on whether IHT should be abolished and replaced by CGT or whether IHT should be reformed or replaced by a donee based tax were generally good. Few tackled all aspects of CGT reform e.g. abolition of uplift on death/ abolition of main residence relief/ CGT charge on death substituted for IHT. The best candidates went through the pros and cons of any change in some detail and made international comparisons. Few covered the transitional problems raised by any regime change.

Trust question

4. This was equally well done. The principles set out in the trust report were challenged, discussed and in some cases amplified well. The best candidates were able to show the differences between different types of trust, residence issues and the current ways in which the system can operate unfairly. Fewer considered in detail the possible connecting factors for trusts and whether different taxes should have different connecting factors and if so why. There were some good comparisons made especially with the USA in relation to foreign grantor trusts. Some, but not many, considered disabled trusts. There were limited international comparisons made.

Transfer Pricing

The summative assessment for this course consisted of two 3,000 word essays. Students were given three essay questions to choose from. The first question concerned the Arm's Length Principle, the second question concerned the challenges posted by the digitalisation of the economy and the third question concerned the Authorised OECD Approach to profit attribution.

17 students submitted essays in all. The mean mark was 68. 13 students were awarded marks between 60 and 69, and 4 were awarded marks of 70 and above.

Question three proved to be the least popular question, with 10 students answering it. 12 students answered each of questions 1 and 2.

We were generally pleased with the overall quality of the essays for this course. We did not really have weak essays, but we would have liked to have had more first-class scripts. The usual issues were observed in weaker essays. Issues included: failing to answer the precise question being asked squarely, accepting views found in the literature uncritically, and not developing and structuring an argument in a fully coherent way. Students are strongly advised to read the guidance on essay writing found in the MSc handbook.

No concerns about plagiarism were raised.

Ethical Issues in Tax Practice

Candidates were required to answer one compulsory question, which included multiple scenarios, and one further essay question out of a choice of two. There was a balance between those who chose question 2 and question 3.

In general, the answers showed good attempts to tackle the questions, and that the candidates had read fairly well into the assigned material. Some answers could have been improved by a clearer structure, and some failed to define important terms used (such as 'the spirit of the tax law'). A small number of answers demonstrated clear, structured thinking by the candidates and reading that went wider than the assigned material; most of these clearly merited a distinction. A few answers lacked adequate referencing.

Overall we were pleased that the answers demonstrated that students had been prompted by the questions both to read well into the course and to think about the subject matter of the course.

US International Tax

This course introduced the U.S. international income tax regime by examining the most significant structural elements of the regime's tax rules. It focused on changes that resulted when the United States passed tax reform legislation on December 22, 2017 (known colloquially as the "Tax Cuts and Jobs Act" or TCJA). It highlighted the structural elements of the U.S. law consistent with the foundational though somewhat anachronistic assumption that the U.S. acts as a capital exporter and taxes on a residence basis more expansively than do many other jurisdictions.

The assessment consisted of two questions. The first was a planning and doctrinal issue-spotting question regarding the practical question of where to locate a new investment in plant or equipment in relation to specified alternative low- and medium-tax rate countries. The question allowed students to demonstrate familiarity with U.S. income source and source net taxation rules on the inbound side

as well as the new GILTI and hybrid territorial-foreign tax credit regimes on the outbound side. Overall the students did quite well at identifying applicable provisions and the superior answers demonstrated a facility at integrating an understanding of the rules with the alternative fact patterns presented.

The second question was a policy essay question which asked students to express and defend a view regarding the usefulness of different recently-adopted or -modified provisions of U.S. tax law as models for tax law changes in a jurisdiction of the student's description. The students in particular were asked to specify their jurisdiction's preference for attracting foreign investment versus protecting the corporate income tax base. Many students put forth a jurisdiction that had a stronger preference for attracting foreign investment, which led them, for instance, to prefer the FDII export-related rate reduction of US law. Other variations included a natural resources-rich jurisdiction for which the preference was attracting investment for non-natural resources businesses, but base protection for the natural resources sector. Excellent answers both correctly demonstrated an understanding of the key details of the US provisions under consideration and carefully aligned recommendations with the articulated policy preferences of the specified jurisdiction.

EXTERNAL EXAMINER REPORT FORM 2019

External examiner name:	David Salter	
External examiner home institution:	University of Warwick	
Course(s) examined:	MSc in Taxation	
Level: (please <i>delete as appropriate</i>)		Postgraduate

Please complete both Parts A and B.

Part A				
	<i>Please (✓) as applicable*</i>	Yes	No	N/A / Other
A1.	Are the academic standards and the achievements of students comparable with those in other UK higher education institutions of which you have experience?	✓		
A2.	Do the threshold standards for the programme appropriately reflect the frameworks for higher education qualifications and any applicable subject benchmark statement? <i>[Please refer to paragraph 6 of the Guidelines for External Examiner Reports].</i>	✓		
A3.	Does the assessment process measure student achievement rigorously and fairly against the intended outcomes of the programme(s)?	✓		
A4.	Is the assessment process conducted in line with the University's policies and regulations?	✓		
A5.	Did you receive sufficient information and evidence in a timely manner to be able to carry out the role of External Examiner effectively?	✓		
A6.	Did you receive a written response to your previous report?			✓
A7.	Are you satisfied that comments in your previous report have been properly considered, and where applicable, acted upon?			✓
<p>* If you answer "No" to any question, you should provide further comments when you complete Part B. Further comments may also be given in Part B, if desired, if you answer "Yes" or "N/A / Other".</p>				

Part B

B1. Academic standards

- a. *How do academic standards achieved by the students compare with those achieved by students at other higher education institutions of which you have experience?*

Even allowing for the fact that the students enrolled on this programme have a particular interest in taxation, the standard achieved is impressive and compares favourably with the standards achieved in comparable degrees. There is a pleasing number of distinctions (with one candidate achieving distinctions in each of his/her modules) and a marked preponderance of passes in individual modules in the 60s.

- b. *Please comment on student performance and achievement across the relevant programmes or parts of programmes and with reference to academic standards and student performance of other higher education institutions of which you have experience (those examining in joint schools are particularly asked to comment on their subject in relation to the whole award).*

As intimated above, the overall performance of the students was strong across the board and emphasised by only a handful of passes in the 50s. As a consequence, the profile of marks of many students was noticeably consistent with each student recording an average mark in excess of 60. This is particularly commendable bearing in mind that the degree embraces law and economics whilst allowing students to focus on subjects in which they are particularly interested.

B2. Rigour and conduct of the assessment process

Please comment on the rigour and conduct of the assessment process, including whether it ensures equity of treatment for students, and whether it has been conducted fairly and within the University's regulations and guidance.

I believe that appropriate rigour was applied throughout the assessment process. I was provided with ample opportunity to comment on the questions set for each of the modules and due regard was paid to the comments/observations that I made. The questions were probing and testing as might be expected at this level. Questions were marked internally by two markers and an examiners' report required for each module.

In this context, I did not detect any unfairness in the assessment process. Notably, instances in which candidates had submitted evidence of mitigating circumstances that may have affected their performance in individual modules were considered carefully and equitably.

B3. Issues

Are there any issues which you feel should be brought to the attention of supervising committees in the faculty/department, division or wider University?

No.

B4. Good practice and enhancement opportunities

*Please comment/provide recommendations on any **good practice and innovation relating to learning, teaching and assessment**, and any **opportunities to enhance the quality of the learning opportunities** provided to students that should be noted and disseminated more widely as appropriate.*

Presently, I have no comments to make on any of these matters.

B5. Any other comments

Please provide any other comments you may have about any aspect of the examination process. Please also use this space to address any issues specifically required by any applicable professional body. If your term of office is now concluded, please provide an overview here.

Matters were dealt with smoothly and efficiently throughout and each of the examination meetings that I attended was chaired by Edwin Simpson with due care and attention. I would like to express my thanks to Hannah Porter who provided helpful guidance on aspects of the examination and assessment process in the course of the year which greatly assisted the fulfilment of my role.

Signed:	David Salter
Date:	31 October 2019

Please ensure you have completed parts A & B, and email your completed form to: external-examiners@admin.ox.ac.uk and copy it to the applicable divisional contact set out in the guidelines.