Accredited Specialisation Application Guidelines 2019

Tax Law
What is an Accredited Specialist?

A lawyer who is accredited as a specialist is recognised as having an enhanced skill level, as well as substantial involvement in established legal specialty areas. The Law Institute of Victoria requires such specialists to demonstrate superior knowledge, experience and proficiency in a particular area of law to ensure that recognition as an accredited specialist is meaningful and reliable.

Eligibility for Accreditation

- Membership of the Law Institute of Victoria
- A current practising certificate
- At least five years experience in practice*
- Substantial involvement in Tax Law over the past three years
- Three references in support of the application
- Successful completion of the prescribed assessment program

Candidates who do not meet the eligibility criteria may apply for an exemption from the criteria in accordance with the Specialisation Scheme Rules. Such applications for exemption must be lodged no later than **4.00pm Friday 22 March 2019**.

*Applicants with at least five years practice experience gained in roles outside of legal practice such as tax advisor, tax consultant or tax analyst are encouraged to make an application for special consideration. In submitting such an application for the Board to exercise its discretion not to require compliance with Rule 4.4.1 (a), the Board will consider any particular characteristics of the relevant area of practice in which accreditation is sought to satisfy the Board that the requirements of Rule 4.4 have been satisfied, and that the application otherwise complies with the aims of the Scheme.

**IMPORTANT:** Details of the conditions for gaining specialist accreditation are contained in the Specialisation Scheme Rules which can be found at: [http://www.liv.asn.au/LIVPublicWebSite/media/150th-Anniversary-2009/LIV%20Documents/20160420_Master_SpecialisationSchemeRules_April16.pdf](http://www.liv.asn.au/LIVPublicWebSite/media/150th-Anniversary-2009/LIV%20Documents/20160420_Master_SpecialisationSchemeRules_April16.pdf)

Specialisation Candidates are particularly advised to read the *Specialisation Scheme Rules* and familiarise themselves with the requirements for any applications for exemption or special consideration. The Rules are located under the Scheme Administration tab of the *Specialisation Scheme* link.

Assessment

The assessment program for Accredited Specialisation in Tax Law is in three parts. To gain accreditation candidates must pass each of the three parts of the program. Candidates may, in any or all of the assessment program, be assessed on any or all of the Assessment Topics and Legislation listed in Schedules 4 and 5.


Part 3: Presentation to Peers of Take-home assignment – See Schedule 3

Further details of the assessment programme and procedures are contained in the Schedules attached to these Guidelines.

Candidates will be examined on the law as it stands at the date of assessment.

**Supplementary assessment**

Candidates may be required to undertake additional assessment at the discretion of the Specialisation Board.

**Exemption from Written Examination**

Candidates may apply in advance for an exemption from the written examination if they have recently studied subjects relating to Tax Law in a postgraduate course at a tertiary institution. Any such exemption is entirely at the discretion of the Specialisation Board and will be assessed on a case by case basis.

Eligibility for the exemption is subject to the following conditions. The completed Masters Degree with specialist tax content must:

- have been completed within the preceding five years of the date of application
- assess knowledge that is equivalent in range to the knowledge assessed in the specialist accreditation exam
- be at a level of complexity and standard of knowledge that is equivalent to that assessed in the specialist accreditation exam
- contain knowledge that is of equivalent relevance to practice in the specialist accreditation exam

Any application for an exemption should be made at the time of lodging the application form, which is to be lodged no later than **4.00pm Friday, 22 March 2019.**

**Timetable**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>Thursday 25 October 2018</td>
<td>Prospective specialist networking night, 5:30pm-7pm</td>
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<tr>
<td>Monday 25 February 2019</td>
<td>Accredited Specialisation Annual Information night, 5:30pm-7pm</td>
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<tr>
<td>Friday 22 March 2019</td>
<td>Applications requesting Board discretion (for those who do not meet eligibility criteria) or exemption from the Written Examination close, no later than 4pm</td>
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<tr>
<td>Friday 5 April 2019</td>
<td>All other Applications close, no later than 4pm</td>
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<tr>
<td>Saturday 27 July 2019</td>
<td>Part 1: Written Examination, 9.30am – 1.00pm (Take Home assignment materials distributed)</td>
</tr>
<tr>
<td>Monday 5 August 2019</td>
<td>Part 2: Take Home Assignment due</td>
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Performance Standards

Practitioners wishing to be accredited must be able to:

(a) perform at a superior standard which is expected of practitioners wishing to hold themselves out as specialists in the area, and

(b) display a superior standard of knowledge of the law and procedure which underpins the performance of tasks in this area of practice.

General Recommendations

Candidates may find it of assistance in preparing for the assessment tasks to:

(a) Form a study group – to register your interest in forming a study group please contact special@liv.asn.au

(b) Attend appropriate LIV CPD events in the area of specialisation

(c) Review previous examination papers and videos of simulated interviews. These are available at https://www.liv.asn.au/getattachment/Learning-and-Networking/Become-an-Accredited-Specialist/Specialist-Areas-Key-Dates/20170713_Form_AS_AssessMaterials-Orders-Interactive_V02.pdf.aspx

(d) Read some or all of the Suggested Reading Material listed in Schedule 5

Legislation and Other Provisions

Candidates should be familiar with the relevant parts of legislation relating to the selected topics for assessment, and the legislation listed in Schedule 4 and 5.

Applications

Applications must be made on the prescribed application form.

Resume of Practice

As evidence of substantial involvement, applicants must submit a resume of their professional activities relevant to practice in Tax Law. The resume should give the Board an overall picture of the applicant’s experience and expertise in Tax Law, with an emphasis on involvement over the past three (3) years. It is not expected that a comprehensive curriculum vitae will be submitted.
No standard format is prescribed. However, applicants might find it helpful to use some or all of the following headings:

- broad description of current practice activities
- experience in specific areas of activity in Tax Law
- involvement with relevant professional organisations
- relevant publications and presentations
- academic qualifications
- other.

It is not necessary to repeat details provided on the application form.

Please forward to the Law Institute of Victoria:

1. The completed application form
2. Three references
3. Resume of practice
4. Application fee of $1,100.00 (including GST) payable to the Law Institute of Victoria.

Applications Close

By 4:00pm Friday 22 March 2019: for applicants wishing to apply for Board discretion because they do not meet the eligibility criteria or for applicants wishing to apply for exemption from the Written Examination.

By 4:00pm Friday 5 April 2019: for all other applications.

The address for applications is:

Accredited Specialisation  
Law Institute of Victoria  
GPO Box 263 OR DX 350  
MELBOURNE 3001 MELBOURNE

Enquiries:  
Telephone: 9607 9461  
Facsimile: 9607 9404  
Email: special@liv.asn.au
SCHEDULE 1:
Examination Assessment Component Part 1 – Written Examination

Exam Date: Saturday 27 July 2019, 9.30am to 1.00pm (3 hours plus 30 mins reading and planning)
Exam Venue: TBC

Assessment Overview
This paper will test knowledge across a wide range of topics likely to be encountered in tax practice. Questions in this paper will require extended answers. There will be EIGHT questions, of which candidates will be required to answer FIVE. The broad spread of topics is designed to cater for the fact that practitioners tend to work in different areas of tax. The time spent on questions should be appropriate to the marks available. Candidates will be expected to identify relevant issues and form sound preliminary views without the benefit of time to undertake more than a brief examination of basic references.

Assessment Criteria
Candidates will be assessed on their:

▪ ability to identify relevant issues from the materials provided
▪ knowledge of relevant law, including significant recent decisions and rulings and skill in applying that knowledge in practice
▪ knowledge of relevant procedural rules and principles
▪ ability to provide practical and clear advice
▪ ability to provide sound commercial advice.

Examination Conditions
▪ The written examination is an open book exam
▪ Candidates may take into the examination room any books, notes or other written material
▪ Portable computers may be used for reference purposes on a “read-only” basis so long as their use does not disturb other candidates. Access to the Internet is strictly prohibited
▪ Mobile telephones are not permitted
▪ Questions must be answered in the booklets or computers provided, depending on candidate choice
▪ Answers must be numbered correctly
▪ Handwriting must be legible
▪ Each candidate will be issued with an examination number
▪ The names of candidates will not appear on any material submitted for assessment.

After the examination
Note: Immediately following the conclusion of the written examination, candidates will be able to download the following information through www.accreditedspecialisation.liv.asn.au:
1. materials pertaining to the Take-home Assignment in Part 2 of the assessment program
2. materials pertaining to the Presentation of Peers for the purposes of completing Part 3 of the assessment program.
SCHEDULE 2:

Examination Assessment Component Part 2 – Take Home Assignment

Distribution date: Saturday 27 July 2019

Due Date: No later than 4pm on Monday 5 August 2019

Assessment overview

Candidates will be required to prepare a comprehensive and analytical written assignment in the prescribed format as advised on the assignment when distributed. This format could be one of the following: Letter of Advice, Letter to the ATO, Response to an ATO position paper or a Memo to Counsel.

Answers should include arguments on which your conclusions are based and supporting notes relevant to your opinions.

Assessment criteria

Candidates will be assessed on their:

- ability to identify relevant issues from the materials provided
- knowledge of relevant law, including significant recent decisions and rulings and skill in applying that knowledge in practice
- knowledge of relevant procedural rules and principles
- where applicable, ability to provide practical, clear and comprehensive advice
- where applicable, ability to provide sound commercial advice.

Take-Home assignment conditions

Candidates may use the resources of their offices in completing this exercise. However, consultation with any other person in completing the exercise is not permitted. Candidates will be required to provide a signed statement to this effect.

The completed exercise must be submitted as a word or PDF document through the submission box for this assessment piece on LIV Moodle (www.accreditedspecialisation.liv.asn.au) by no later than 4.00pm on Monday 5 August 2019.
SCHEDULE 3:

Examination Assessment Component Part 3 – Presentation to Peers

Presentation Date: Wednesday 7 August 2019
Presentation Time: By appointment. Allow at least 1 hour in total (Actual presentation/question and answer time is 30 minutes)
Venue: Law Institute of Victoria, 140 William Street Melbourne

Assessment Overview

Candidates will be required to give a short presentation on a recent development in tax law as advised on the presentation notification.
- 20 minutes presentation to panel of peers
- 5 minutes answering questions

The recent development in tax law topic and presentation details will be available to download immediately following the written examination on Saturday 27 July 2019.

The presentation must include:
- An explanation of the new development and how it fits with existing law
- The practical/planning implications
- Any uncertainties or risk issues
- Any client opportunities

A powerpoint presentation is allowed.

A hard copy outline of the presentation (which may comprise of a print out of a powerpoint presentation) must be given to the examiners at the end of the presentation for review purposes.

The presentation will be recorded.

Assessment criteria

This exercise will test the following knowledge and skills (please note the weighting of each criteria):
- presentation and communication skills 20%
- explanation of the new development and how it fits with existing law 30%
- practical/planning implications 30%
- uncertainties, risk issues and client opportunities 20%

Candidates may use the resources of their offices in completing this exercise. However consultation with any other person in completing the exercise is not permitted. Candidates will be required to provide a signed statement to this effect.
SCHEDULE 4:

Topics for Assessment

The following list should not be taken to be exhaustive but indicates the range of matters which could be addressed in the assessment program. Candidates will be assessed on the law as it stands on the date of assessment.

In addition to knowledge of the law as it stands on the day of assessment, candidates are expected to have knowledge of announced changes which are relevant to the advice they would give.

<table>
<thead>
<tr>
<th>TOPICS</th>
<th>SUB-TOPICS</th>
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| Administration | ▪ Assessments  
  ▪ Collection – PAYG  
  ▪ Entities  
  ▪ Objections and Appeals  
  ▪ Penalty tax and offences  
  ▪ Rulings system and related ATO products |
| Taxpayers     | ▪ Individuals  
  ▪ Partnerships  
  ▪ Companies and Associations  
  ▪ Superannuation funds  
  ▪ Minors  
  ▪ Tax-exempt entities  
  ▪ Consolidation groups |
| Income        | ▪ Business Income  
  ▪ Capital-income dichotomy  
  ▪ Dividends, deemed dividends and imputation  
  ▪ Income from isolated transactions  
  ▪ Income from property transactions  
  ▪ Income from security transactions  
  ▪ Personal exertion income  
  ▪ Non-cash benefits and incentives  
  ▪ Source and derivation of income  
  ▪ Tax accounting  
  ▪ Trading stock  
  ▪ Trust income |
| Deductions    | ▪ Black hole expenditure  
  ▪ Building and other allowances  
  ▪ Business and employment deductions  
  ▪ Capital allowances  
  ▪ Depreciation  
  ▪ Losses - company losses, trust losses, other losses  
  ▪ Miscellaneous deductions |
| Capital Gains | ▪ CGT small business concessions  
  ▪ Cost base  
  ▪ Identification and calculation of gains and losses  
  ▪ Roll-overs  
  ▪ Demerger |
| Employment    | ▪ Employee share acquisition schemes  
  ▪ Fringe benefits tax  
  ▪ Retirement and employment termination payments |
| International Tax                                      | • Double tax agreements  
|                                                     | • Residents  
|                                                     | • attribution  
|                                                     | • foreign tax credits  
|                                                     | • Non residents  
|                                                     | • business profits/ permanent establishment  
|                                                     | • source of income  
|                                                     | • Thin capitalisation  
|                                                     | • Transfer pricing  
| Specialist topics                                   | • Commercial debt forgiveness  
|                                                     | • Debt Equity Rules  
|                                                     | • Personal Services Income/ Personal Services Business  
|                                                     | • Share Value Shifting  
| Anti-avoidance: general and specific                | • Alienation of income  
|                                                     | • General anti-avoidance rules  
|                                                     | • Tax planning  
|                                                     | • Tax-effective structuring  
| GST Issues                                          | • GST Free supplies  
|                                                     | • Input taxed supplies  
|                                                     | • Margin scheme  
|                                                     | • Supplies of going concerns  
|                                                     | • Taxable supplies  
| Land Tax                                            | • Treatment of trusts  
|                                                     | • Aggregation rules  
| Stamp Duty                                          | • Dutiable property  
|                                                     | • Land Holding Entities  
| Superannuation funds                                 | • Concessional Contributions/ Non Concessional Contributions  
|                                                     | • Excess Contributions Tax  
|                                                     | • Restrictions on borrowing and securities  
|                                                     | • Retirement benefits  
|                                                     | • Contributions Tax  

**NOTE:** The following topics will not be tested:

- Indirect taxes *(other than GST)*
- State taxes *(other than stamp duty and land tax)*
- Non-tax-related superannuation

All other indirect tax other than commonwealth tax, to be considered in the home jurisdiction.

**NB:** Any matter relevant to practice in Tax Law may be examined, including the areas listed above. The list gives an indication of other matters which candidates might be asked to address. Candidates may be asked questions arising under any legislation, related regulations and other materials listed in these guidelines. This is not intended to be an exhaustive list.
SCHEDULE 5:

Related Legislation and Regulations

NOTE: Act titles include all relevant regulations and any other instruments made under those Acts and amendments and replacements which come into operation by the date of assessment.

The following list is not intended to be exhaustive, but is provided as a guide to legislation which might be raised in the assessment program. All equivalent state legislations will be applicable.

Legislation and Regulations

- A New Tax System (Goods & Services Tax Administration) Act 1999 (Cth)
- Duties Act 2000 (Vic)
- Foreign Acquisitions and Takeovers Act 1975 (Cth)
- Fringe Benefits Tax Assessment Act 1986 (Cth)
- Income Tax Assessment Act 1936 (Cth)
- Income Tax Assessment Act 1997 (Cth)
- International Tax Agreements Act 1953 (Cth)
- Land Tax Act 2005 (Vic)
- Payroll Tax Act 2007 (Vic)
- Superannuation Industry (Supervision) Act 1993 (Cth)
- Taxation Administration Act 1953 (Cth)
- Tax Agent Services Act 2009 (Cth)
- Regulations made under the above Acts
- Other relevant legislation and regulations