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Proposals for Assessment in Tax Teaching

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# Proposals for Assessment in Tax Teaching

Audrey Sharp and Kalmen Datt

## **Abstract**

This article compares the assessment methods used by Atax, a school in the Faculty of Law, UNSW (Atax), and the Commercial Law Department in the Faculty of Business at the University of Auckland (University of Auckland) for undergraduate students. It utilises the main attributes of the methodologies used in each program to offer improved methods of assessment. This proposal is reviewed against the backdrop of the literature to ensure it meets best practice.

The article expresses a view that assessment methods used in the teaching of taxation law need to achieve two goals: student abilities to think critically, solve problems and to be technically competent must be evaluated; and the methods implemented must meet the needs of educators who may themselves be balancing both research and teaching in a subject area that is constantly changing.

# Proposals for Assessment in Tax Teaching

Audrey Sharp\*

Kalmen Datt\*\*

## 1 Purpose of article

This article compares the assessment methods used by Atax, a school in the Faculty of Law, UNSW (Atax), and the Commercial Law Department in the Faculty of Business at the University of Auckland (University of Auckland) for undergraduate students. It utilises the main attributes of the methodologies used in each program to offer improved methods of assessment.<sup>1</sup> This proposal is reviewed against the backdrop of the literature to ensure it meets best practice.

The article expresses a view that assessment methods used in the teaching of taxation law<sup>2</sup> need to achieve two goals: student abilities to think critically, solve problems and to be technically competent must be evaluated; and the methods implemented must meet the needs of educators who may themselves be balancing both research and teaching in a subject area that is constantly changing.

## 2 Introduction

A primary purpose of an educational institution is to equip students with the necessary knowledge and skills they will require for professional practice. This is particularly true in the teaching of taxation law.<sup>3</sup> Students must be able to think as a member of the profession. They must know how to resolve problems. This means they must undertake high-quality research, decide the questions to ask and have the ability to communicate both orally and in writing in a discipline based context.

To equip students for working life it is essential that we instil a culture of learning and make our students information literate.<sup>4</sup> It is essential that they are able to think laterally and operate in the

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<sup>1</sup> Note that Atax teaches tax primarily in a flexible distance mode whereas the University of Auckland teaches on a face-to-face basis.

<sup>2</sup> Taxation law is not a stand-alone subject but encompasses knowledge and skills in economics, property law, contract, psychology and a range of other subjects which in themselves are specialities.

<sup>3</sup> In addition to the skills and knowledge referred to in this article, studying taxation law requires students to know how to find and apply technical taxation information, to be able to read and interpret case law and to understand how to use this information practically in order to complete taxation returns for the Australian Tax Office (ATO), the New Zealand Inland Revenue Department or, due to globalisation, within other jurisdictions.

<sup>4</sup> Information literacy has been defined by the Canberra-based Council of Australian University Librarians, in their 2001 publication *Information Literacy Standards*, as

real world. In seeking to achieve these goals Atax and the University of Auckland strive to provide a basis for students to become critical thinkers, to enable them to continue their learning and understanding and maintain their excitement for their discipline for the rest of their lives.

As a benchmark for the effectiveness of their teaching and learning methods, Atax and the University of Auckland must ensure that the corporate and professional world looks to their graduates as employees of choice. Assessment forms an important tool in achieving this goal.

‘To assess’ derives from the Latin verb ‘assidere’, *to sit by* (originally, as an assistant-judge in the context of taxes). Hence, in ‘assessment of learning’ we ‘*sit with* the learner’, and that implies it is something we *do with* and *for* our students rather than *to* them. The word ‘assessment’ has a variety of meanings within higher education (e.g., ‘institutional assessment’, ‘curricular and program assessment’, ‘course and learner-centered assessment’). For the purposes of this paper ‘assessment’ is the systematic collection and analysis of information to determine student performance in a university taxation course with a view to achieving optimal learning objectives on the part of the students themselves.

Assessment is an important tool in the teaching and learning process. The means of assessment determines not only whether a student passes or fails a particular course, but also whether there has been effective learning. As part of the assessment process teachers should make it clear that they have both high expectations of and a belief in the ability and skills of their students. Ken Bain identifies high expectations by teachers of their students as very important.<sup>5</sup> These high expectations need to be reinforced by positive and constructive feedback. Inextricably linked to this is the need to overcome inhibitions evident in some students. For example, Bain<sup>6</sup> states that certain students have been brought up to believe that certain tasks are beyond their abilities. Teachers can help these students by expressing clear expectations and demonstrating trust in the students that the expectations can and will be met, as well as providing positive and constructive feedback.<sup>7</sup>

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follows: ‘Information literacy is an understanding and set of abilities enabling individuals to “recognise when information is needed and have the capacity to locate, evaluate, and use effectively the needed information”.’ Incorporating information literacy across curricula, and in all programs and services, requires the collaborative efforts of academics, staff developers and learning advisers.

<sup>5</sup> Ken Bain, *What the Best College Teachers Do* (Harvard University Press, 2004) Chapter 4. Cate Jerram, ‘Applying Adult Education Principles to University Teaching’ (Paper presented to the Higher Education Research and Development Society of Australasia Annual International Conference, 7–10 July 2002, Perth, Australia), reflects a similar point of view.

<sup>6</sup> Bain, above n 5.

<sup>7</sup> In ‘Decoding the Disciplines: A Model for Helping Students Learn Disciplinary Ways of Thinking’ (2004) 98 *New Directions for Teaching and Learning* 1, Joan Middendorf and David Pace express a similar view: ‘Students often respond positively to instructors who are clearly dedicated to creating a level playing field on which students who have

Assessment methods reflect underlying assumptions such as the nature of learning, what the assessment is endeavouring to achieve and whether there are barriers to student learning. If teachers of taxation law are to equip their students with the attributes necessary for professional practice, to become critical thinkers and problem solvers as part of their lifelong learning, then it is important to examine the assessment methods used. In the authors' opinion teaching, learning and assessment are inextricably linked, with assessment being a very significant motivator in any student's learning process.<sup>8</sup> The reason for this view is that what is taught, the expectations of the teacher and how these expectations are conveyed to students, and the manner of teaching must all correlate to what students learn. The literature reflects this link.<sup>9</sup> Assessment, whatever form it takes, is the means by which a teacher is able to determine how the student has progressed not only in understanding concepts and principles and developing research and communication skills, but also in the ability of students to apply these in real-world situations.

Atax and the University of Auckland strive to provide a basis for students to become critical thinkers, to enable them to continue their learning and understanding and maintain their excitement for their discipline for the rest of their lives. Critical thinking is one of the most important fundamental tools that students of tax must acquire.<sup>10</sup>

The article now turns to a review of the literature.

### **3 Assessment of learning in higher education**

Huba and Freed<sup>11</sup> suggest assessment is the process of gathering and discussing information from multiple and diverse sources in order to develop a deep understanding of what students know, understand and can do with their knowledge as a result of their educational experiences. The process culminates when assessment results are used to improve subsequent learning.

Boud et al<sup>12</sup> believe assessment practices need to be matched to outcomes. They noted:

Assessment needs not only to reflect outcomes in a narrow technical sense, but in terms of the basic knowledge, understanding, communicative and competency aims which are being pursued

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not been preeducated at elite institutions will have the same opportunity to succeed as those who have been more privileged.'

<sup>8</sup> See, eg, Dr D J Hargreaves, 'Engendering Student Learning by Use of Specific Assessment Strategies' (Paper presented at the TEDI Conference, nd), <[http://www.tedi.uq.edu.au/conferences/A\\_conf/papers/Hargreaves.html](http://www.tedi.uq.edu.au/conferences/A_conf/papers/Hargreaves.html)>.

<sup>9</sup> See section 3 of this article where the thinking around assessment of learning in higher education is presented.

<sup>10</sup> This skill is not exclusive to tax practitioners.

<sup>11</sup> M E Huba and J E Freed, *Learner-Centered Assessment on College Campuses — Shifting the Focus from Teaching to Learning* (Allyn & Bacon, 2000).

<sup>12</sup> David Boud, Ruth Cohen and Jane Sampson, 'Peer Learning and Assessment' 24(4) *Assessment and Evaluation in Higher Education* 413–26, 420.

in a course ... assessment in higher education has a dual function of judging for the purpose of providing credentials and for the purpose of improving learning ... assessment should leave students better equipped to engage in their own self-assessments. Unless assessment fosters this, it acts to undermine an important goal of lifelong learning.<sup>13</sup>

Assessment has many purposes. It is about reporting on students' achievements and teaching them more productively through expressing to them more clearly the goals of our curricula. It is about measuring student learning and diagnosing misunderstandings in order to help students to learn more effectively. It concerns the quality of the teaching as well as the quality of the learning.<sup>14</sup> Assessment is central to the learning process and is a crucial aspect of teaching.

Ramsden<sup>15</sup> identifies the link between different ways of thinking about assessment and the quality of student learning. He notes that the conventional view of assessment is seen primarily as a way of assigning grades, which develops in students cynicism and negativity towards the subject matter and superficial approaches to studying. He advocates that teachers should choose assessment methods that are based on goals for student learning where students can demonstrate how much they understand rather than achieving a single score for comparative purposes.<sup>16</sup>

Hargreaves and Wallis<sup>17</sup> found that current assessment practices indicate to students that their success depends not on 'how well' they have learned but rather 'how much'; that is, the development of quantitative rather than qualitative concepts of learning is encouraged. Naturally this can lead to surface rather than deep learning approaches depending upon what has been learnt.<sup>18</sup>

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<sup>13</sup> Ibid.

<sup>14</sup> P Ramsden, *Learning to Teach in Higher Education* (RoutledgeFalmer, 2<sup>nd</sup> ed, 2003).

<sup>15</sup> Ibid.

<sup>16</sup> Theoretically this is correct, but in the authors' experience when students seek employment the first thing they are usually asked by a prospective employer is what grade they achieved in their course. This practical consideration is hard to reconcile with Ramsden's position on assessment.

<sup>17</sup> D J Hargreaves and E J Wallis, 'How Students Learn and Why They Adopt Certain Learning Approaches', in *Proceedings of the 6th Australasian Association for Engineering Education Conference* (Sydney, 1993) 131–5.

<sup>18</sup> John Biggs, 'What the Student Does: Teaching for Enhanced Learning' (1999) 18(1) *Higher Education Research and Development* 57–75. Biggs distinguishes between surface and deep learning by giving the following examples. The first is Susan who comes to the lecture with relevant background knowledge and a question she wants answered. In the lecture, she finds an answer to that question; it forms the keystone for a particular arch of knowledge she is constructing. She reflects on the personal significance of what she is learning. This is deep learning. Surface learning is exemplified by Robert who is less committed than Susan, and has a less developed background of relevant knowledge; he comes to the lecture with no questions to ask. He wants only to put in sufficient effort to pass. Robert hears the lecturer say the same words as Susan heard, but he doesn't see a keystone, just another brick to be recorded in his lecture notes. He

There is, therefore, no doubt that assessment methods should be used to measure what students can do with what they are taught rather than the ability to regurgitate masses of facts. This is particularly relevant when the subject matter being taught has practical professional application as is the case with tax.

As stated by Ramsden,<sup>19</sup> assessment in practice has two functions: to tell us whether or not the learning has been successful, and to convey to students what we want them to learn.

The literature on assessment reflects a number of different but complementary views, which are briefly considered below. It generally refers to the case where students are taught on a face-to-face basis rather than in a distance environment. Notwithstanding this, most of the views expressed are of universal application and others, with the necessary adaptation, could be applicable where learning is on a flexible distance basis.

According to Brown<sup>20</sup> there should be a clear alignment between expected learning outcomes, what is taught and learnt, and the knowledge and skills being assessed. Lack of alignment is a major reason why students adopt a surface approach to learning. This also often results from such institutional policies that require assessment results to be reported in percentages or 'marks', or require results to be distributed along a predetermined curve. According to Biggs<sup>21</sup>

The first can be mitigated by assessing qualitatively by reporting quantitatively, but the second is crippling. There can be no educational justification for grading on a curve. Such practices exist for two reasons, which feed each other: administrative convenience, and genuinely confused thinking about assessment. The confusion arises because two quite different models of summative assessment co-exist.

Taylor<sup>22</sup> identifies two models of assessment: the measurement and the standards models. The measurement model was developed by psychologists to study individual differences for purposes of comparing individuals with each other or with general population norms. The standards model is designed to assess changes in performance as a result of learning for the purpose of seeing what, and how well, something has been learned. This latter kind of assessment is criterion-referenced and requires assessment tasks that are likely to link with objectives in the course. According to Biggs none of the assumptions of the measurement model apply to the assessment of learning because:

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believes that if he can record enough of these bricks, and can remember them on cue, he'll keep out of trouble come exam time.

<sup>19</sup> Ramsden, above n 14, 187.

<sup>20</sup> George Brown, *Assessment: A Guide for Lecturers* (Learning and Teaching Support Network, 2001).

<sup>21</sup> Biggs, above n 18.

<sup>22</sup> C Taylor, 'Assessment for Measurement or Standards: The Peril and Promise of Large-Scale Assessment Reform' (1994) 31 *American Educational Research Journal* 231-62.

- quantifying performances gives little indication of the *quality* of the performance [and] sends the wrong messages to students, and guarantees unaligned assessment;
- teaching is concerned with change, not stability;
- teachers shouldn't want a 'good spread' in grade distributions. Good teaching and quality assessment should *reduce* the gap between [individual students], not widen it.<sup>23</sup>

Biggs divides assessment into four groups: extended prose such as the conventional essay; the objective format such as a multiple-choice test, which can be assessed rapidly; performance assessment, which assesses understanding as put to work such as a project or seminar presentation or case study; and rapid assessments, which are useful for large classes and involve such things as short-answer three-minute essays, concept maps or diagrams establishing the relationships between various things in the course. Naturally each group has its own advantages and disadvantages, but thinking of assessment in this way provides the teacher with an alternative to traditional quantitative methods of assessment.

Biggs<sup>24</sup> notes that the score an individual obtains reflects how well the individual meets preset criteria, those being the objectives of the teaching. He states that matching performance against criteria is not a matter of counting marks but a holistic judgment on the part of the marker. He suggests the advantages of this system of assessment are that it is more rewarding because teachers are forced to reflect on what is meant by understanding and how to foster it, students perceive that what they are learning is real, and the outcomes on graduation translate into informed action which is what the community wants.

In 2001 the Learning and Teaching Support Network published a book by George Brown entitled *Assessment: A Guide for Lecturers*.<sup>25</sup> Brown considers the relationship between methods of assessment such as essays and problems with the person marking the project and the criteria used to determine the marking scheme. It is axiomatic that this trilogy (method, entity and criteria) of factors forms a close-knit relationship and should any one of the individual components fall down, the result sought would be affected. The point is made that markers often lose sight of the fact that different criteria have different weights depending on the level of the program reached by the student. Thus a well-argued paper at first year level will be different to one at say third year level.<sup>26</sup>

An essential feature of assessment is the feedback that accompanies a task that has been assessed. Feedback enables teachers to adapt and adjust their teaching and students to adjust their

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<sup>23</sup> Biggs, above n 18, 69.

<sup>24</sup> John Biggs, *Aligning Teaching and Assessment to Curriculum Objectives* (2002), <[http://www.heacademy.ac.uk/resources.asp?section=generic&process=search7pattern=Aligning %20 Teaching%20and %20Assessment%20to%20Curriculum%20Objectives](http://www.heacademy.ac.uk/resources.asp?section=generic&process=search7pattern=Aligning%20Teaching%20and%20Assessment%20to%20Curriculum%20Objectives)>.

<sup>25</sup> Brown, above n 20.

<sup>26</sup> Although there is no empirical evidence to reflect this, in discussion with staff at Atax this is something Atax keeps in mind when marking papers.

learning strategies.<sup>27</sup> Generic feedback gives clarification of misconceptions on a broad scale with the advantage of having as a component a comparison with peer responses. From a learning perspective feedback must be timely, perceived as relevant, meaningful and encouraging, and offer suggestions for improvement. Often, it seems, students do not read the feedback they receive or use it to improve future performance and/or understanding of concepts they have failed to grasp. It is therefore necessary to teach students how to use the feedback they receive and to check to see whether they have applied the feedback in current assignments.<sup>28</sup>

The article now turns to the literature on the means that can be used to design an effective assessment process.

#### **4 Designing effective assessments**

When designing assessment methodologies consideration needs to be given to tasks which:

- promote engagement with learning,
- are within reasonable academic workload parameters,
- are reliable, valid and equitable, and
- are clearly communicated to students.<sup>29</sup>

Clearly, within the assessment design consideration needs to be given to the feedback being provided to students and also the opportunity for students to give feedback to the teacher.

According to Gibbs<sup>30</sup> well-designed assessment can promote deep learning by structuring the way students engage with the content of the course. This can be done through:

- involving students in the assessment design,
- integrating assessment into the learning process,
- setting assignments which reward understanding and penalise reproduction,
- providing explicit marking criteria,
- designing assignments which involve interaction among students,
- focusing on 'real world' or authentic situations in assessment, and
- promoting interdisciplinary assessment tasks.

As stated earlier by John Biggs,<sup>31</sup> assessment has in practice two functions: to inform us whether or not the learning has been successful, and to convey to the students what they are required to learn.

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<sup>27</sup> Flinders University, Australia, *Teaching for Learning*, <<http://www.flinders.edu.au/teach/assess/feedback.htm>>.

<sup>28</sup> It seems, without having any empirical data, that students only refer to their marks on an assessed piece of work and pay little attention to any specific or generic feedback given by the teacher. Giving feedback takes valuable marking time so teachers are advised to consider how students react to feedback and how it could be used to best advantage.

<sup>29</sup> Hargreaves and Wallis, above n 17.

<sup>30</sup> Graham Gibbs, 'Using Assessment Strategically to Change the Way Students Learn' in Sally Brown and Angela Glasner (eds), *Assessment Matters in Higher Education* (Buckingham: SRHE and Open University Press, 1999).

According to Joan Middendorf and David Pace<sup>32</sup> the systematic identification of what students have difficulty learning and what they should know how to do makes the design of effective assessments relatively straightforward. To support effective teaching the Indiana University Faculty Learning Committee developed a model to enable teachers to develop strategies for introducing students to ‘the particular culture of thinking’ that is part of any specific discipline and to assist them in their understanding and knowledge within that discipline. Assessment, both formative and summative, forms an integral part of this model.<sup>33</sup>

Step 1 involves identifying bottlenecks or obstacles in the course where a significant number of students have interrupted learning.<sup>34</sup> All teachers will have experienced an area in their course where learning has not happened in the way the teacher had hoped. This is the simple but effective point at which change can be made by the teacher to assist student learning.

Step 2 is difficult because it involves recognition, but essentially it requires the teacher to look at how an expert does these things; to examine in precise detail what an expert would do if faced with one of the tasks that students had difficulty completing. When reconstructing an expert’s approach teachers will find themselves using terms that require explanation or which are unclear and confusing. By continually asking questions — such as How is a student expected to do this? and What does the instruction assume students can do? — a teacher can probe beneath the surface and see what is required to develop the critical thinking students are required to have in order to master their course.

Step 3 requires the teacher to devise ways to demonstrate to students the steps that come naturally to an expert. Once a teacher has identified the basic operations that students should model, the teacher is then required to devise demonstrations/practice that will help students understand what this kind of thinking entails. The point is made that ‘complex ways of thinking

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<sup>31</sup> Biggs, above n 18.

<sup>32</sup> Middendorf and Pace, above n 7.

<sup>33</sup> The University of New South Wales has developed *Guidelines on Learning that Inform Teaching at UNSW*. Guideline 15 describes the difference between formative and summative assessment inter alia in the following terms:

Use formative assessment (assessment designed for giving feedback and suggestions for improvement) as well as summative assessment (assessment designed for the purpose of measuring performance in relation to an identified standard). Formative assessment should occur early and often, whereas summative assessment usually occurs at the end of a course. In practice, many assessment tasks are both formative and summative.

<[http://learningandteaching.unsw.edu.au/content/userDocs/ref4.1\\_guideline15\\_000.pdf](http://learningandteaching.unsw.edu.au/content/userDocs/ref4.1_guideline15_000.pdf)>.

<sup>34</sup> J A Anderson, ‘Merging Teaching Effectiveness, Learning Outcomes and Curricular Change with the Diverse Student Needs of the 21<sup>st</sup> Century’ (Paper presented at the 21<sup>st</sup> Annual Conference of the Professional and Organizational Development Network, Salt Lake City, October 1996).

are rarely assimilated in a single presentation and that different groups of students internalize such learning in different modalities (for example, visually, orally, and kinaesthetically).<sup>35</sup>

Step 4 focuses on getting students to practice the task and determining the best ways of gauging the proficiency of student attempts at the task or designing effective assessment to identify student knowledge.

Step 5 gets the teacher to think about what will motivate students. Conscious effort does need to be made to encourage the students to become partners in the learning process. By presenting yourself as an ally who has devoted considerable energy to creating a course in which success is possible and who really wants the students to do well, you will create a positive response among the students. This is possible by using a series of small manageable steps rather than great leaps.

Step 6 asks how well students are mastering the learning tasks required in the course. While the focus may be on content learning, developing critical thinking in students is also essential. As teachers have previously broken down bottlenecks into various parts for students to learn, it is easier to determine whether in fact students have mastered them. Assessment methods that emerge from the above series of steps should therefore make it easy to determine which of the basic operations are being mastered by most students and which need to be modelled, practised or repeated during the course.

Finally Step 7 asks how the resulting knowledge about learning can be shared with others. A student who can explain what they have learnt to someone else has truly understood something and gained genuine knowledge.

The steps for decoding the disciplines approach, as outlined above, is one way of learning and assessment that could enhance the learning experience for both teacher and student. It should not be viewed as a narrow, prescriptive formula for all course development, but rather seen as steps that 'evolved as part of a group process of shared pedagogical exploration'.<sup>36</sup>

The design of assessment exercises for students in any course is also dependent upon the ability of staff to adequately review the student work and give appropriate and timely feedback. Some institutions teaching tax within New Zealand and Australia may find themselves constrained by a lack of staff resources, individual staff members being isolated within a faculty or school, budget constraints and administrative demands which hinder the ability of the teacher to creatively or innovatively assess their students in ways presented within this paper, and by educationalists.

The article now considers the approach to assessment adopted by Atax.

## **5 Atax**

### **5.1 Introduction**

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<sup>35</sup> Ibid 7.

<sup>36</sup> Ibid 10.

The vast majority of Atax students are studying part-time while in full-time employment.<sup>37</sup> Atax offers both an undergraduate degree which qualifies students for entry into the Australian accounting profession and postgraduate degrees specialising in taxation law. Students demonstrably need to be more disciplined when studying part-time, in a delivery mode that is not entirely face to face and balancing work and family commitments. In the authors' opinion the reason for this is that these students need to accept ownership of and control both the teaching and learning process to a greater degree than that which is expected of students studying on a face-to-face basis.

The Atax student population is diverse. They come from different upbringings and cultures and have different life experiences. They are located throughout Australia and overseas.

As tax is multidisciplinary, Atax adopts a multidisciplinary approach to its teaching and uses not only lawyers but also accountants and economists to deliver its teaching program.

Students who are unable to study face to face may not feel part of a community. This should not be a problem if handled correctly. Sir John Daniel gave the example of his wife who undertook a distance learning course at the Open University UK, of which he was Vice-Chancellor. He described her experience<sup>38</sup> as follows:

When she worked with the course materials on the dining table it was all go. She moved from writing, to listening to cassettes, to grappling with grammar to watching videos. One weekend she was out both days: on Saturday to a five-hour tutorial group in Oxford, which is forty miles away, and on Sunday for three hours to a self-help group organized spontaneously by four local students at a coffee shop just a few miles away. Her course materials went into the suitcase when we travelled. Her main regret was missing meetings of the self-help group because of travel and other commitments. In no way was she the passive recipient of deliveries of instruction. She was an active member of a learning community and the beneficiary of a learning system that facilitated her study in various ways.

Unlike the practice at the Open University, Atax does not have students divided into tutorial groups, but self-help groups are encouraged and a list of willing persons is placed on a peer group list and is published in part to facilitate student contact and in part to encourage group work.<sup>39</sup> Members of self-help groups communicate either by direct contact between students or via the internet-based platform used to deliver teaching materials. Such groups are entirely voluntary.

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<sup>37</sup> Neither of the authors has seen any empirical data to support this, but Kalmen Datt in discussion with students at Atax finds that most students are in full-time employment.

<sup>38</sup> Sir John Daniel, Vice-Chancellor The Open University United Kingdom, 'Distance Learning: The Vision and Distance Learning: The Reality — What Works? What Travels?' (Speech given at the conference *Leadership in the Knowledge Economy*, 10–12 January 1999).

<sup>39</sup> For a discussion of the support services offered to students at Atax refer Fiona Martin, Kate Collier and Shirley Carlon, 'Developing a Mentoring Program for First Year Distance Students Studying Taxation Law' (2009) 19(1) *Legal Education Review* 217–36.

As this is a flexible delivery program, it is suggested the assessment process must be even more rigorous and aligned to outcomes than would be the case for a course or program taught on a face-to-face basis. Distance students do not have the advantage of being able to resolve misconceptions and problems promptly with their teacher. Therefore, the formative aspect of the learning experience should be designed to give these students more opportunities to evaluate their progress through self-directed activities.

As part of its philosophy of teaching, Atax has developed both study materials and a support base for students. Students receive with each course paper-based study materials that are designed to enhance effective self-directed distance learning and provide opportunities for self-assessment. Their purpose is to stimulate deep-level as opposed to surface-level learning and to give students the ability to study at times and for periods convenient to them. The American Distance Education Consortium has suggested that study materials be modular, stand-alone units that are compatible with short bursts of learning.<sup>40</sup> The Atax study materials are formatted this way.

Atax courses are designed to meet the needs of students<sup>41</sup> and to cater to the needs of employers that require specific skills from graduates. Primarily teachers seek to instil a sense of excitement in students about their chosen discipline to enable them to continue to 'maximise their understanding of things, read widely, discuss issues and reflect on what they have seen and heard'.<sup>42</sup> It is said that the purpose of formal education is transfer; that students will use the skills and knowledge they acquire at school or university beyond the classroom.<sup>43</sup>

It is accepted at Atax that:

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<sup>40</sup> ADEC, *Guiding Principles for Distance Teaching and Learning*, <[http://www.adec.edu/admin/papers/distance-learning\\_principles.html](http://www.adec.edu/admin/papers/distance-learning_principles.html)>.

<sup>41</sup> Students need to acquire skills which translate to the particular profession they are aspiring to enter. Some students are already working in professions and are therefore wanting to see the relevance of their learning to the profession. Both Atax and the University of Auckland publicly state that students will acquire certain graduate attributes upon leaving the university which will make them of value to the professional world outside of the university. For example, see the UNSW graduate attributes at <[http://www.ltu.unsw.edu.au/ref4-4-1-1\\_unsw\\_grad\\_atts.cfm](http://www.ltu.unsw.edu.au/ref4-4-1-1_unsw_grad_atts.cfm)>. These graduate attributes form part of the skills which both Atax and the University of Auckland seek to instil in their students.

<sup>42</sup> 2004 Foundations of University Learning and Teaching material prepared by the UNSW Learning and Teaching Unit (LTU).

<sup>43</sup> Diane F Halpern and Milton D Hakel, 'Applying the Science of Learning to the University and Beyond: Teaching for Long-Term Retention and Transfer' (July/August 2003) 35(4) *Change* 36, <<http://proquest.umi.com/pqdweb?did=592363071&sid=2&Fmt=3&clientId=25620&RQT=309&VName=PQD>>.

[p]roperly conceived and executed, professional skills training should not be a narrow technical or vocational exercise ... rather it should be fully informed by theory, devoted to the refinement of the high order intellectual skills of students, and calculated to inculcate a sense of ethical propriety, and professional and social responsibility.<sup>44</sup>

Students must be able to communicate both orally and in writing. To be able to write well requires practice. Students must be able to undertake complex searches on a multitude of databases to ensure that they develop a thorough understanding of the law (both legislative and common) upon which they rely. They need to understand that in the study of the law there is rarely one right or wrong answer, but that a well-argued opinion, certainly from an academic perspective, will be rewarded.

Finally students must be able to work in groups and have the ability to communicate with their peers and others in such a way as to be able to convey sometimes complex facts, issues and arguments in a way that is easily understood by the target audience.

## 5.2 Current practice at Atax

The current approach to delivering and assessing a course<sup>45</sup> is as follows:

Before the semester commences: students are invited to attend an orientation day at which students are given details about the program, research tools, Blackboard (formerly Web CT)<sup>46</sup> and information designed to help them in the transition to university study. They are expected to assimilate a mass of information on issues that in many cases are entirely new (this orientation is designed primarily for first year students but can be of application to postgraduate students who have not studied in a flexible distance mode before).

Subsequently, study materials are couriered to the student. The course materials are divided into modules and refer to learning objectives and key concepts and contain material on each aspect to be covered in that module. Each module also has a reference to suggested and prescribed readings as well as activities designed to test the student's assimilation of matter contained in the

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<sup>44</sup> Australian Law Reform Commission, *Managing Justice. A Review of the Federal Civil Justice System Report No 89* (AGPS, 1999) para 2.85. For an interesting article on the relationship between skills and graduate attributes see Sharon Christiansen and Sally Kift, 'Graduate Attributes and Legal Skills: Integration or Disintegration?' (2000) 11 (2) *Legal Education Review* 207.

<sup>45</sup> Individual lecturers may adapt this format to meet their specific requirements, but overall the methodology is the same.

<sup>46</sup> Since 2010 Atax moved from Web CT to Blackboard, which is a different operating system that serves the same purpose but has greater functionality. Blackboard and Web CT are online portals of study materials, past exam papers, bulletin boards and email facilities. Students can interact with the lecturer via email or join online study groups or discussion groups. These online portals are designed to extend and enhance student learning opportunities.

study materials. Suggested answers to the activities are provided. The basis on which assignments are assessed form part of this material.<sup>47</sup> Each module builds on the preceding one.

All of the above is designed to manage students' expectations, inform them about the skills required and, assessment criteria used, describe how the course material and skills fit into the 'tax' environment, and explain how the things learnt in the program will be used on a daily basis in their practice as tax professionals.

Audio conferences (each is a telephone link between lecturer and students scheduled for 90 minutes per session generally four times a semester, although some lecturers schedule five audio conferences for specific courses) are used to enable students to clarify any issues. Their prime function is to facilitate a discussion between the students themselves and the students and the lecturer. Prior to assignments and exams the assessment criteria are paraphrased and reinforced at these conferences. Audio conferences are not compulsory and are not assessed, but they will greatly assist the student in the formative assessment process used at Atax.

A full day 'regional class' is held once each semester as an intensive review of the skills to be acquired by the students and the technical issues of that course. A commonly used teaching approach is that the group works through a series of case studies in order to apply the legal principles learnt in a practical context. Lecturers travel to all the main centres in Australia, when student numbers warrant it, to deliver these classes. During these classes examples are given of what are considered good and bad responses to assignment questions. These are discussed in detail with students. Again students are given an opportunity to raise issues that are of concern to them. Regional classes are not compulsory and are not assessed. Where student numbers do not justify a regional class in a centre, it will be held by way of an audio conference that lasts about three to four hours.

In all communications with students they are encouraged to discuss any questions or queries with colleagues, peers, superiors or the lecturer to ensure a proper understanding of issues. The availability of the lecturer is stressed. This is in part an attempt to allow the students to feel part of a larger group and to help them communicate with peers and colleagues. Experience has shown that the act of verbalisation forces the student to crystallise a problem they may have, which often makes resolving it relatively easy.

### **5.3 Assessment at Atax**

Atax takes the view that assessment forms a vital element in determining if students have achieved, and assisting students to achieve, required outcomes. Assessment is generally by way of two assignments and a final exam. Assignments usually consist of problems where students must demonstrate an ability to apply technical knowledge utilising acquired skills. Stress is placed on word limits in assignments as this avoids undue prolixity and ultimately assists students in composing clear and concise documents in a professional context.

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<sup>47</sup> See section 2 above for more detail of the assessment criteria.

The exam contains both problems and essays where an understanding of technical issues must be demonstrated.

As the vast majority of summative assessment takes the form of written assignments and exams, writing skills are particularly important.<sup>48</sup> Anne Burns and Stephen Moore<sup>49</sup> noted that the accounting profession has highlighted the importance of excellent spoken and written communication skills for professional practice. Atax in their distance mode of delivery are acutely aware of the importance of students being able to communicate both orally and in writing. Because being able to write well requires practice, assessment becomes an important tool in preparing students for their professional futures.

The assessment criteria for assignments include students having to identify the issues and material facts, evidence a critical mind at work, tie arguments back to the problem and to produce a properly referenced, concise, logical and a linguistically well-written paper. The assessment criteria appear before each assignment topic. Certain of these criteria are emphasised in each audio conference and the regional class. They also form part of the course profile in the study guides.

Maryellen Weimer in a paper entitled 'Focus on Learning, Transform Teaching',<sup>50</sup> mentions a number of issues which in her opinion adversely affect learning. Certain of these factors must, in the authors' opinion, be taken into account in determining the methodology used in facilitating learning. These are firstly that for every act or omission on the part of a student there should be consequences. She asks:

Do students come to class without having done the reading? What happens to them as a result of that? Students should experience consequences when they come to class unprepared. They should not be rewarded with a carefully crafted summary supplied by the teacher.

This approach facilitates students' taking ownership and responsibility for their learning. It encourages and rewards effort. The hands on experience of the students make the audio conferences and regional classes stimulating and challenging as well as a source of information and interest. This is all part of the formative assessment process.

Secondly Weimer believes how students learn is at least as important as what students learn. She states:

With courses that introduce a discipline, it's easier for faculty to understand that students need to learn those habits of the mind characteristic of the discipline — how those in the field think

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<sup>48</sup> Wendy Larcombe and Ian Malkin, 'Identifying Students Likely to Benefit from Language Support in First Year Law' (December 2008) 27(4) *Higher Education Research and Development*, 319–29.

<sup>49</sup> Anne Burns and Stephen Moore, 'Communication in Professional Accounting Contexts — Unexplored Territory' (November 2008) 43(5) *Taxation in Australia*.

<sup>50</sup> Maryellen Weimer, 'Focus on Learning, Transform Teaching' (September/October 2003) 35(5) *Change* 49,

<<http://proquest.umi.com/pqdweb?did=592363011&sid=3&Fmt=3&clientId=25620&RQT=309&VName=PQD>>.

critically, ask questions, frame answers, explore controversies, and reason from problems to solutions.

This 'mind characteristic' encourages and is consistent with the approach the authors propose be adopted in the teaching of the skills mentioned in this paper. This concept is inextricably linked to the issue of critical thinking.

Diane F Halpern and Milton D Hakel<sup>51</sup> in an article entitled 'Applying the Science of Learning to the University and Beyond; Teaching for Long Term Retention and Transfer' say:

Lectures work well for learning assessed with recognition tests, but work badly for understanding ... There are two related points in this principle. The first is the fact that lecturing is not optimal to foster deep learning. The second is the consequent reliance on recognition-based tests as an index of learning. [The] assessment used needs to match the learning objectives. High scores on traditionally constructed tests do not necessarily indicate enduring or transferable learning.

The views of Halpern and Hakel are a further reason for adjusting the methodology in conducting audio conferences to ensure that they are not used as a means to transfer information but rather as a means of practicing skills and application of knowledge in an environment where a significant amount of formative assessment is used.

For Halpern and Hakel 'practice at retrieval' is essential. They state:

This principle means that learners need to generate responses, with minimal cues, repeatedly over time with varied applications so that recall becomes fluent and is more likely to occur across different contexts and content domains. ... The effects of practice at retrieval are necessarily tied to a second robust finding in the learning literature — spaced practice is preferable to massed practice.

This means that students must be given as many opportunities as possible to apply technical knowledge using the essential skills acquired over a period of time. Atax follows this approach in both its support and assessment functions. Students are given many opportunities to practice their skills and the application of their knowledge.

An important part of the assessment process is what takes place in the audios, regional classes and other contacts with students. Here students are encouraged to raise issues and voice opinions that may not coincide with those of the lecturer provided they can support those views with reference to authority. The discussion itself ultimately assists students in the formative assessment process in that it stimulates a critical analysis of cases and issues and facilitates students communicating their ideas in a verbal but logical fashion. These opportunities to practise the application of skills and knowledge help the student attain the course objectives.

When setting exams, lecturers seek to ensure that they are sufficiently long to test the material that forms the subject matter of the course but not so long as to preclude students from finishing. Attempts are made to set exams at a level that would enable all students to pass but still allow the more gifted student to do well.

The assessment tasks, both formative and summative, require students to use the same

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<sup>51</sup> Halpern and Hakel, above n 43.

competencies, or combinations of knowledge, skills and attitudes that they need to apply in professional life.<sup>52</sup> Gulikers et al suggest that for authentic assessment students need to integrate knowledge, skills and attitudes as professionals do. This means the assessment task should resemble real-life situations utilising the same skills and knowledge a professional would use. If the real-life situation requires collaboration then the assessment task should take into account factors such as social interaction, positive interdependency and individual accountability. When, however, the assessment is individual, the social context should stimulate some kind of competition between learners.<sup>53</sup>

Each of the summative assessment tasks meets these criteria. Account is taken of the level at which students are studying. For example, third year students should be more accomplished than first year students and should be capable of handling more complex tasks. It is suggested that failure to do this may lead to cognitive overload and to unwanted outcomes.

Having considered Atax, the article now turns to the situation at the University of Auckland.

## **6 Assessment at the University of Auckland**

### **6.1 Introduction**

The University of Auckland teaches taxation to students who require New Zealand Institute of Chartered Accountants (NZICA) accreditation as part of their Bachelor of Commerce degree. As is the case with Atax, study materials are handed out in self-contained sections which incorporate both concepts and extracts from the relevant case law.

Internal assessment consists of three parts. First, students learn about tax research through an electronic based series of workbooks. This is followed by an online test, which they must complete in their own time within two weeks. The test is not meant to be failed<sup>54</sup> and students are allowed up to 10 attempts to achieve the passing grade. The research component was introduced to make students aware of some of the electronic resources available on taxation law that they would need in professional practice.

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<sup>52</sup> Judith T M Gulikers et al, 'A Five-Dimensional Framework for Authentic Assessment' (2004) 52(3) *Educational Technology, Research and Development* 67, <<http://info.library.unsw.edu.au/cgi-bin/local/access/access.cgi?url=http://proquest.umi.com/login?COPT=REJTPUcwJINNRD0xJklOVD0wJIZFUj0y&clientId=25620>>.

<sup>53</sup> Ibid.

<sup>54</sup> Although students receive a grade of 2% for the test (this encourages them to participate), because learning to research taxation materials is the main goal, even when students fail to achieve the full 2% at the end of the semester the course co-ordinator will alter the grade mark stated online and give each student who completed the workbooks and the test the full 2% grade towards the final mark. The research component is an important learning tool which not only enables students to learn where tax material is located while studying, but is also transferable to their future professional employment.

Second, the introductory taxation course includes seven tutorial classes of one hour per week. Students are assessed on attendance and participation at the tutorial classes held over the semester. The tutorials have set questions on various key topics and require students to apply their knowledge of the case law and legislation to the tutorial questions. The scenarios given require critical thinking by the students and are linked to authentic situations that the students will face in the professional world.

The third internal assessment component is a mid-semester test. The test question(s) are made available three weeks ahead of the actual test date, allowing students time to research their answers which they then write under test conditions. There is also a series of four, 5 marks per question, multiple-choice pop-quiz (MCPQ) tests that can be marked electronically. The best two marks of the four MCPQ tests are included in the final assessment mark. The pop-quizzes were introduced in 2010 to give students practice for the multiple-choice component of the exam.<sup>55</sup>

For assessment purposes the above internal component is worth 30% and the final exam is worth 70% of the final mark. The exam has a practical component where students must *inter alia* complete a tax return and explain why, in their opinion, income and deductions are declared (or not) as well as 10 multiple-choice questions and two problem questions.

## **6.2 Assurance of learning**

The test assessment method in introductory taxation underwent some changes in 2008 with the introduction of an Assurance of Learning rubric testing<sup>56</sup> system in the University of Auckland Business School. The Assurance of Learning committee, set up in the business school and made up of representatives from the various departments including commercial law, developed a series of rubrics in order to evaluate the standard of student assessment in writing, ethics, critical thinking and knowledge.

The ethics component, which was a direct part of the set question in a test given to the introductory taxation students in 2008, was poorly understood and answered on grounds of morality rather than ethical principles. Consequently, there has been greater emphasis given in the taxation lectures to introducing ethical principles and several of the taxation tutorial questions pose ethical issues for discussion with students.<sup>57</sup> Teaching ethical principles has also

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<sup>55</sup> While this component of the course has only been operating for one semester, it was interesting to see a substantial improvement in student performance in the multiple-choice section of the exam, with more than 80% of the class achieving a pass mark of 6 and above in the 10 multiple-choice questions set. This was a contrast to the previous two semesters where less than 50% passed the multiple-choice section.

<sup>56</sup> Rubric testing is a method used to measure the standard of an item of student assessment in areas such as critical thinking, knowledge, ethics and writing. Each rubric measures whether the student is above, at or below the standard set by the particular rubric in the area being measured.

<sup>57</sup> The ethical component has also been emphasised and tested in the earlier commercial law courses that students must complete as prerequisites before doing the introductory tax course, thereby adding more understanding of ethical principles in all areas of the commercial law programs.

been incorporated into the stage one and stage two commercial law courses. However, it is too early yet to evaluate the success of the new strategy on student understanding of ethical principles in taxation.

Atax, in contrast, includes two general education courses and an ethics course for students to undertake as part of their degree. Since the 2008 review, the University of Auckland allows students who are undertaking a Bachelor of Commerce degree to enrol in up to two university papers from any other faculty as part of general education; however, it has no specific ethics or general education course for students. There has been a recognition that general education complements the more specialised learning undertaken in a student's chosen field of study and that it contributes to the flexibility which graduates are increasingly required to demonstrate. Employers repeatedly point to the complex nature of the modern work environment and advise that they highly value graduates with the skills provided by a broad general education as well as the specialised knowledge provided in the more narrowly defined degree programs.<sup>58</sup> The lack of a specific ethics program for those taking a commerce degree at the University of Auckland leaves this ethical training instead to the professional bodies such as the NZ Society of Chartered Accounts once students complete their degree.

Ethics and general education courses form an essential component in the skills that need to be acquired by tax graduates, so it is encouraging to see the various commercial law courses at the University of Auckland since 2009 including the ethical component in their courses. Widespread teaching of ethical principles in all business courses could ensure students have a greater awareness of ethics prior to them entering the workforce, making the training task simpler for professional bodies.

Having reviewed the literature and the methods adopted by both Atax and the University of Auckland, the authors now seek to utilise this knowledge in suggesting what in their opinion could facilitate enhanced teaching and learning outcomes when teaching tax.

## **7 The proposal for an assessment regime in tax**

It is suggested that the following approach be adopted in the assessment process to achieve optimal learning results. This process seeks to utilise the best features used by both Atax and the University of Auckland to ensure students achieve their potential and become valued members of professional teams. In devising this process it is suggested that part of the assessment process

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<sup>58</sup> The introductory taxation course at the University of Auckland invites several guest lecturers to teach various components of the course. These people come from KPMG, PWC and Inland Revenue and have had a long involvement with the program. As potential employers, they have commented that they value general education as well as specialised teaching and recently one employer when talking to students about employment opportunities noted that very few of the degree courses in the Bachelor of Commerce were actually useful outside of the university except for the practical introductory taxation course. They valued students being able to think, reason and write, which are not specific to specialised areas of knowledge but could also come out of a general education course.

include the provision of materials that are easy to access but which also facilitate ongoing learning and the acquisition of skills. The methodology is set out below.

At the commencement of each course students should be given a set of materials that are modular, stand-alone units compatible with short bursts of learning. Each module should build on those that precede them and contain self-assessment tasks with suggested solutions or approaches to enable students to determine for themselves whether they have gained an understanding of key concepts and achieved the learning objectives of each module.

These study materials should be supplemented either by formal lectures and tutorials or, as is the case at Atax, audio conferences and regional classes. Lecturers should be available at fixed times (and if possible at other times as well) to clarify and explain issues students find challenging. Where possible, the lecturers should seek to understand the individual make-up (characteristics) of each student and especially be alert to any limitations students have set for themselves. This of course is far more difficult in a distance environment where there is little or no face-to-face contact with students. The support process is fundamental to an effective assessment program and forms an essential component of the formative assessment process.

There should be consequences in the event of students failing to comply with course requirements such as reading or submission of assignments on time. Students must learn that for every act or omission there are consequences and that each act or omission will affect their ability to achieve the results for which they strive. For example, at Atax late submission of assignments results in a progressive penalty (more than 10 days late results in a 100% penalty not of the mark obtained but of the total available marks for that assignment).<sup>59</sup>

The use of bell curves and similar devices should be avoided in determining marks of students. They should be assessed on that which they produce not on some formula that gives an artificial or contrived result.

As part of the formative assessment process for a tax program there should be at least one ethics course to enable students to operate effectively in the workplace plus at least one and possibly more general education courses unrelated to their program to ensure a well-rounded graduate able to function in the real world with an ability to think beyond the narrow confines of their speciality. Again these criteria may seem beyond a pure assessment regime, but in the authors' opinion assessment is not limited to one course in a program; it should be holistic, designed to ensure students are able to function effectively in their chosen profession.

Assessment tasks must include a requirement that students perform as they would in the professional environment — utilising lateral thinking, critical analysis, research skills and both oral and written communication skills. In order to facilitate and enhance research and communication skills, Atax has a moot as one of the assessment tasks in its undergraduate program.

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<sup>59</sup> Student services, not the lecturer, are given the power in appropriate cases to waive or reduce any late submission penalty.

Exams must be well timed so that they sample content well but allow most students to finish. They must afford all students the opportunity of doing well but allow the ‘good student’ to excel.

All assessment tasks should be designed to simulate real-life examples that must be approached as professionals would approach the specific issue. For all mid-semester assessment tasks, whether formative or summative, there should be early and sufficient feedback to enable students to understand not only the areas in which they have gone wrong but also to understand what steps need to be taken to improve. Subsequent assessments should, in so far as time permits, seek to ensure that early feedback has been assimilated.

Finally, all assessment tasks must test each student’s ability to understand and apply concepts and principles. Simple regurgitation of information will not adequately prepare the student for professional life.

## **8 Conclusion**

Assessment is an important tool used by teachers to measure student learning in any program or course because it tells the assessor whether the learning has been successful and conveys to students what they need to learn.

Effective assessment is important to any student learning and requires a teacher to balance administrative requirements with regard to grading and attaining a ‘spread of marks’ with a need to ensure students are prepared for future professional practice involving taxation law. The development of appropriate and carefully constructed assessments, support materials to assist student learning and opportunities to develop understanding and skills must be a priority in any course offered in the study of taxation law. An important aspect of this assessment regime is that sufficient teacher support is given to students to enhance and encourage the learning process. This latter aspect is integral to the formative assessment process.

Following a review of the assessment practices at both Atax and the University of Auckland, the authors have suggested an assessment regime that in their opinion encompasses the best aspects of both institutions and accords with best practice. Hopefully, the recommended assessment regime will result in both students and teachers achieving their desired goals.