



FNSACC413

ASSESSOR GUIDE

Make decisions in a legal context

Assessment 1 of 3

Short Answer Questions



Assessment Instructions

Task overview

This assessment task requires you to answer **ten (10)** short answer questions. Read each question carefully before typing your response in the space provided



Assessment Information

Submission

You are entitled to three (3) attempts to complete this assessment satisfactorily. Incomplete assessments will not be marked and will count as one of your three attempts.

All questions must be responded to correctly to be assessed as satisfactory for this assessment.

Answers must be typed into the space provided and submitted electronically via the LMS. Hand-written assessments will not be accepted unless previously arranged with your assessor.



Reasonable adjustment

Students may request a reasonable adjustment for assessment tasks.

Reasonable adjustment usually involves varying:

- the processes for conducting the assessment (e.g. allowing additional time)
- the evidence gathering techniques (e.g. oral rather than written questioning, use of a scribe, modifications to equipment)

However, the evidence collected must allow the student to demonstrate all requirements of the unit.

Refer to the Student Handbook or contact your Trainer for further information.



Please consider the environment before printing this assessment.

Question 1

- a) List the six (6) foundation principles of the Australian Constitution.

Assessor Instructions

Students must list the six foundation principles of the Australian Constitution. The student's response must match the benchmark answer below.

Question 1a

1. Democracy
2. The rule of law
3. The separation of powers
4. Federalism
5. Nationhood
6. Rights balanced by responsibilities

- b) Explain why the Australian legal system is referred to as the 'common law system' and how this influences court decisions.

(Approximate word count 100-150 words)

Assessor Instructions

The student's response must reflect the benchmark answer below.

Question 1b

Australia's legal system, also known as the 'Common law system', is based on the model that was inherited by those countries whose development was influenced by British Colonialism.

Common law relies on the principle of precedent. This means courts are to be guided by previous decisions, particularly courts with higher authority. So, the extent to which common law is written down is found in court decisions. This means that it can often be challenging to find the common law that applies to a situation, as it is not in one single decision of a court, but various parts of it are set out in different decisions.

The common law system is based on cases created over time; this contrasts with a civil law country, where the legal system is based on codified statutes.

- c) Explain whether Statute or Common Law created Australian taxation law.

(Approximate word count 20-30 words)

Assessor Instructions

The student's response must reflect the benchmark answer below.

Question 1c

Australian Taxation Law is created by statute law as its primary source lies in legislation (Acts of Parliament and delegated legislation such as Regulations).

- d) Explain Statute Law.

(Approximate word count 30-40 words)

Assessor Instructions

The student's response must reflect the benchmark answer below.

| Question 1d |
|--|
| Statute Law is a law made by parliament, either a Federal Parliament or a parliament of a State or Territory. These laws start as bills and are passed by the houses of parliament to become Acts. |

Question 2

In the following table, state and federal court regulatory bodies are listed. Identify their functions and explain their relevance to financial services.

(Approximate word count 400-500 words total)

Assessor Instructions

The student's response must reflect the benchmark answer below.

| Question 2 | |
|----------------------------------|---|
| Courts and Regulatory Bodies | Answers |
| The Supreme Court | In the financial services industry, the Supreme Court handles cases relating to financial misconduct, particularly relating to banking and superannuation fund misconduct. |
| Court of Appeal | The Court of Appeals can hear any matter in any industry, including the financial services industry, where a judgement made by a single judge is appealed. |
| The Magistrates' Court | The Magistrates' Court is the lowest-level state court. It is divided into areas of responsibility that include civil matters, criminal matters, matters relating to family violence and family law, and the Infringements Court, which deals with fines and penalties, such as parking fines. Civil and criminal matters may include financial misconduct or wrongdoing as well. |
| Federal Court | The Federal Court covers any breach of Federal law. This includes a wide range of cases, from bankruptcy and trade practices to immigration and international relations. |
| High Court | The High Court is the highest court in Australia. It is the final court of appeal, which means that if disputes have progressed through lower courts without a satisfactory resolution, people can take their case to the High Court for a final decision. The High Court also deals with constitutional and Commonwealth matters, including financial matters. |
| Australian Taxation Office (ATO) | The role of the Australian Taxation Office (ATO) is to ensure the community has confidence in the administration of Australia's taxation and superannuation systems. The ATO is the principal revenue collection agency of the Australian Government. The role is to effectively manage and shape the tax and superannuation systems that support and fund services for Australians, including: |

| | |
|------|--|
| | <ul style="list-style-type: none"> • collecting revenue • administering GST on behalf of the Australian states and territories • administering a range of programs that provide transfers and benefits to the community • administering Australia's superannuation system • being custodian of the Australian Business Register. <p>Source: https://www.ato.gov.au/about-ato/who-we-are/</p> |
| ASIC | <p>ASIC is the Australian Securities and Investments Commission. It is Australia's corporate, markets and financial services regulator. They contribute to Australia's economic reputation and well-being by ensuring that Australia's financial markets are fair and transparent, supported by confident and informed investors and consumers. ASIC investigates reports of misconduct when it is suspected that a company or individual has not complied with the laws ASIC administers and enforces.</p> |
| ACCC | <p>The Australian Competition and Consumer Commission (ACCC) is an independent Commonwealth statutory authority whose role is to enforce the Competition and Consumer Act 2010 and a range of additional legislation, promoting competition, fair trading, and regulating national infrastructure for the benefit of all Australians. Their role is to protect, strengthen and supplement the way competition works in Australian markets and industries to improve the efficiency of the economy and to increase the welfare of Australians. The ACCC investigates breaches of the Competition and Consumer Act 2010 and the Australian Consumer Law. Breaches attract fines and pecuniary penalties. Some breaches are civil and can result in monetary fines, while others are criminal and can result in monetary fines and/or jail time.</p> <p>Source: https://www.accc.gov.au/business/compliance-and-enforcement/fines-and-penalties</p> |

Question 3

a) Explain how the ACCC impacts the operational decisions of small businesses.

(Approximate word count 200-250 words)

Assessor Instructions

A sample answer is provided below.

Question 3a

Each Australian business has rights and responsibilities under the *Competition and Consumer Act 2010*. ACCC is entrusted with the following obligations that impact business decisions:

- Anti-competitive behaviour

Certain business practices that limit or prevent competition are against the law. It is important that small businesses always understand their rights and obligations, particularly when dealing with wholesalers, suppliers, and other businesses.

- **Unfair contract terms**

As a small business, you may be required to enter standard form contracts when dealing with other businesses. You may also choose to use them when dealing with your customers. It is important that you are aware of your rights and obligations under the new unfair contract terms law.

- **Treating customers fairly**

Small businesses have obligations under the law to treat their customers fairly. You must understand your customers' rights.

- **Country of origin claims**

Any country of origin claim you make about your products should be clear, accurate and truthful. If your business chooses to make a country-of-origin claim or is required by law to do so, you must ensure the claim is not false or misleading

- **Product Safety**

As a business, you must ensure that all consumer products you supply are safe and meet consumer guarantees under the Australian Consumer Law. You cannot sell banned products, and you must ensure that your products or product-related services comply with relevant mandatory standards before they are offered for sale.

<https://www.accc.gov.au/focus-areas/information-for/small-business>

- b) Identify five (5) illegal sales practices that businesses must avoid when dealing with customers under the Competition and Consumer Act 2010.

Assessor Instructions

A sample answer is provided below.

Question 3b

Typical answers may include:

- Not offering warranties
- Not offering repairs and spare parts
- Unfair business practices
- Referral selling
- Pyramid schemes
- Unfair contract terms
- Unconscionable conduct
- Accepting payment without intending to supply
- Unlawful debt collection procedures
- Product safety

Question 4

List two (2) key features of each of the following legislations in relation to how they impact business operations.

Assessor Instructions

Students must list two (2) key features of each legislation from the range of acceptable answers below.

| Question 4 | |
|------------------------|---|
| Legislation | How it impacts business operations |
| Contract law | <p>There must be an offer There must be an acceptance The offer may be conditional An offer may be revoked at any time prior to acceptance Acceptance must be made in response to and in reliance upon the offer Acceptance must be unconditional and unqualified (by not introducing another term or changing a term in the offer)</p> |
| WHS / OHS | <p>All businesses must implement health and safety practices as soon as they start. Under Australian WHS/OHS (Workplace Health & Safety/Occupational Health & Safety) law, a business must ensure all workers' health and safety and not risk other people's health and safety.</p> <p>Businesses must:</p> <ul style="list-style-type: none">• provide a safe work environment• provide and maintain safe machinery and structures• provide safe ways of working• ensure safe use, handling and storage of machinery, structures, and substances• provide and maintain adequate facilities• provide any information, training, instruction and supervision needed for safety• monitor the health of workers and conditions at the workplace. <p>Workers must:</p> <ul style="list-style-type: none">• take care of their personal health and safety• take care not to do anything that could harm others• follow WHS/OHS instructions• follow the workplace's WHS/OHS policies and procedures |
| The Privacy Act (1988) | <p>All businesses are responsible for protecting the personal information of suppliers, workers and customers from theft, misuse, interference, loss, unauthorised access, modification, and disclosure.</p> <p>Customers have a right to see what personal information about them you have on record. Sensitive information must be stored in a secure area accessible only by those who need it for work purposes.</p> <p>Obsolete personal information must be destroyed or de-identified, for example, shredded. Businesses need to follow the Australian Privacy Principles.</p> |

Question 5

a) In your own words, describe the law of torts. Provide an example of one type of tort.

(Approximate word count 50-100 words)

Assessor Instructions

Benchmark answers are provided below.

Question 5a

Tort law deals with the wrongful actions of an individual or an entity causing injury to another individual or entity's person, property, or reputation, and which entitles the injured party to compensation.

In Australia, torts are common law actions for civil wrongs. Unless barred by statute, individuals can sue other people or the state to obtain a legal remedy for the wrong committed. While many torts exist, generally, the Torts of Negligence and Trespass are the most litigated forms of tort law.

- b) List the three (3) specific underlying principles that must be satisfied in a claim of negligence in tort law.

Assessor Instructions

Students must answer both parts. Benchmark answers are provided below.

Question 5b

The candidate's responses **must** include the three (3) principles listed below:

1. Duty of care
2. Breach of duty of care
3. Damage caused by a breach of duty of care

- c) In your own words, briefly explain what negligent misstatement is.

(Approximate word count 25-50 words)

Assessor Instructions.

Benchmark answers are provided below.

Question 5c

Negligent misstatement occurs when there is a representation of fact that is incorrect and can be carelessly made, which is relied upon by another party to their disadvantage.

Question 6

- a) In your own words, briefly explain the purpose of the Australian Constitution and identify the chapter relevant to trade and commerce.

(Approximate word count 60-70 words)

Assessor Instructions

Students must describe the purpose of the Australian Constitution and identify the chapter relevant to trade and commerce. A benchmark answer is provided below.

Question 6a

The Constitution of Australia establishes the composition of the Australian Parliament and describes how it works and what powers it has. The Constitution outlines how federal, state and territory governments share powers and cannot be changed, overriding all other laws.

Chapter IV (Finance and Trade) contains provisions regulating, among other things, trade and commerce throughout Australia, including between states and territories and between states/territories and the Commonwealth.

b) Outlined in the Constitution of Australia is the Separation of Powers. Explain how this impacts the accounting industry.

(Approximate word count 50-100 words)

Assessor Instructions

Students must answer how the Separation of Powers impacts the accounting industry. A benchmark answer is provided below.

| Question 6b |
|---|
| The legislative power makes laws, such as in this case, financial services laws and regulations (e.g., taxation laws), and the executive power administers these laws through government departments and statutory authorities (e.g., Australian Accounting Standards Board, Australian Prudential Regulation Authority, Australian Taxation Office, etc.). The judicial power is the power of the Commonwealth and State courts to make legal decisions following the financial services laws and regulations enacted, e.g., litigation from breach of contract between consumers and financial service providers, misconduct of providers, etc. |

Question 7

In the following table, various business structures are listed. To complete this question, you must:

- Provide a description of each business organisational structure
- Identify two (2) requirements of compliance or regulations that apply to each
- Where possible, identify the relevant federal legislation
 - Where identifying the federal legislation is not possible, identify relevant legislation for all states/territory

(Approximate word count 40-60 words per response)

Assessor Instructions

Students must complete the table below by describing each business structure, identifying two compliance or registration requirements and identifying relevant federal or state/territory that are applicable. A benchmark answer is provided below.

| Question 7 | | | |
|------------|-------------|--------------|----------------------|
| Structure | Description | Requirements | Relevant legislation |

| | | | |
|---------------------|---|---|---|
| <p>Companies</p> | <p>A company is a separate legal entity, meaning it has the same rights as a natural person and can incur debt, sue, and be sued.</p> <p>A private Australian company is not listed on the stock exchange.</p> <p>A public company is listed on the Australian Securities Exchange (ASX).</p> | <p>Students may select any two from the following:</p> <ul style="list-style-type: none"> ▪ Requires directors to understand and comply with all obligations under the Corporations Act 2001. ▪ Must lodge an annual company tax return with the ATO. ▪ Must be registered with the Australian Securities and Investments Commission (ASIC). ▪ Must keep financial records for at least seven years ▪ Must apply for an ABN and use it for all business dealings ▪ Is a legal entity in its own right ▪ Requires an Annual Statement to be lodged to ASIC | <ul style="list-style-type: none"> ▪ Corporations Act 2001 ▪ Competition and Consumer Act 2010 |
| <p>Partnerships</p> | <p>It involves several people who carry on a business together. Businesses may choose a partnership over a sole trader structure, for example, if they jointly run the business with another person or several people (up to 20). There are two types of partnerships - general and limited. Partnerships are governed by the relevant partnership laws depending on your State or Territory.</p> | <p>Students may select any two from the following:</p> <ul style="list-style-type: none"> ▪ It requires a separate Tax File Number (TFN). ▪ Is a partnership between two or more individuals ▪ Must apply for an ABN and use it for all business dealings ▪ Requires a partnership tax return to be lodged annually to the ATO ▪ Partners pay income tax on their share of the partnership profit ▪ Required each partner to be responsible for their superannuation ▪ You must be registered for GST if the annual income turnover exceeds \$75,000 (ex GST). | <ul style="list-style-type: none"> ▪ ACT – Partnership Act 1963 ▪ NSW – Partnership Act 1892 ▪ NT – Partnership Act 1997 ▪ QLD – Partnership Act 1891 ▪ SA – Partnership Act 1891 ▪ TAS – Partnership Act 1891 ▪ VIC – Partnership Act 1958 ▪ WA – Partnership Act 1895 |

| | | | |
|-------------|--|--|--|
| Trust | <p>A trust is an obligation imposed on a person (trustee) to hold property or assets for the benefit of others, known as beneficiaries. The trustee must always act in the best interest of the beneficiaries.</p> | <p>Students may select any two from the following:</p> <ul style="list-style-type: none"> ▪ Require a formal trust deed that outlines how the trust operates. ▪ Require the trustee to undertake formal yearly administrative tasks. ▪ The trustee can be a person or a company ▪ Assets of the trust are protected ▪ If you operate your business as a trust, the trustee is legally responsible for its operations. A trustee of a trust can be a company, providing some asset protection. | <ul style="list-style-type: none"> ▪ Trusts (Hague Convention) Act 1991 |
| Sole trader | <p>A person trading as the individual legally responsible for all aspects of the business. This includes debts and losses that cannot be shared with others. A sole trader is not a separate entity.</p> | <p>Students may select any two from the following:</p> <ul style="list-style-type: none"> ▪ Required to apply for a Tax File Number (TFN) as an individual. ▪ Required to apply for an Australian Business Number (ABN). ▪ Must keep financial records for at least five years ▪ If your income is or is expected to exceed \$75000 (ex GST) annually, you must register the business for Goods and Services Tax (GST). | <ul style="list-style-type: none"> ▪ Business Names Registration Act 2011 ▪ A New system (goods and Services Tax) Act 1999 |

Question 8

Explain Australian property law and how it impacts business operations in relation to accounting and bookkeeping.

(Approximate word count 50 -100 words)

Assessor Instructions

Students must describe Australian property law and how it relates to accounting and bookkeeping. A benchmark answer is provided below.

| Question 8 |
|--|
| Australian property law regulates and prioritises the property law rights, interests, and responsibilities of individuals in relation to “properties” or “right” to possession or ownership of an object. Responses relating to accounting and bookkeeping may include but are not limited to: <ul style="list-style-type: none">▪ Financial transactions such as buying, selling, creating, or changing ownership of goods.▪ Taking deposits, supplying goods on credit as the transfer of ownership does not occur until payment has been made in full▪ Purchasing assets such as motor vehicles, plant and machinery, office equipment on credit terms such as leases and hire purchase agreements |

Question 9

Explain superannuation and how it impacts business operations in relation to accounting and bookkeeping.

(Approximate word count 50 -100 words)

Assessor Instructions

Students must explain superannuation and how it impacts business operations in relation to accounting and bookkeeping. A sample answer is provided below.

| Question 9 |
|---|
| Superannuation is money put aside by an employer over the working life of employees for them to live on when they retire from work. It is covered by the Superannuation Guarantee Act. Superannuation payment rates must meet the legislative requirements, and there are statutory reporting requirements for the lodgment and payment of superannuation. Businesses that pay superannuation need to factor the quarterly payments into their cash flow forecasting to ensure payment can be made on or before the due date. |

Question 10

In the following table, various taxes are listed. Provide a description of each.

(Approximate word count 100-200 words)

Assessor Instructions

Students must describe each of the taxes in the table below. A sample answer is provided below.

| Question 10 | |
|-------------|----------|
| Tax | Response |

| | |
|------------------------------|---|
| Company Income Tax | <p>It is imposed on the net profit of a company.</p> <p>The amount of income tax a business must pay depends on its taxable income. It is calculated from assessable income minus any deductions.</p> <p>All companies are subject to a federal tax rate of 30% on their taxable income, except for 'small or medium business' companies, which are subject to a reduced tax rate of 25%. The reduced tax rate applies only to those companies that fall below the aggregated turnover threshold of AUD 50 million.</p> |
| Individual Income Tax (PAYG) | <p>Imposed on the personal income of each person at the Federal level. An increasing tax scale is applied.</p> |
| Goods and Services Tax (GST) | <p>The goods and services tax (GST) is a 10% tax on most goods, services and other items sold or consumed in Australia.</p> <p>Some sales are GST-free, including basic food, exports, some health and education services, certain goods and services from charitable institutions, childcare, religious services and water and sewage services.</p> |
| Fringe Benefits Tax (FBT) | <p>Tax employers pay on certain benefits they provide to their employees – including their employees' family or other associates, in addition to their ordinary times earnings.</p> |
| Capital Gains Tax | <p>Applies to real estate, shares, units, and similar investments, leases, goodwill, licences, foreign currency, contractual rights, and major capital improvements made to land or pre-CGT assets collectables and personal use assets above a certain value (there are restrictions on using any capital losses from these items)</p> |

Assessment checklist:

Students must complete all ten questions within this assessment before submitting. This includes:

| | | |
|---|---|--------------------------|
| 1 | 10 short answer questions to be completed in the spaces provided. | <input type="checkbox"/> |
|---|---|--------------------------|

Congratulations, you have reached the end of Assessment 1

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