TAX LAW CURRICULUM: IMPLICATIONS OF FORMAL CURRICULUM THEORY TO PRACTICE

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I. Introduction and Context

The formal concept of traditional curriculum theory is relatively new, developing principally in the second half of the 20th century; although, despite this, it has had a significant impact upon the planning and teaching of all law units, including revenue or taxation units. There appears to be an endless continuum of models for the design and implementation of a curriculum. However, the emphasis of this article is on providing a synthesis of the ideas in order to approach the questions of the difficulties associated with using each of the different methodologies and which may be the most appropriate method of delivery for the teaching of taxation law. Specific reference is made to the offerings of units at the University of Western Sydney (UWS) to illustrate these points.

II. Defining a Curriculum

The formal notion of what constitutes a curriculum is problematic. Depending upon the context, the meaning of the term, 'curriculum', can vary quite considerably.[1] Despite this variation, the curriculum is an essential part of delivering information to learners effectively and efficiently.[2]

Learning can take place in a number of different formats. Academic literature refers to these different formats as 'models of curriculum'. As Brady states, '[a] model of curriculum development is … a convenient way of showing the relationship between…essential curriculum development.'[3] What should be clear therefore is that, models of curriculum are simply different ways of making sure that education takes place in a structured and meaningful fashion, or at least a fashion where, arguably, arbitrary labels are attached to the different processes and functional stages associated with education.

III. Models of Curriculum

A. *Introduction and Background*

It is possible to provide a seemingly endless continuum of models for the design and implementation of a curriculum. However, the emphasis of this article is on providing a synthesis of these ideas in order to assess the impact of different models on taxation law units.

Although a considerable volume of literature exists on the subject, curriculum models have largely been divided by academics to fit into one of four groups, these being the rational–objective, cyclical, dynamic–interaction and process models. These models can be classified according to a continuum which ranges from the extreme of the rational–objective model to very flexible dynamic–interaction models. The table below (table 1) identifies some of the more

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1 See especially Terence Lovat and David Smith, *Curriculum: Action on Reflection Revisited* (Social Science Press, 3rd ed, 1993) i–ii, who in their introduction give a good analysis of the different ways that a curriculum can be viewed by people in different contexts.

2 See especially the discussion given to the importance of the curriculum against non-regulated learning systems outlined in Murray Print, *Curriculum Development and Design* (Allen and Unwin, 2nd ed, 1993) 1–10.

3 Laurie Brady, *Curriculum Development* (Prentice Hall, 3rd ed, 1990) 71.

popular curriculum writers and theorists who have been associated with the development of the four different models identified here.[4]

Table 1: Sources of the different models of curriculum

Rational–Objective Models	Cyclical Models	Dynamic–Interaction Models	Process Models
Tyler[5]	Wheeler[6]	Walker[7]	Stenhouse[8]
Taba[9]	Nicholls[10]	Skilbeck[11]	

It is Print's view that the rational–objective models present a sequential, logical and rigid way of interpreting the curriculum; whereas, at the other end of the continuum, dynamic–interaction models view the curriculum development process(es) in a much more flexible way.[12] The cyclical models tend to fall somewhere in between the extremes of the rational–objective and dynamic–interactive models. The process models appear to exist in a category by themselves. Historically, academic curriculum writers have preferred to use the cyclical or rational–objective models, while teachers, perhaps preferring the flexibility, have tended to prefer the dynamic–interaction model.[13]

Different models are preferred for different reasons; although all of the models have as their primary purpose the delivery of educational content – the knowledge, skills and understanding required by the subject area.

B. *The Rational–Objective Model*

The rational–objective model, as espoused by Tyler and Taba (to name but a few of its advocates), emphasises the rigid and logical sequence of the development of a curriculum.[14] These elements are set out in a chronological form, from which deviation is impossible. For to deviate from this basis would be akin to changing the whole nature of the model and thus it is likely that the deviation would result in the new variation being placed into one of the other three classifications of curriculum models. To change something from a fixed basis would suggest that a more dynamic–interaction, thus more flexible, option was being pursued.

These rational/-objective models have at their core a distinctly regimented series of processes which necessitate them occurring in a logical and sequential fashion. . Taba's rational–objective model of curriculum involves a detailed and lengthy seven-step plan:

4 Table taken from a synthesis of ideas presented in Print, above n 2, 63–4.

5 See especially Ralph Winfred Tyler, *Basic Principles of Curriculum and Instruction* (The University of Chicago Press, 1949).

6 See especially Daryl K Wheeler, *Curriculum Process* (University of London Press, 1974).

7 See especially Decker Walker and Jonas Soltis, *Curriculum and Aims* (Teachers College Press, 1986).

8 See especially Lawrence Stenhouse, *School Based Curriculum Development* (Heinemann, 1975); Lawrence Stenhouse, *An Introduction to Curriculum Research and Development* (Heinemann, 1978).

9 See especially Hilda Taba, *Curriculum Development: Theory and Practice* (Harcourt Brace and World, 1962).

10 See especially Audrey Nicholls, *Developing a Curriculum: A Practical Guide* (George Allen and Unwin, 1978).

11 See especially Malcolm Skilbeck, *School-Based Curriculum Development* (Harper and Row, 1984).

12 Print, above n 2, 63.

13 Ibid 60.

14 Laurie Brady, *Curriculum Development* (Prentice Hall, 5th ed, 1995) 75.

Step 1: Diagnosis of need.
Step 2: Formulation of objectives.
Step 3: Selection of content.
Step 4: Organisation of content.
Step 5: Selection of learning experiences.
Step 6: Organisation of learning experiences.
Step 7: Determination of what to evaluate and ways and means of doing it.[15]

Theoretically, once the objectives have been determined, it is possible to design and develop appropriate learning experiences to achieve these objectives.

There is some criticism of this model for not allowing for the often unpredictable or fluid nature of teaching.[16] It also appears that this model would pose the most difficulty, since curricula prepared using it must be redeveloped whenever content is changed and updated, even slightly. This is a major problem — to suggest to a curriculum designer that even a slight change in the information to be presented, as can often occur because of the dynamic nature of the law, must result in a complete redevelopment of the curriculum is not realistic or sustainable.

C. *The Dynamic–Interaction Model*

The dynamic–interaction model lies towards the furthest extreme on the continuum away from the rational–objective model, and was developed after it. Proponents of the dynamic–interaction model are highly critical of all other models on the basis that they do not reflect the practical reality of developing curricula in an educational environment.[17] Proponents of this model argue that curriculum development does not and never will follow a sequential pattern, so that a more malleable approach is not just desirable but fundamental.

One of the main proponents of this model is Walker.[18] His model consists of three parts:

(1) the platform;
(2) the deliberation phase; and
(3) the curriculum design phase.

The most immediate and obvious difference from the rational–objective model is that the dynamic–interaction model lacks a focus on objectives. Some have argued that, by negating the obsession with writing objectives, Walker's model allows curriculum developers to be far more creative.[19] The contrary view is that curriculum developers using Walker's model could potentially lose sight of what they were aiming to achieve more easily than those using the rational–objective model, which requires a clear statement of objectives.

Primarily writing in the 1980s, Skilbeck is another of the main proponents of this model. The model Skilbeck outlines is slightly more complex than that of Walker, but is essentially very similar. The primary difference associated with Skilbeck is his inclusion of objectives in his stages of developing a curriculum.

Skilbeck's five-stage model is:

(1) analyse the situation;
(2) define objectives;
(3) design the teaching–learning program;
(4) interpret and implement the program; and
(5) assess and evaluate.

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15 Taba, above n 9, 12.
16 See especially Stenhouse, *An Introduction to Curriculum Research and Development*, above n 8, 75.
17 Print, above n 2, 74, where Print argues that dynamic models denounce cyclical and rational models on the basis that they 'do not reflect the reality of curriculum development in educational organisations'.
18 Walker and Soltis, above n 7.
19 Print, above n 2, 78.

Skilbeck recognised the impact of including objectives in his model: 'the very word objectives invites controversy, in curriculum planning development and evaluation'.[20]

D. *The Cyclical Model*

The cyclical models fall into the middle of the curriculum model spectrum. Cyclical models appear to view the curriculum process as a continuing activity, rather than the static process which the rational–objective models tend to promote. This may be especially important given the dynamic nature of law. Print suggests that their value may have been underestimated by many scholars.[21]

Typically, Wheeler[22] and Nicholls[23] are associated with this model. However, Wheeler's view of this model has been criticised as it seems to be too closely aligned with the rational–objective models. Wheeler's version of the cyclical model consists of five logically-sequenced phases:

(1) Selection of aims, goals and objectives.
(2) Selection of learning experiences to help achieve these aims, goals and objectives.
(3) Selection of content through which certain types of experience may be offered.
(4) Organisation and integration of learning experiences and content with respect to the teaching–learning process.
(5) Evaluation of each phase and the attainment of goals.[24]

However, it is the Nicholls model of curriculum development that is often taken to be more representative of the cyclical approach. The Nicholls model proposed a five-point plan of development:

(1) Situation analysis.
(2) Selection of objectives.
(3) Selection and organisation of content.
(4) Selection and organisation of methods.
(5) Evaluation.[25]

By adopting this type of model, with a fixed situational analysis as a starting point, the whole curriculum design process is stifled by the initial baseline data upon which objectives had to be formulated.[26] Again, this does not allow for the dynamic nature of the law, which changes relatively rapidly and continually.

E. *The Process Model*

The process model is quite unlike any of the other curriculum development models discussed above. On the continuum of models, it is positioned after the dynamic–interaction model; although some commentators have suggested that it cannot be placed on the continuum at all, since it has very disparate and diverse ideals from the other models.[27] The process model is more recent, and is less conservative, than the other models of curriculum.

Some suggest that the process model has developed as a reaction to a perception of curriculum designs by people who work constantly with curriculum contents, rather than those who simply deal with it in isolation and thus have little understanding of the complexities and intricacies

20 Skilbeck, above n 11, 210.
21 Print, above n 2, 64.
22 See especially Wheeler, above n 6.
23 See especially Nicholls, above n 10.
24 Wheeler, above n 6, 30–1.
25 Audrey Nicholls and Stanley H Nicholls, *Developing a Curriculum: A Practical Guide* (George Allen and Unwin, 1976) 21.
26 Skilbeck, above n 11, 23.
27 Lovat and Smith , above n 1, 118.

of delivering information to real people in real situations.[28] Skilbeck states that this model has developed as a reaction to the prescriptive nature of the other models, particularly the rational–objective models, and this model therefore belongs to a group he calls 'alternative models'.[29]

The model's principal proponent is Stenhouse.[30] Stenhouse had proposed this model because he did not believe that any of the other models, which tended to focus on the need to formulate and achieve objectives, took into account the realities of the traditional classroom or learning environments.[31] That is, the other models tended not to recognise that the classroom — or any learning environment — is an artificial and nonpareil environment, which exists in a rarefied atmosphere and has special dynamics of which only educators are aware.

The process model appears less structured than any of the others which have been examined. The major components of Stenhouse's model are:

(1) content;
(2) methods; and
(3) evaluation.

The model has no initial statement of objectives. It appears to be centred on the view that education is concerned with certain processes of intellectual or cognitive development. Thus, what is crucial to this process in not the learning of a vast body of knowledge but rather the processes of development that are prompted.[32]

The model is based on the premise:

> that to have been educated is to have been helped to develop certain intellectual capacities rather than to have acquired factual knowledge or to have had one's behaviour modified in certain ways.[33]

So it is as far removed from any type of indoctrinal-based curriculum as is possible.

Initially, it might seem that the objectives seem to be encompassed by the content, but this is something that Stenhouse has strenuously rejected.[34] He categorically states that objectives are to play no part in the development of the curriculum. Instead, curricula 'can — and should — be constructed … by selecting suitable content to exemplify the structure, content and criteria of the forms of knowledge'.[35]

The model seems almost to view the individual in an existentialist manner; that is, as a person who can control their own destiny to be able to learn what is appropriate for them. The model has been widely criticised on this basis by traditional curriculum theorists.[36]

Stenhouse himself seemed to recognise that the model may not be very successful in situations where what is to be learned is information and skills. But he contended that it would be most effective in those areas of the curriculum which have a focus on knowledge and understanding;[37] however, it may be problematic to argue that these two concepts are so disparate or have no connection at all.

It must be recognised that there are severe limitations in assessing what has been learned under the auspices of the process model. It is obvious, on comparison with the three other

28 See especially the discussions of Laurie Brady, *Curriculum Development* (Prentice Hall, 4th ed, , 1992) 78–80.
29 Skilbeck, above n 11, 221.
30 Stenhouse, *School Based Curriculum Development* , above n 8.
31 Indeed, the 'process' model is the antithesis of the rational–objective model.
32 Albert V Kelly, *The Curriculum Theory and Practice* (Chapman, 3rd ed, 1989) 17.
33 Ibid.
34 Lovat and Smith, above n 1, 119.
35 Skilbeck, above n 11, 221. Skilbeck also uses the fact that objects are to play no part in the design of the curriculum as a basis for severe criticism of Stenhouse's model: at 200–4.
36 See especially Brady, *Curriculum Development* (4th ed), above n 28, 70–80; Skilbeck, above n 11, 200–20.
37 Colin J Marsh, *Curriculum: An Analytical Introduction* (Novak, 1986) 47

categories of models discussed above, that evaluation is conspicuously difficult, given the lack of identified objectives. Although the strength of this model is its focus on the different learning experiences that individual participants may encounter.

Stenhouse claimed that evaluation should not take into account pre-specified objectives.[38] One may well ask the question, 'what then is to be assessed or evaluated?' It is quite possible, depending on the content, that each person involved in a program will have learned something different from the shared experience which is delivered by the curriculum, although this will be virtually impossible to assess.

Some of the things that participants of a program have learned may have been what was initially intended, but what of the other things? And how can we assess anything that they have learned if we did not originally have any objective criteria to base this assessment upon? These are the types of questions which traditional curriculum theorists have asked of this model — and the model cannot provide answers to them.

It may be possible to assess the effectiveness of a curriculum developed using the process model only from observing the reactions of individuals to the material (content) which they have been presented with. But is this effective evaluation and assessment? If a formal normative or summative type of assessment is required, then it could be argued that this model would be ineffectual.

IV. Implications

In the context of teaching taxation law, being aware of and using a recognised theoretical model of curriculum will add integrity, stability, reliability, authenticity and consistency to the learning activities that are undertaken by students. The choice of which curriculum model, or which variation of a particular curriculum model, to choose to implement the material for the taxation law unit is critical. If an inappropriate model is chosen, the implementation of the content will necessarily suffer.

Two facts specific to taxation law units should be taken into account when deciding the most appropriate model of curriculum development to adopt. Firstly, taxation law, like some other areas of the law, is quite dynamic. Secondly, it is delivered in educational settings in which there are expectations — both internally and externally — to be met of achieving a certain level of proficiency.[39]

V. Discussion of Tax Law as it Relates to the Different Theoretical Models of Curriculum

Taxation law is usually a required subject in business–commerce degrees and, in most universities, it is an optional unit in law degrees. At the University of Western Sydney, taxation law is a compulsory subject in both the business–commerce degree and the law degree. This means that there are different student cohorts to which an institution has to teach the fundamental elements of the tax system. Both streams of students will be required to study similar material for the purposes of professional accreditation by external taxation bodies, such as the Tax Agents Board. This is particularly the case where law students have combined their law degree with a business–commerce degree.

The external accreditation boards require the educational institution to cover certain areas of taxation law. These areas cover the concept of income; the scope of allowable deductions; the principles of capital gains, the principles relating to business entities (companies, trusts and partnerships); and the foundational concepts of fringe benefits tax and goods and services tax. These content areas need to be covered in any taxation law course that will lead to professional accreditation. The content in these areas can change significantly, and regularly, which poses

38 Brady, *Curriculum Development* (4th ed), above n 28, 78.

39 See especially Margaret Davies, *Asking the Law Questions* (Law Book Company, 1994) 5–10.

challenges for the designer of a curriculum base, if the curriculum model being used demands that, when content changes, the whole curriculum needs to be changed.

If there is no need for professional accreditation, the course designers can adopt a very flexible approach to the curriculum, covering whatever topics they consider relevant to their students. These topics could include, as a key framework, the politics and theories of taxation law.

From a curriculum point of view, the teaching of taxation law is driven to a large extent by whether or not there is an external expectation as to the level of proficiency that will be achieved in core areas of taxation law. This, by itself, will influence the type of curriculum that can be implemented by the educational institution.

From the perspective of the taxation law curriculum at the University of Western Sydney, the areas that need to be covered provide little scope for flexibility. There is therefore little scope for the dynamic–interaction or process models of curriculum theory. On the other hand, either the rational–objective or cyclical models would be suitable. However, this may not always be the case, as the frequent changes in the content of taxation law may not be able to be accommodated within the curriculum framework. For instance, the current government proposals for the taxation of trust income may structurally and fundamentally alter the manner in which trusts are considered as an entity for tax purposes, with the flow-on effect to other areas of taxation law, such as dividend distributions and capital gains. Fundamental questions as to who will pay tax on such assessable income amounts may well be fundamentally altered in the near future.

As to which model may be the most appropriate, it is necessary to examine more carefully the way in which the content in taxation law is actually taught, within the framework of the seemingly rigid requirements of the external professional accreditation process. The external bodies require that certain topics be taught but do not prescribe the manner of doing so, or the depth of knowledge to be achieved. So, on the surface, it would seem appropriate to use the rational–objective model of curriculum development and provide a sequential, logical and rigid way of interpreting the curriculum. However, when the content changes, as it often and radically does in taxation law, then the curriculum would need to be redeveloped over and over again. This causes immense problems for the curriculum designer of a taxation course, regardless of which curriculum model is being utilised; although this is especially so if the rational–objective model is used.

However, it is also clear that some underlying principles of taxation law do not structurally change and that the basics of income, deductions, capital gains, fringe benefits tax and goods and services tax can be taught in a consistent manner from year to year. Where the content does change, there is a need to revisit those underlying areas and adopt the revamped content material. This can present a dilemma for the curriculum designer. Therefore, the rational–objective model, which is the hallmark of the syllabuses of most tax courses, is problematic due to the very nature of the underlying principles of taxation law.

A good example of this relates to the change announced in the May 2011 federal budget in relation to the calculation process of fringe benefits tax where a motor vehicle has been provided as part of an employment contract. The statutory method of calculating the taxable benefit of the company car has not changed, but the relevant statutory fraction has changed. So, instead of the relevant statutory fraction relating directly to the number of kilometres travelled, there is now a set flat statutory fraction of 20 per cent for all company cars. The underlying principle has not altered, just the calculation methodology.

On this basis, the cyclical model is a far more applicable curriculum model. This becomes clearer when one considers that the underlying principles of tax do in fact build upon themselves. There is a logical development from one stage to the next in coming to grips with the underlying principles of taxation law. For instance, in dealing with the concepts of income, this includes income from personal exertion and a subset of that topic is income from employment. Students need to understand the principles relating to income from employment before they are able to see why a fringe benefit provided to an employee, such as a company car, is actually taxed to the employer and not the employee. Accordingly, it is important that a student covers the topic of income from employment before dealing with the topic of fringe benefits tax, which requires an employment relationship to exist.

Another area that lends itself to the cyclical model is the taxation of capital gains. The system has been in place since September 1985 and there has been very little structural change. The changes that have occurred relate specifically to the calculation methodology of the capital gain, not to the structure and triggering of a capital gains event. For instance, the method of calculating a net capital gain has shifted from an indexation base framework to a discount factor framework (up to 50 per cent for individuals) since September 1999. Such changes can be absorbed into the teaching of capital gains more easily when the underlying capital gains tax principles have not altered.

Students still need to see the rationale for the introduction of the capital gains tax regime, which has at its foundation the fact that capital receipts are not assessable as ordinary income under ss 6–5 of the *Income Tax Assessment Act 1997* (Cth) — a topic ordinarily taught to students in the earlier part of the course. The result of this non-recognition was that capital receipts were escaping the tax net. The government decided to plug this leak by introducing a comprehensive capital tax gains regime. Students then see the development of the law in a logical manner.

VI. Discussion of the Advantages and Disadvantages of Using Each of the Different Models

Applying each of the curriculum models to the teaching of taxation law, the following emerges.

The elements of the rational–objective model are set out in chronological form and deviation is very difficult. A curriculum developed under this model needs to be redeveloped continuously as the content changes. As seen above, the content of taxation law does change on a regular basis and this would mean that the rational–objective model would require a revamping. This does not seem to have any advantages when considering the teaching of taxation law.

Under the cyclical model, the curriculum process is a continuing activity, rather than a static model. This model seems to be the most suitable for the teaching of taxation law, where there is a need to cover certain content as prescribed by an external organisation, such as an accreditation body. The curriculum itself will be driven by the required topics of the accreditation body but there will still be some flexibility in the manner and order in which the topics will be taught to ensure students are able to see the development of taxation law. This is particularly the case as our taxation system has expanded its tax base over the years.

The dynamic–interaction model does not seem to fit within the teaching of taxation law from a professional accreditation perspective. Where there is a need to follow an external accredited body, there must be a need to focus on objectives and this would discount the dynamic–interaction model. This model would seem to be useful and relevant only where the teaching of taxation law is not driven by external bodies and there is flexibility available for the teacher in the learning environment. Only then would there be a need to set out for students a broad range of objectives for the course.

Because there is no initial statement of objectives, the process model would not seem suitable for the teaching of taxation law. Taxation law is a complex area of the law and if there were no objectives then there is little structure and there is the danger that the learning process may fail for the student. It may be that the student finishes the course on this model with little understanding of the underlying principles of taxation law.

VII. Conclusions and Recommendations

Designers of taxation law courses are presented with an often confusing and overwhelming myriad of choices when presented with the different existing theoretical models of curriculum.

Nevertheless, the choice of which curriculum model to use is a very important one. It should be relatively clear that if an inappropriate model or at least not the most appropriate model is chosen the result in implementing content can be impacted. .

This paper has presented a synthesis of the different theoretical models of curriculum and their relevance to teaching taxation law units. A number of relevant factors exist when determining which model of curriculum a designer of a course should use. In particular, these factors include the dynamic nature of taxation law, the need for a formal statement of objectives, the need for assessment and the need to be accountable both internally and externally for the course. We have concluded by indicating that the cyclical model of curriculum offers the greatest scope for use in taxation law subjects as, importantly, it views the curriculum process as a continuing activity.