INCOMING

Statutory Income

→ Do any of the statutory income provisions apply?

Balancing Adjustment for Sale of Depreciating Asset

[Asset] is a depreciating asset. It was sold for $[Price].

The termination value of the depreciating asset is therefore $[Termination Value], excluding GST *(s 27-90).*

As the termination value is greater than the adjustable value, $[Difference] is assessable income *(s 40-285(1)).*

Dividends

- Company **paying** dividends will generate a **debit** in their franking account of the amount of franking credits on the distribution *(s 205-30).*
- Company **receiving** dividends will generate a **credit** in their franking account of the amount of franking credits on the distribution *(s 205-15).*

Resident Shareholder

The $[Dividends] of dividends will not be [Taxpayer]'s ordinary income under *s 6-5,* as statutory provisions will prevail *(s 6-25).*

As [Taxpayer] is a resident shareholder, and the dividends were paid out of the company's profits, the $[Dividends] will be included in [Taxpayer]'s statutory income, assessable under *s 44(1)(a) ITAA36.*

[Taxpayer] held the shares for at least 45 days, therefore the imputation system has not been manipulated *(s 207-145).* The dividend is [fully/partly]-franked. The franking credit will be $[Franking Credit] (franked distribution x 1/2.333) calculated pursuant to *(s 202-60(2)).*

$[Franking Credit] will be included in [Taxpayer]'s assessable income *(s 207-20(1)),* and they will also get a tax offset of $[Franking Credit] *(s 207-20(2)).*

Frankable % Provided (s 202-60(2))	*Franking Credits Provided (s 976-1)*	*Unfranked Part*
MAXIMUM FRANKING CREDIT = [Frankable % x Dividends] x 30/70	***FRANKED PART =*** [Franking credit] x 70/30	***UNFRANKED PART =*** [Dividend] - [Franked part]

Non-resident Shareholder

The $[Dividends] of dividends will not be [Taxpayer]'s ordinary income under *s 6-5(3),* as it is a lump sum receipt *(Harris),* and they were not engaged in a profit-making scheme when the shares were acquired *(Myer).*

→ *From Resident Company*

As [Taxpayer] is a non-resident shareholder receiving dividends from a resident company, the dividends will not be assessable income because it will be NANEI *(s 44(1)(b) ITAA36* operating subject to *s 128D ITAA36).*

The unfranked part of the dividend may be subject to withholding tax in the hands of [Resident Company] *(ss 128B(1), (3)(ga) ITAA36).*

[Resident Company] will then be taxed on the unfranked party at the rate of 30% (non-tax-treaty country) **or** 15% (tax-treaty country).

→ *From Non-Resident Company*

As [Taxpayer] is a non-resident shareholder receiving dividends from a non-resident company, they will be assessed on $[Dividend] if the profits are derived from sources in Australia *(s 44(1)(b) ITAA36).* They will not be entitled to any franking credits.

CAPITAL GAINS TAX

CGT Event

→ Has a CGT event occurred?

- If **depreciating asset**, exempt from CGT *(s 118-24)*.
- If **trading stock**, exempt from CGT *(s 118-25)*.
- If **collectable:**
  - Capital losses from collectables can only be applied against capital gains from collectables *(s 108-10(1))*.
  - List of collectables in *s 108-10(2)*.
  - Collectables acquired for $500 or less are disregarded *(s 118-10(1))*.
- If **personal use asset:**
  - Capital losses are disregarded – cannot be applied to capital gains *(s 108-20(1))*.
  - Personal use asset is one used mainly for taxpayer's personal use or enjoyment *(s 108-20(2))*.
  - Capital gains disregarded if personal use asset is acquired for $10,000 or less *(s 118-10(3))*.

CGT Event A1

[Asset] is a CGT asset as it is [Type of Property] *(s 108-5)*. [Taxpayer] disposed of it by selling it for $[Sale Amount], triggering CGT Event A1 *(s 104-10(1))*.

The [cost base/reduced cost base] of the [Asset] is $[Cost Base/Reduced Cost Base]. This is calculated by the 5 elements in *[s 110-25(1)/s 110-55(1)]*:
[1st element $X]
+ [2nd element $X]
+ […] etc.
= $[Cost Base/Reduced Cost Base].

The capital proceeds of CGT Event A1 is $[Money Received], as this is the sum [Taxpayer] received from the CGT Event *(s 116-20(1))*.

Gain

As the capital proceeds are greater than the cost base, there is a capital gain of $[Gain] ([Proceeds] – [Cost Base]) *(s 104-10(4))*. This gain [can/cannot] be discounted (use script).

Loss

As the capital proceeds are less than the Asset's reduced cost base, there is a capital loss of $[Loss] ([Reduced Cost Base] – [Proceeds]) *(s 104-10(4))*. The capital loss is not deductible *(s 102-10(2))*, but can be used to offset [Taxpayer]'s capital gains in future years *(s 102-15)*.

- Market value substitution rule applies if no capital proceeds received/cannot be valued/proceeds are less than the market value *(s 116-30)*.

CGT Event C2

[Taxpayer] is a shareholder at [Company]. Capital has been returned to [Taxpayer], and the shares have been cancelled, triggering CGT Event C2 *(s 104-25(1))*.

[Taxpayer] paid $[Cost of Shares] for the shares, which is the cost base. $[Return Amount] was returned.

SUPERANNUATION *(Chart on p. 732)*

Superannuation Guarantee Charge

The quarterly superannuation entitlement for [Employee] is $[Entitlement] ($[Quarterly Salary] x 0.095) *(s 19(1) SGAA)*. [Employer] is only contributing $[Quarterly Contributions] per quarter.

As there is a shortfall in [Employer]'s contributions to [Employee], [Employer] must pay a superannuation guarantee charge ('SGC') *(s 5 SGCA)*. This is calculated per *s 17 SGAA* as follows:

	[Total Shortfalls] (Entitlements – Actual Contributions)
+	[Shortfalls] x 0.1 nominal interest fee
+	$20 x [Number of shortfallen employees] administration component
=	**SUPERANNUATION GUARANTEE CHARGE**

[Employer] must therefore pay $[SGC]. This amount is not deductible *(s 26-95)*.

Personal Contributions with Notice (CC – Deductible, Assessable)

[Taxpayer] can deduct contributions they make to their own superfund in the year they are made *(s 290-150)*.

It will be assumed that the superfund is a complying superfund *(s 290-155)*. *(If needed, see s 45 SISA for what a complying superfund is)*. [Taxpayer] is above 18 and younger than 75 *(s 190-165)*. They have also given notice of their intention to claim a deduction *(s 190-170)*.

The superfund will then be assessed on personal contributions *(s 295-160)*.

• Remember taxpayer can only deduct as much as included in notice *(s 190-175)*.

Employer Contributions (CC – Deductible, Assessable)

[Employer] may deduct contributions they made to their employees superfund in the year it is made (s 290-60).

The employee was indeed engaging in producing [Employer]'s assessable income / engaged in [Employer]'s business (s 290-70).

It will be assumed that the superfund is a complying superfund *(s 290-75),* or at least [Employer] has reasonable grounds to believe it was one.

The contributions are made [*(a)* before employee turns 75 / *(c)* to reduce their SGC percentage] *(s 290-80)*.

Therefore, the superfund will be assessed on this contribution *(s 295-160)*.

Excess Concessional Contributions Charge

The cap for concessional contributions ('CC') is $25,000 *(s 291-20)*. As [Taxpayer]'s contributed $[Contributions], they have made excess CCs ('ECCs') of $[Excess Amount] ($[Contributions] - $25,000).

$[Excess Amount] will be included in [Taxpayer]'s assessable income, taxed at their marginal rate *(s 291-15(a))*. However, they will be entitled to a tax offset of 15% of the ECCs ($[Excess Amount x 0.15]) to reflect the tax paid by the fund *(s 291-15(b))*.

[Taxpayer] may also have to pay an ECC charge if the Commissioner provides an ECC determination. The charge is not deductible *(s 26-74)*. However, [Taxpayer] can elect to have up to 85% of the amount the ECCs they made, released from their super to pay it off, and this amount is NANEI *(s 303-15)*.