HELP repayment income (HRI*)	Repayment rate
Below $53,345	Nil
$53,345 - $59,421	4.0%
$59,422 - $65,497	4.5%
$65,498 – $68,939	5.0%
$68,940 - $74,105	5.5%
$74,106 - $80,257	6.0%
$80,258 - $84,481	6.5%
$84,482 - $92,970	7.0%
$92,971 - $99,069	7.5%
$99,070 and above	8.0%

	Unchanged	Tier 1	Tier 2	Tier 3
Singles	$88,000 or less	$88,001 - $102,000	$102,001 - $136,000	$136,001 or more
Families	$176,000 or less	$176,001 - $204,000	$204,001 - $272,000	$272,001 or more
Medicare levy surcharge rate	0%	1%	1.25%	1.5%

TOPIC 2 – INCOME

Main section is s6-5.
Statutory provisions prevail over ordinary income
Competing concepts of income:
i) Accounting: Revenue less expenses = profit
ii) Economic: Income = consumption + change in wealth
iii) Judicial: income 'flow' and gain (profit

Taxable income = assessable income (ordinary income+ statutory income) -deductions (general/special)

Income is either **ordinary** or **statutory**

- *Ordinary income*
  i) No statutory definition
  ii) Negative proposition (not ordinary) positive proposition (is ordinary)
  iii) unnecessary to meet all characteristics

- *Statutory income*
  i) Specifically defined in legislation (s6-10). Examples at s15-2. Includes capital income

HOW DO WE DETERMINE THE DIFFERENCE BETWEEN ORDINARY INCOME AND STATUTORY (CAPITAL INCOME)?

1. **Transferability of money**
2. **Process v Structure (Dixon, sun newspapers)**
3. **Mere realisation (Cali copper)**
4. **Fixed v circulating**

1. TRANSFERABILITY OF MONEY

- Amounts not convertible into money is not ordinary income
- FCT v Cooke & Sherden (1980): Manufacturer soft drink awarded free holiday to retailers. Not convertible to cash. If the receipt of benefit saves taxpayer from incurring expenditure, the saving is not income.
- Tennant v Smith (1892) AC 150: issue of whether rent free accommodation was income according to ordinary concepts. Could not convert to cash, as could not sublet

2. DISTINCTION BETWEEN STRUCTURE AND PROCESS/ CAPITAL AND INCOME

2. CGT ASSET

DISCOUNT: NEED TO HOLD ASSET FOR MORE THAN 12 MONTHS

i) any kind of property
ii) legal or equitable right that is not property.
Exemption: pre-1985.

I. **Personal use assets**
- Defined s108-20: a CGT asset used or kept mainly for your or associate's personal use or enjoyment.
- Disregard cap gains where cost less than $10,000 (s118-10)
- Capital losses disregarded (s108-20)
- Cost of ownership not included in cost base (s108-30)

II. **Collectables**
- Defined in s108-10 as i) artwork, jewellery, antique, coin, or ii) manuscript or book iii) Stamp
- Capital gains disregarded where cost less than $500 (s118-10)
- Quarantining of capital losses s108 and net capital loss carry forwards
- Cost of ownership not included in cost base s108-1

III. **Standard CGT assets** Subdivision 108-D
- s108-55 (2) buildings/structures on pre CGT land
- s105-55 (1) Buildings where Div 40 valancing adjustments would apply
- s108-60 Depreciation assets part of a building/structure
- s108-65 Post-CGT land adjacent to pre-CGT land when titles amalgamated
- s108-70 (2) Unrelated improvements

1. Disregard capital gains and losses where acquisition cost is less than $500 S118-10(1)
2. Costs of ownership not included in cost base S108-17

----capital proceeds > cost base = capital gain

----capital proceeds < reduced cost base = capital loss

----cost base < capital proceed < reduced cost base = nothing

3. CAPITAL PROCEEDS

s116-20 General Rules

(1) K proceeds from CGT event are total of:
(a) Money received/entitled to in respect of event happening; and
(b) Market value of any other property received/entitled to in respect of event

s103-10 Special Rules

- s103-10 (1)/ s103-10 (2)(a) Constructive receipt
- s103-10 (2)(b) Subsequent/instalment payments

s116-10 Modifications

TOPIC 6 – GENERAL DEDUCTIONS

Process for question:

Positive limb s8-1

(a)…. Incurring in gaining or producing assessable income

(b) loss/outgoings… necessarily incurred in carrying on a business… purpose of gaining or producing assessable income (nexus to income)

Negative limb s8-1(2) …. can't deduct…

(a) loss or outgoing capital or capital in nature
(b) private or domestic
(c) exempt income
(d) provision prevents me from deducting

POSITIVE LIMBS (FIRST LIMB S8-1)

I) LOSS/OUTGOING (RENT, WAGES, FUEL)

Charles Moore & Co (WA) Pty Ltd v FCT

- Shop's daily earnings taken to bank; robbed → accidental loss deductible

AGC (Advances) Ltd v FCT (1975) 132 CLR 175; TR 92/4

- Assess taxpayer on net profit figure → net commercial loss on transaction
- Writing-off bad debts → implies voluntary payment

II) 'TO THE EXTENT', EXPENSES WILL NEED TO BE APPORTIONED.

- *Ronpibon Tin NL v FCT*
  - Expenses incurred in deriving assessable and exempt income. Portion of expenses relating to assessable income is deductible ONLY.

i. **1st limb ... In gaining or producing assessable income**
(concerned with expenditure incurred in the actual course of producing assessable income)

ii. **2nd limb ... In carrying on a business for the purpose of gaining or producing assessable income**
(concerned with expenditure made for the purpose of business generally)

III) INCURRED (1ST LIMB)

- *FCT v Aust. Guarantee Co.* - Payment of expense is not a requirement of deductibility; you must be able to show you are committed to making the payment

- s102AC Excepted minors (full-time employment, double orphan, disabled)
- s102AD Excepted income (Y_{Business}, $Y_{\text{Investment of income}}$, $Y_{\text{Deceased Estate}}$)

TRUST INCOME AND TAX INCOME DIFFER (TAX ON NET INCOME)

- **The proportionate view: (this is approach that should be used)**
  - Calculate proportions in which beneficiaries presently entitled to trust income. Use those proportions to ascertain entitlement to "net" income
  - FCT v Bamford (2010)
- **The quantum view: (Approach included for reference only)**
  - Beneficiaries only entitled to amounts that are distributed to them. Trustee taxed on remaining income under s99 or 99A.

Example 1: Tax income exceeds trust income

- Tax income of $100,000
- Trust income of $80,000
- 4 beneficiaries: each receives a distribution of $20,000

Analysis:

Quantum view:

- Tax each beneficiary on $20,000
- 4 * $20,000 = $80,000
- $20,000 of tax income remaining that hasn't been taxed
- Trustee taxed on remaining $20,000

Proportionate view:

- Each beneficiary entitled to 25% of trust income
- Apply this percentage (25%) to tax income
- Each beneficiary assessed on $100,000 * 25% = $25,000

Example 2: Tax income less than trust income

- Tax income is $100,000
- Trust income is $120,000
- 4 beneficiaries: all receiving equal share

Analysis: