

Assessable income				
Income tax (4-1 ITAA 1997) Ordinary income (6-5) Statutory income (6-10) i.e. (15-2), CGT		Income characterization: <ul style="list-style-type: none"> who is tax payer? <i>Federal Coke</i> → constructive receipt (6-5, 6-10); what is tax event? <i>Constable</i> ; Valuation: convertible into cash? <i>Cooke and Sherden</i>, (21,21A) Timing of valuation <i>Abbott</i> 		
income from services	income from property	income from business	compensation receipts	periodic receipts
<ul style="list-style-type: none"> Ordinary → nexus: voluntary payment <i>Haynes, Scott, Dixon, Harris</i> Other benefits (15-2, 23L) → but for test: <i>Smith, Payne</i> in-kind benefit (15-2) FBT <ul style="list-style-type: none"> employment (66, 5 FBTA) benefit (136) provide (136) to an employee or an asso of the employee by an employer or an asso of the employer in respect of employment (136, 148, but for test) FBT prioritize over 15-2 	Capital gain tax <ul style="list-style-type: none"> NCG (102-5) CGT event (100-20): A1, C2, D1 (vs109/10) → timing (100-20(3)), <i>Sara Lee</i> CGT Asset (108-5) <i>Orica</i> Cost base (110-25): 5 elements → reduced cost base (110-55) Capital proceed (div 116) 	<ul style="list-style-type: none"> Identify a continuing business* (995-1)? <i>Ferguson, Walker, TR 91/11, Stone</i> → noncommercial loss (Div 35) Preparatory activities: <i>Fairway, Southern Estate, Softwood</i> → (40-840, 40-880) Isolated commercial txn: <i>Whitfords Beach</i> (OI or CGT?) Sufficient nexus between receipt and business (within scope)? <i>Squatting, GP Int'l</i> Unusual receipt (out of scope) <i>Myer Emporium, Westfield, TR92/3</i> 	Tree or fruit? <ul style="list-style-type: none"> Compensation takes the same character of the payment substituted <i>Philips, Sydney Refractive Surgery Centre</i> Compensation per statue <i>Slaven</i>; GCT exemption (118-37) Compensation per insurance <i>Carapark, Smith</i>, (15-30) Damage by court order <i>Spedley Securities, Liftronic</i> Compensation for allowable deductions <i>HR Sinclair & Son, Rowe</i>, (Div 20) 	Private annuities = income: periodical, continued expectation of receipt, reliance to live on <i>Dixon</i>

Entity (960-100, 995-1)			
Partnership (PA s 1)	Trust (Div 6)	Superannuation	Companies
<ul style="list-style-type: none"> Existence of partnership General law partnership or tax law partnership <i>McDonald's</i> Taxation (ss90-40, Part III Div 5) → tax on partners (92): resident; non-resident & Australia source 	<ul style="list-style-type: none"> Net income flow though B under no legal disability is presently entitled to a share of the income (97, deemed PE 95A(1)&(2) & 101 discretionary) B is PE but under legal disability (98, deemed Pe 95A(2)) → tax on trustee B is not PE (99, 99A) → tax on trustee Trust loss carried forward and offset AI 	<ul style="list-style-type: none"> Tax = 15% contribution Investment earnings (Div 295): tax on trustee Benefit: no deduction for fund, exempt for recipient 	<ul style="list-style-type: none"> Tax rate = 30% Loss carry forward (Div 36); criteria to use tax loss (Div 165) Dividend (6); distribution (44) Imputation <ul style="list-style-type: none"> Net dividend and tax paid by co. include in S/H AI (gross-up) Tax gross-up amt of distribution at S/H marginal rate Allow tax offset (207-20) Franking a distribution (202-5) <ul style="list-style-type: none"> Maximum Franking Credit = Amount of distribution x [(corp tax rate)/(1-corp tax rate)] Minimum franking credit - benchmark rule (200-30) Franking account (Div 205): credit/debit Franking Deficit Tax (205-45)

GST

- GST (taxable supplies & table importation) and input tax credits (creditable acquaint) (7-1 GSTA)
- GST net amount = GST – ITC (7-5)
- Taxable supplies of goods and service (9-5), Creditable acquisition (11-5), Taxable importation (Div 13), GST-free supplies (Div 38), input taxed supplies (Div 40)
- Registration (23-5); BSA

General deduction (8-1) – immediate deduction			
Positive limb <ul style="list-style-type: none">Incurred In gaining or producing ATNecessarily incurred in carrying on a business* for AI	Negative limb (cannot deduct) <ul style="list-style-type: none">Loss or outgoing of capital natureLoss or outgoing of private or domestic natureRelated to exempt income or NANE income		
Relevance test=sufficient connection: quasi personal exp is non-deductible <ul style="list-style-type: none">Fines, <i>Madad</i> (26-5)Damage <i>Herald and Weekly Times</i>Legal expense <i>Showden and Wilson</i> , <i>Magna Alloys</i>, <i>Day</i>	Perceived connection test Condition of employment test Essential character test (nexus) <ul style="list-style-type: none">Travel expense: travel from home to work <i>Lunney</i>; from work to work <i>Payne</i>→ (25-100); Study tour <i>Finn</i>Education expense: (82A). <i>Hatchett</i>, <i>Anstis</i>Child care <i>Martin</i>Home office <i>Handley</i>, <i>Forsyth</i>, 93-30 running expense v occupancy cost	Capital cost recovery: CGT cost base, capital allowance- Div 40 and 43, black hole Capital or revenue? Form, effect, purpose (process v structure) <ul style="list-style-type: none"><i>Sun Newspaper</i>: prevent competition = capital<i>Hallstroms</i>: deductible<i>Broken Hill Theatres</i> :protect structure=capital<i>Consolidated fertilizers</i>; deductible<i>BP Australia</i>: to increase order so revenue<i>Regent Oil</i>: 10-21yrs lease =capital<i>Star City</i>: rent linked to license= capital	
Specific deduction (8-5)			
<ul style="list-style-type: none">Improvement is not repair <i>Western Suburbs Cinema</i> (25-10)No deduction for initial repair <i>W Thomas</i>	Div 40 depreciation <ul style="list-style-type: none">Depreciation assets (40-30)Taxable purpose (40-25(7))Diminishing value (40-72)= [200% ÷ effective life] applied to declining balance straight line (40-75)= [100% ÷ effective life] applied to costeffective life (40-95)Cost (Div 40)Balancing adjustment (40-285) amount= termination value (40-300) - adjustable value of the depreciating asset	Div 43 capital works <ul style="list-style-type: none">Deduction rate (43-25) straight-line 2.5% or 4% ie for hotels, apartment buildings, etcRecovery through CGT sales or expiry	Div. 70 trading stock <ul style="list-style-type: none">Acquisition: deduction given when TP incurs expense for stock (8-1, 70-25), but only when trading stock on hand (70-15)Disposition: change in value of trading stock on hand from start of year to end of year is income/ deducted (70-35); deemed MV if outside course of business (70-90)Add back closing stock at beginning of next year (70-40)Valuation at year end : cost price, replacement price, market selling price

Tax administration

- Income tax return (161 ITAA 1936): who lodge return, content, use which form, deadline
- Assessment (166) → tax payable (255-5) and due date (204)
- Amendment: time limit 2/4 yrs (170) → objection (14ZW TAA 1953) and review and appeal (14ZZ)
- Basic administrative penalty (284-75): by statement or by scheme → shortfall penalties (284-90)
- Promoter penalty (Div 290 of Sch 1 TAA)

Tax avoidance- GAAR Part IVA

- Identify the scheme 177A: no commercial sense in ordinary course of business, and but for tax benefit
- Identify the tax benefit 177C, 177D → counterfactual by FCT
- Conclude the dominant purpose of entering the scheme and obtaining a tax benefit: 8 factors (177D(2)) *Hart*
- Penalty: FCT may cancel tax benefit and make adjustment (177F)

International taxation

- individual residence (6(1)(a)): common law test, domicile test, 183 days test (use the test year by year)
- entity residence (6(1)(b)): Incorporated in Australia, OR carries on business in Australia and has in Australia AND either: Central management and control or Voting power controlled by resident shareholders *Malayan Shipping*, TR 2004/15
- Australian residence: offset (Div 770), exemption
- Non resident: taxed on income from Australia → Australia Source Rule (995-1)