

TAXATION LAW EXAM NOTES

Primary Aim: Primary aim of taxation is to provide government revenue and fund government expenditure with the addition of other socio-economic purposes.

Source: Section 51(ii) of the *Australian Constitution* grants the Commonwealth Parliament the power to ‘make laws...with respect to...taxation’.

A compulsory exaction of money by a public authority for public purposes, enforceable by law, and is not a payment for services rendered.” – *Matthews v Chicory Marketing Board* (1938)

Legislation:

Income Tax Assessment Act 1936 (Cth)

Income Tax Assessment Act 1997 (Cth) “ITAA 97”

Income Tax Rates Act 1986 (Cth)

Fringe Benefits Tax Assessment Act 1986 (Cth)

Fringe Benefits Tax Act 1986 (Cth)

Medicare Levy Act 1986 (Cth)

Sources of Australian Tax Law:

There are **three sources** of taxation law:

Statute law (e.g. ITAA97 and the ITAA36 Income Tax), **Case law** (e.g. High Court, Administrative Appeals Tribunal) and the practice of the Australian Tax Office (ATO) (e.g. Public **Rulings**)

TYPES OF TAX RATE INDIVIDUALS: *Income Tax Rates Act 1986.*

Types include:

- Individuals who are **Australian residents** (for tax purpose)
- Individuals who are **foreign residents**
- Individuals who are **working holiday makers**
- Individuals who are **Temporary residents**
- Companies **below** the turnover threshold
- Companies **above** the turnover threshold

TAX RATE TABLES:

AUSTRALIAN TAX RESIDENT (temporary res too) – **2018-2019 RATES**

Taxable Income	Marginal Tax Rate	Tax on this income
0 - \$18,200	0%	Nil
\$18,201 - \$37,000	19%	19c for each \$1 over \$18,200
\$37,001 - \$90,000	32.5%	\$3,572 plus 32.5c for each \$1 over \$37,000
\$90,001 - \$180,000	37%	\$20,797 plus 37c for each \$1 over \$90,000
\$180,001 and over	45%	\$54,097 plus 45c for each \$1 over \$180,000

Example for \$15,000 income = Nil.

Example for \$40,000 income = $3,572 + (40,000 - 37,000) \times 32.5\% = 4,547$

FOREIGN TAX RESIDENT – **2018-2019 RATES**

Taxable Income	Marginal Tax Rate	Tax on this income
0 - \$90,000	32.5%	32.5c for each \$1
\$90,001 - \$180,000	37%	\$29,250 plus 37c for each \$1 over \$90,000
\$180,001 and over	45%	\$62,550 plus 45c for each \$1 over \$180,000

Example for \$15,000 income = $15,000 \times 32.5\% = 4,875$

WORKING HOLIDAY MAKERS – **2018-2019 RATES**

- **individuals on a “Working Holiday” (417) or Work and Holiday” visa (462)**

Taxable Income	Marginal Tax Rate	Tax on this income
0 - \$37,000	15%	15c for each \$1
\$37,001 - \$90,000	32.5%	\$5,550 plus 32.5c for each \$1 over \$90,000
\$87,001 - \$180,000	37%	\$22,775 plus 37c for each \$1 over \$90,000
\$180,001 and over	45%	\$56,075 plus 45c for each \$1 over \$180,000

COMPANIES – **2018-2019 RATES**

Income Year	Turnover Threshold	Under the threshold tax rate	Over the threshold tax rate
2015-16	\$2m	28.5%	30%
2016-17	\$10m	27.5%	30%
2017-18	\$25m	27.5%	30%
2018-19	\$50m	27.5%	30%
2019-20	\$50m	27.5%	30%

Annual turnover is the total **ordinary income** you derive in the income year in the ordinary course of carrying on a business.

Note: **aggregate turnover** is the company's annual turnover and the annual turnover of any entity connected or as an affiliate company.

Income Tax Formula:

Section 4-10 of the ITAA 97 to calculate the income tax for the financial year of individuals:

$$\text{Income Tax Payable} = (\text{Taxable income} \times \text{Rate}) - \text{Tax Offsets}$$

Can be called a **REBATE** as well eg insurance rebate = offset

Taxable income formula: Section 4-15 of the ITAA 97

$$\text{Taxable Income} = \text{Assessable Income} - \text{Deductions}$$

Deductions = General Deductions + Specific Deductions

$$\text{Assessable Income} = (\text{Ordin} + \text{Stat}) - \text{Exempt} - \text{GO TO PAGE 10}$$

Consists of ordinary income and statutory income – s 6-1(1) of ITAA 97

- Ordinary income - s 6-5(1)
- Statutory income - s 6-10(2)
- Exempt income - Div 6
- Other non-assessable or non-exempt income – s 6-15 - S6-20 definition of non-exempt income

Low & Middle income offset:

If income does not exceed \$125,333 – entitled to tax offset.
 0 - \$37,000 = \$200 offset
 \$37,000 - \$48,000 = \$200 + (3% of income over \$37,000)
 \$48,000-\$90,000 = \$530
 \$90,000 – 125,333 = \$530 – (1.5% x income over \$90,000)

LEVIES AND CHARGES: to be paid by Australian Residents

Medicare Levy – flat rate – $\text{Taxable Income} \times 2\%$ or $\times 10\%$ (Between)

2% of taxable income. Low income earners may be fully or partially exempt. Certain individuals are exempt from the Medicare levy. **Low income earners** may be fully or partially exempt. Whose taxable income is > “threshold amount” but < “phase-in limit” = 10 cents for every dollar above the “threshold amount”. **BETWEEN the two = 10% levy**

1 - Under the threshold = No payment of Medicare Levy = **0%** / NIL

2 - Over threshold and Over Phase-in limit = Taxable Income \times **2%** = Levy

3 - Over threshold but under the Phase-in limit = (Taxable Income – Threshold) \times **10%** = Levy

Situation	Threshold amount	Phase-in limit
Individuals entitled to Seniors & Pensioners Tax Offset	\$34,244	\$42,805
All other taxpayers	\$21,655	\$27,068

Medicare Levy Surcharge – flat rate according to table below

MEDICARE LEVY Surcharge = rate times (x) taxable income.