Table of Contents

<u>Topic 1: 18,200 tax free threshold</u>

Taxable income = Assessable income – Deductions
Assessable income = Ordinary income (not capital) + Statutory income
Deductions = General deductions (not capital) + Specific deductions
Income tax = (Taxable income x tax rate) – tax offsets
TI: taxable income
ML: Medicare levy
MLS: Medicare levy surcharge
HELP: HELP debt repayment
SBE: small business entity

Type of taxpayer	**Rate**
Companies with turnover ≥ \$50m	30% from \$1
Base rate entities (small) - Company - Carries on business - Turnover ≤ \$50m - ≤ 80% of assessable income from passive income (dividends, royalties, rent, interest)	27.5% from \$1
Companies with a turnover < \$50m and not a base rate entity	30% from \$1

Type of taxpayer	**Rate**	**What else based on taxable income?**
Individuals who are residents - Income from employment - Income from property - Income from business - Income from partnerships and trusts: retains the original income form	Marginal tax rates for residents	- Medicare Levy - Medicare Levy Surcharge - HELP debt repayment Less: Offsets
Individuals who are foreign residents: - Income from employment - Income from property - Income from business	Marginal rates for foreign residents	Less: one offset – franking credits
Individuals, temporarily in Australia on visa 417, 462	Marginal rates for working holiday makers	Less: one offset – franking credits

Resident individuals:

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

Foreign resident individuals:

Taxable income	**Tax on this income**
0 – 90,000	32.5c for each \$1
90,001 – 180,000	\$29,250 plus 37c for each \$1 over \$90,000
\$180,001 and over	\$62,550 plus 45c for each \$1 over \$180,000

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<u>Topic 4: Deductions</u>

Deductions:

- General deductions, s8-1
  - ➢ Positive limbs:
    - Incurred in gaining or producing assessable income; or
    - Necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income
  - ➢ Negative limbs: if any are satisfied, it is not deductible.
    - Capital, or capital in nature (capital: income producing structure, not income producing expense)
    - Private or domestic
    - Incurred in gaining exempt or non-assessable non-exempt income
    - Prevented from being deducted by a specific provision of the income tax legislation
- Specific deductions, s8-5
  - ➢ Tax-related expenses: s25-5: PAYGO deductible. Fringe benefits tax and GST may be deductible under s8-1
  - ➢ Repairs s25-10: must be in need of restoration or work, not pure maintenance work (maintenance may be deductible under s8-1), without changing character. If repair is an improvement: not deductible
  - ➢ Property must be used for an income-producing purpose for repairs to be deductible under s25-10
  - ➢ S25-10(3) denies repairs that constitutes as capital expenditure
  - ➢ Initial repairs: remedies defects which exist at the time the property is acquires. Not deductible as they are capital expenses
  - ➢ Replacements: part of an asset (repair, deductible), or if it is the whole of the asset (replacement and therefore capital)
  - ➢ Bad debts: s25-35(1)(a) provides a write-off of a bad debt where the debt was previously included in the assessable income. S25-35(1)(b) provides taxpayer with a deduction for the write-off of a bad debt. MUST be in the income year when the deduction is claimed. Not provision.
  - ➢ Payments to associations, s25-55: maximum $42, therefore better to deduct under s8-1 if the expense was incurred in gaining or producing assessable income
  - ➢ Gifts: Div30. Must be a true gift with no expectation of material advantage in return (*FCT v McPhail)*. May also be deductible under s8-1 if it is sufficiently connected to the production of the taxpayer's assessable income
  - ➢ Prior year loss: when PY deductions > assessable income. Ch13, page 484

Judicial tests:

- Incidental and relevant test
  - ➢ Connection with the operations which more directly gain or produce assessable income
- Essential character test
  - ➢ Lunney v FCT
  - ➢ "Essential character" of the expenses was to put the taxpayers in a position to gain or produce assessable income
- Occasion of the expenditure test

Expenses involving alleged or actual wrongdoing by taxpayer:

- *Herald and Weekly Times Ltd v FCT* (1932)

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<u>Case Law</u>

Topic 1: The taxation system in Australia

N/A: No case law assessable under the Semester 1, 2019 study notes.

Topic 2: Residence, source and tax accounting

Levene v IRC:
- Supports the principle that a taxpayer will not lose residence in one jurisdiction until they have acquired a new residence in another jurisdiction.
- Applied as one precedent in residency according to ordinary concepts.
- Test 1.

Miller v FCT:
- General principle in working out if an individual is a resident, in that is it's a question of fact and degree.
- General use.

Joachim v FCT:
- Think about where the taxpayer lived.
- Therefore, it is possible to retain residence according to the ordinary concept even if the taxpayer is not present in Australia.
- Specific facts.
- Test 1.

FCT v Applegate:
- Still precedent for cases where a taxpayer was able to show that they had adopted another permanent place of abode.
- Test 2.

FCT v Jenkins:
- If this case was heard today, it may be that the short period of employment could see the taxpayer being classified as a resident, unless able to prove that at the end of the first year of employment, they did not have specific plans to return to Australia.
- Test 2.

Bywater Investments Limited v CoT (2016)
- Test 2, but for companies.

Henderson v FCT (1970):
- Illustrates what happens when taxpayers change the method that they use
- From cash to accrual basis
- When a professional firm hires more than 292 people, the correct method is accruals

Arthur Murray v FCT (1965):
- Prepayments
- Court: amounts received in advance of goods being delivered or services being supplied are not regarded as income

Placer Pacific Management v FCT (1995):
- Expense of earlier year deductible in later year
- Many businesses generate liabilities which may arise in the considerable future "long tail liabilities"
- Therefore, they are still deductible, even if the business was sold prior