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Taxpayer entity

S 4-1	Income tax is payable by each individual and company, and by some other entities
S 9-1 ITAA 1997	List of Tax Entities
	Individual: a natural person, distinct from company

Taxable Income

S 4-15 Taxable income = Assessable income – Deductions

S 6-5	Ordinary Income
S 6-10	Statutory Income
S 8-1(1)	Deduction: +ve : ✓ Connection t income from personal exertion?
S 8-1(2)	Deduction: -ve: private/ exempt income?
S 8-5	Specific Deduction
S 8-10	No double deductions are permitted

Tax Liability

S 4-10(3)	Works out how much income tax you must pay. Income Tax = (Taxable Income x Tax Rate)- Tax Offset
S 12 Income Tax Rate Act 1986	The General Tax Rate of tax apply

		Maintenance of a place of abode
2. Domicile (Test only when ✓ AU domicile)	Bell v Kennedy Udny v Udny	**1) Domicile of origin** Retain their domicile of origin until they acquire a domicile of choice - A person' domicile is reflected by their intention & physical presence to remain permanently/ indefinitely
		2) Domicile of choice ✓ Intention to make his home indefinitely in that country
	FCT v Jenkins, Case Q68 Applegate	**Except**: ✓ Permanent place of abode outside AU → × domicile i) Intention as length to stay (3years) ii) Actual length to stay iii) Abandonment of place abode in Australia iv) Acquisition of place of abode **outside** Australia
3. 183-day Test	Wilkie v IRC	Days continuously, count strictly
		Exception: Usual place of abode **outside** Australia **&** No intention to take up residence
4. Superannuation Test		Member of the superannuation scheme

Resident: Company: Satisfy 1→ ✓ Resident

1. Incorporate in Australia		
	Malayan Shipping Co Ltd	**Carry on business:** where the business's brain located
		Central Management:

Ordinary Income

<table>
<tr><td rowspan="5">General Principle</td><td><u>Cooke and Sherden</u> <u>Payne</u></td><td>Convertible into money
1) An amount must be convertible into cash to be income
2) Non-cash business benefits → Treated ✓ Convertible to cash</td></tr>
<tr><td><u>Bohemians Club</u>
<u>North Ryde community Club Ltd</u></td><td>Mutuality [✗ Income]</td></tr>
<tr><td><u>Dixon</u> <u>Citibank</u></td><td>Periodic Gains[✓ Income]
- Expected? Regular?</td></tr>
<tr><td><u>Hayes</u></td><td>Windfall Gains [✗ Income]
- Isolated, unexpected, having a degree of chance to obtain</td></tr>
<tr><td></td><td>Receipts from illegal activities [Irrelevant to Income]
- If systematic & ✓ intention/ produce profit → ✓ Income</td></tr>
<tr><td>Personal Exertion</td><td colspan="2">Factors in determining
1) Reasonable expectation payment?
2) Dependence upon payment to meet usual living expenses
3) Payment replace income
4) Motive of the payer/ donor: commercial/ Personal
5) Periodical, recurrent & regular payment?
6) Payments are money/ convertible into money</td></tr>
</table>

<table>
<tr>
<td rowspan="2">3. Is the CGT event/ asset exempted?</td>
<td>118-5
104-10(5) s 109-5(1)
118-10
118-10
118-12
118-20

Subdiv. 118-B s 118-110</td>
<td>Cars, motorcycle
Assets acquired prior 20/9/1985
Collectables acquired ≤$500
Personal Use asset acquired ≤$10,000
Assets used to produce exempt income
Anti-overlap Provision
- If the amount ✓ included in Ordinary Income → Capital Gain ↓
Main Residence Exemption: Selling your main Residence → pay tax</td>
</tr>
<tr>
<td></td>
<td>CGT Discount [Individual = 50%]
1) CGT event: Sale of Property > 21/9/1999
2) ✗ Indexation
3) Acquired, held ≥ 12 months</td>
</tr>
<tr>
<td>4. Special Rules apply?</td>
<td>Div. 128
S 128-15(2)
S 128-15(4)</td>
<td>Effect of Death
CGT asset deemed to be acquired on the date of the deceased’s death for
<table><tr><td>Pre-CGT Asset</td><td>Market Value</td></tr><tr><td>Post-CGT Asset</td><td>Cost base / Reduced Cost Base</td></tr></table></td>
</tr>
</table>

General Deduction s 8-1

[✗ Deductible]

Incurred at a point too soon	- Not started to work → expenditure could not have been for a work purpose - Could not be classified as work expenses FCT v Maddalena (1971) 2 ATR 541; 71 ATC 4161; 45 ALJR 426
Travel Expenses **[✗ Deductible]** S 8-1(2) -ve (b) Private expenses	- It was not business expenditure - A consequence of living in one place and working in another - Not sufficiently connected with any income-producing activity FCT v Payne (2001) 202 CLR 93 Lunney v FCT; Hayley v FCT (1958) 100 CLR 478
Food **[✗ Deductible]** S 8-1(2) -ve: (b) Private expenses	- Eating is just a part of living in our society FCT v Cooper (1991) FCR 177; 91 ATC 4396
Fines s26-5 **[✗ Deductible]**	Prevents a deduction because the fines are an amount payable by way of penalty under the *Local Government Act 1999* (SA), which is an "Australian law" that is in turn defined as a law of the State.
Excessive renumeration / Salary **[✗ Deductible]**	Did not perform any service to the company
Clothes Expenses **[✗ Deductible]**	- The cost of clothes purchased reasonably in public area of a **private/ domestic nature**

Capital Expenditure [× Deductible] s 25-10(3)	**Repairs [✓ Deductible] s 25-10**
✓ Separate identifiable asset - Replacement of an entirety of an item Lindsay v FCT (1961) 106 CLR 377	- Part of the entirety Lurcott
✓ Significant advantage - Improvement - Additions **Even ✓ part of entirety →** if ✓ improvement → **Capital** FCT v Western Suburbs Cinemas Ltd (1952) 86 CLR 102	- Restore to its original, previous condition Lurcott & W Thomas
∴ depreciate under the capital allowance provisions Div. 40	**Initial Repair**: fix up the defects after purchase/ acquire the assets **[× Deductible]** 1. Is the purchase price affected by the state of disrepair? 2. In a profit-earning state at the time of purchase to produce income? 3. Any evidence that expenses incurred could be properly charged to revenue? **Not deductible**: purchase price is substantially less ∵ disrepair - Repair cost → Capital expenses Law Shipping Co v IR Commrs (1924) 12 TC 621 **Deductible:** purchase price × affected by disrepair - Still ✓ to operate and earn income even × repair

Deduction Limitation

Division 30 Gifts

1. **Gift?**	A gift is made voluntarily where the taxpayer **receives no material advantage**.	TR 2005/13
2. **Requirement**	1) The gift **must be paid** to a qualifying recipient - Must meet then requirement of s 30-17 **or** - Mentioned by name in the relevant table o Health / o Research / o Welfares & Rights o Education / o Sports & Recreation / o Cultural Organisation	S 30-15 Subdivision 30-B
	2) The gift may be in money or property a) Property o The value of a property donated to a recipient under Item 1 that has **been purchased more than 12 months** ago by you, and is valued at **more than $5,000** by the Commissioner is the value that the Commissioner determines. o The cost or the market value is not relevant o ∴ if > $5,000 & held > 12 months → need to ask for the Commissioner how much the value would be & claim tax deduction accordingly 3) The gift must be ≥ $2 to be deductible 4) The gift must not be a testamentary gift	S 30-15