Week 1

Chapter 1:

Q1. Difference between "Proportional Tax/ Progressive tax/ regressive tax

- Proportional taxes
  - Imposed at the same rate for all taxpayers (e.g. GST -10%)
- Progressive taxes
  - Imposed at rates that increase with amount of tax base (e.g. income tax)
- Regressive taxes
  - Imposed at rates that decrease with amount of tax base

Q8. Explain the different ways in which a tax payer's Marginal/average/effective tax rate are calculated

- Marginal tax rate
  - The rate of tax that is applied to the incremental amounts of the tax base
- Average tax rate

$$\frac{\text{Taxpayer's total tax liability}}{\text{Tax base}}$$

- Effective tax rate

$$\frac{\text{Taxpayer's total tax liability}}{\text{Taxpayer's total economic income}}$$

Q10. Characteristics of good tax system

- **Clear fiscal and policy objectives**

Good tax system should meet the government's fiscal targets; support government to achieve optimal outcomes: E.g. employment growth

- **Simplicity and certainty**

Tax laws should be clear, uncomplicated for people to apply.

- **Stability**
- **Transparency and integrity**
- **Efficiency and flexibility**
- **Neutrality**

Good tax system should not distort commercial decisions or skew market mechanism

- **Equity**
  - **"Horizontal equity"**

  People in similar economic circumstances are treated similarly

  - **"Vertical equity**

  People in different economic circumstances are treated differently

Problems of working out whether the system is equitable?

Tax is viewed as equitable depends on community perceptions. Tax are more accepted if burden is spread widely among the community rather that directed at only specific groups.

Q11. Difference between flow-through and opaque entity

- **Flow-through: partnerships and trusts**
  - Income is not taxed at the entity level, but rather in the hands of their members.
- **Opaque entity: Australian companies**
  - Companies are taxed as distinct taxpayers and shareholders are also separately taxed on any income (Dividends) derived from the,

Chapter 2:

Q1. Primary sources of tax law

- **Statute (成文法) and common law**

Tax must be introduced by legislation enacted by Parliament

- **Doctrine of precedent (先例原则)**
- **Court hierarchy**
- **Reports**
  - **ATC/ATD/FCR/CLR (P45)**

Chapter 3:

Q4. Some of taxes that have been introduced in Australia since 1980s

- **Capital gains tax**
- **GST**
- **In 1988, superannuation funds are taxed**
- **Carbon tax**
- **Medicare levy**
- **Fringe benefits tax**

Chapter 4:

Q5. Primary source of commonwealth parliament's taxation power

- **Laws with respect to taxation**
- **No discrimination between states or parts of states**

Commonwealth Parliament has power to make laws with respect to taxation, subject to that laws made do not discriminate between states or parts of states

Q10. Why does Commonwealth parliament enact different kinds of assessment acts and taxing acts instead of just one General Taxation Act?

(P70 最下面一段话) When parliament has proposed to levy a tax on any subject of taxation, to pursue that object by means of 2 Acts: Assessment Acts and Taxing Acts, the one of which actually imposes the tax and fixes the tax rate; the other one provides for the incidence, assessment and collection of tax.

Chapter 5:

Q2. Tax base:

- **Income Tax:** By entities (individuals/companies/trustees) on their taxable income for an income year. Taxable income is assessable income (ordinary income-salary/rent/interest and statutory income- net capital gains) minus deductions.
  - **Income Tax Assessment act**
- **GST:** By registered suppliers and importers on their acquisitions and importations. 10% on taxable supplies and taxable importations.
  - **Goods and services tax Act**
- **FBT: Fringe benefits tax** by employers on fringe benefits provide to their employees and their employees' associates. E.g. cars/low-interest loans/holidays provided to employees
  - **Fringe benefits tax assessment Act**

Chapter 7:

Q1. Who administers federal tax system?

ATO-Commissioner of Taxation-Chris Jordan

What are some of his duties and power?

(P111)

Which statutes confer these duties and power?

(P112)

Chapter 8:
Q1. The Aim of Tax Law Improvement Project (TLIP)

- **To** redraft and simplify the ITAA36.
- **Underlying purpose is to Improve the way the law was presented**

Q2. Why are there 2 income tax assessment acts and how do they interact?
Income tax assessment act 1936 (ITAA36)
Income tax assessment act 1997 (ITAA97)
They determine the incidence of tax. They establish tax base, which for most taxpayers is taxable income.

Week 2

Chapter 10:
Q5: Difference between taxable income, ordinary income and statutory income

- Taxable income: represents the tax base under the income tax system.
  - Taxable income=Assessable income-Deductions
- Assessable income consists of Ordinary income and statutory income
- Ordinary income: E.g. salary/wages/interest received on bank deposit/Rent
- Statutory income: E.g. dividends/lease PMTs/ trust income
-

Q6: what kinds of ordinary and statutory income do not constitute (构成)assessable income?
Exempt income (income of registered charities/ public educational institutions) and non-assessable non-exempt income (GST charged on a taxable supply/ income that constitute a fringe benefit)

Q9: flat tax rate VS. Progressive tax rate
Flat tax payers: Companies (30%)/Trustees of complying superannuation funds (15%)/Trustees of non-complying superannuation (45%)

Marginal taxpayers: individuals (from 0 to 45%)

Q11: Difference between resident individual tax rate and non-resident individual tax rate

- Residents are benefit from tax-free threshold and tax rates are range from 19% to 45%
- Non-residents are not benefit from threshold and tax rates are range from 32.5% to 45%

Q12: M is a resident has $170,000 of taxable income for current income year

- ITL for resident: 50,847
  - Income tax at 0 on the first 18,200 = nil
  - Income tax at 19% on excess (37,000-18,200)= 3572
  - Income tax at 32.5% on excess (80,000-37,000)= 13,975
  - Income tax at 37% on excess (170,000-80,000)= 33,300
- ITL for non-resident: 59,300
  - Income tax at 32.5% on the first 80,000=26,000
  - Income tax at 37% on excess (170,000-80,000)= 33,300

Q13: Difference between a deduction and tax offset

- Tax offsets'= rebates/credits it can only reduce a taxpayer's income tax liability
- Deductions can only lowers the taxable income.

Q14: refundable tax offsets

- Individuals and complying superannuation entities for the excess franking credits
- Corporate loss carry back
- Private health insurance
- R & D
- (P216)

non-refundable tax offsets cannot usually be applied to reduce a taxpayer's ML liabilities or GST/FBT

Q20:

Chapter 57:

Q6: consequences of not quoting the TFN number

- **TFN:** personal numbers that identify taxpayers
    - **TFN** must be quoted before social security payments can be received
- **PAYG withholding consequence:**
- If an investor has not quoted the TFN, investment body must withhold tax at 46.5% from investment income (excluding franked dividends) payable to investor.
    - Interest bearing deposits and accounts with financial institutions (Bank)
    - Loans to companies/governments
    - Units in unit trusts
    - Shares in public companies

Chapter 11:

He is the resident in Australia

- Resides Test
    - Employment in Australia
    - Family is living in Australia
    - Bank account in Australia
- Permanent place of abode test
    - Australian is where the taxpayer lives
- 183 day test
    - This is not passed
- Superannuation test
    - Need more information.
- His family consideration which means that he is going to resident here
- He opened the bank account in NAB which enables the salary to be transferred into an Australian account

1. His salary income is located at the place where the services are performed. So his salary is the source income in Indonesia
2. Investment income is in Chile.
3.

Chapter 9:

Q10: Difference between taxable supplies/ GST-free supplies/ input taxed supplies

- **(p152)**

- **Taxable supplies consists of positive and negative elements**
- **Negative elements refer to GST-free supplies and input taxed supplies.**

Q12: ..

<u>Week 3</u>

Chapter 12:

Q7:

- **First stand** of myer decision:
    - Gains made from extraordinary transaction or isolated transaction may be income where they **arise from commercial transactions** entered into by taxpayers with the **intention of making a profit.**
    - Court conclude that the profit is income nature as the taxpayer had acquired the land not only to sell the land, but also to subsequently sell the land at a profit.
    - Apply case: *Cooling*
    - Not applied case: *Henry jones; SP investments; Westfield*
- **Second stand** of myer decision: when the first stand is not applicable.
    - A future right to interest is converted into a present lump sum amount, the present lump sum amount will be of an income nature since it replaces the future interest which, when derived, would have been treated as income.
    - Applied case: *Henry jones; SP investments;*

Q13:

Why payments received in *Heavy Minerals and Allied Mills Industries* were regarded as income?

- Heavy Minerals PMTs received are "compensation for cancellation of trading contracts".
    - Amounts received for loss of business profits
    - Contracts are not capital assets.
- Allied Mills Industries PMTs received are "compensation for cancellation of agency agreements"
    - Amounts received for loss of anticipated profits from transactions
    - Distribution agreement was entered into the ordinary course of taxpayer's overall business

Why payments in *Glenboig Union Fireclay; Van den Berghs and Californian Oil Products* were treated as capital

- Glenboig Union Fireclay PMTs received are " compensation for closing down the capital assets".
    - Amounts paid to prevent taxpayer from mining the land in order to protect Railway Company's line from being undermined.
    - Compensation ceases taxpayer to further work its fields. (Capital)
- Van den Berghs PMTs received are "compensation for structural contracts".
    - Amounts received in respect of cancellation of structural contracts are integral to the way that a taxpayer conducts its business operations are usually of a capital nature

- Californian Oil Products PMTs received are "compensation for cancellation of agency agreements".
    - Amounts received for cancellation of agency agreements haven been treated as capital receipts where the agency agreements are fundamental and necessary to the continued operation of the taxpayer's business.

Week 5

Chapter 14:

Q3: John is a self-employed accountant. He owes his plumber $5000 for work don on John's bathroom.
John requests one of his clients, who owes him $5000 for accounting services, to pay this amount directly to his plumber.

Has John derived any income?
Yes. John, the taxpayer would be taken to have received the amount and would therefore be treated as having derived income under the cash basis of accounting.
This is referred to "constructive receipts" which is treated as cash basis accounting method. Hence, income is derived when cash or its equivalent is received.

- Constructive receipts- Where an amount owing to a taxpayer by a debtor (AR-client) is paid directly to the taxpayer's creditor (AP-Plumber) instead of the taxpayer.
- The key issue is the constructive receipts-section6-54

Q6:

This is quite similar with the case of "Arthur Murray 1965" where taxpayers sometimes receive payments in advance for services that they have not yet provided. –Accrual Basis

- The lesson fees were derived in the year that lessons were provided progressively, rather than the year fees were received. Hence, Freddie has not been derived the lesson fee unless the lesson has conducted or finished.
- When feddie recognized the income, the GST should be separately recorded.
- Furthermore, taxpayer has adopted the practice of providing refunds where not all lessons were taken, it could not be said that Freddie treat the pre-paid receipts as income.
- The full amount ($1320) should be deducted from his income for tax purposes as the loss or outgoing is incurred.

Q7: B and J are both lawyers. B runs his own law firm and employs a secretary and a receptionist. J is one of 100 partners in a major law firm with over 500 staff.

How should they each account for fees in respect of invoices sent to clients before the end of the year, but which have not been paid by the end of the year?

- B is a sole trader- Cash basis
    - Refer to the case of "Carden's case"
    - The fees are recognized as revenue or income when the cash is received from clients.
- J is a partnership-Accrual basis
    - Refer to the case of "Henderson"
    - The fees are recognized as revenue or income when the service is provided to clients, no matter whether the cash is received or not.
    - High court made the decision by considering the size/structure/method of operation of the firm.

Q8: Although the terms of employees leave entitlements were different in "James Flood" and "Nilsen Development Laboratories", the outcome in the cases were same.

Discuss the reasons why the relevant outgoings had not been incurred in these cases.

- In James Flood, the court denied the deductions for the amount it had set aside to meet the holiday pay of employees who had not yet completed 12 months service.
  - No liability to make holiday payments had been incurred at such time- taxpayer simply faced the possibility that it might have to incur a loss or outgoing in the future.
  - No deduction is available for a loss or outgoing unless the taxpayer has completely subjected himself to the loss or outgoing.
- In Nilsen, court conclude that it was only when an employee took leave that an accrued liability to pay arose and an outgoing was incurred.
  - No presently existing liability.
- Accrual basis.

Chapter 15

Q5: This is quite similar with the provision for Royalties.

- Royalties refer to the payment, which is calculated by reference to the amount that an asset is used or exploited. "Case of McCauley"
- E.g. $xxx per unit
  - Court concluded that the amounts received by the taxpayer were royalties as they were payable by reference to the quantity of timber cut or removed from the land.
  - Most assessable in section6-5 (ordinary income)
- If Bill was simply paid a lump sum of $50,000 for granting the logging company a right to remove as much as timber as required from his land, this is not royalty. "Case of Stanton"
- Being the capital amount, which is not assessed for income. Capital transaction.
  - Court concluded that because the payments did not depend upon the quantity of the timber cut or removed from the land.

Chapter 16

Q1: Why is it important to identity the exempt income or non-assessable non-exempt income?

- They are not included in taxpayer's assessable income
- Losses or outgoings incurred in gaining or producing exempt income or non-assessable non-exempt income are generally not deductible.

**The difference is the exempt income is taking into account in working out the Tax loss. **

Chapter 52

Q1. Pre-payment regime