LAW4704 Taxation Law Sample Notes

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How to structure your transactions in an e-exam

This is the recommended structure I followed for every transaction to effectively and clearly answer what the tax implications of any transactions were. For a demonstration of this structure, see the bottom of this document with the script outlining varying transactions I created.

Transaction (BIG HEADING - centred)
Party name (MEDIUM - centred)
Topic (eg GST, ITC, Income, Deduction, CGT etc) (MEDIUM)
Sub-heading for topic if necessary (eg Is there a taxable supply?) (SMALL)
Further sub-heading (BOLD)

Note 1: Any reference to 'BOLD' or 'SMALL' in the following notes is an instruction I used for myself to ensure I used the correct sub-headings on the e-exam platform.

Note 2: Since these notes are up to date as at Semester 1 2021, different income brackets/percentages/caps may require minor updating on your behalf. However, these notes have been crafted in a clear way that if amendment is required, this can be done so easily. Ultimately, these notes serve as your bible to get through Taxation Law. Good luck!

Preliminary issues in an exam/ assignment

- Write this at the beginning of an exam/assignment if the following presumed facts are present

Presumed facts
Unless expressly stated to the contrary in the question, you are to assume that: - *unless otherwise stated, all of the entities are Australian residents and hold relevant documentation (eg tax invoices) for substantiation and GST purposes;* - *all of the entities operating enterprises are registered for GST* - *all of the companies are subject to tax at the rate of 30% and have a corporate tax rate for imputation purposes of 30%; and* - *all of the transactions take place in Australia.*

Heading: Context/Background

All individuals, body corporates, superannuation funds are entities per s184-1 GSTA (s9-5(a) GSTA). Further, the term 'company' mean 'a body corporate' (s 995-1 ITAA97).

> *Mention if relevant:*
> Further, the trustee of a trust or superannuation fund is an entity (s184-1(2)) and transactions by partners members of the management committee of an unincorporated association or body of persons in their capacity as members of that committee are taken to be by the relevant partnership, unincorporated association, or body, respectively (s184-5)

All transactions occurred within the ITZ since they take place in Australia and all entities are Australian residents (ss9-25; 195-1 GSTA). Additionally, all entities carrying on an enterprise are registered for GST. Thus, ss9-5(c) and (d) GSTA are prima facie established.

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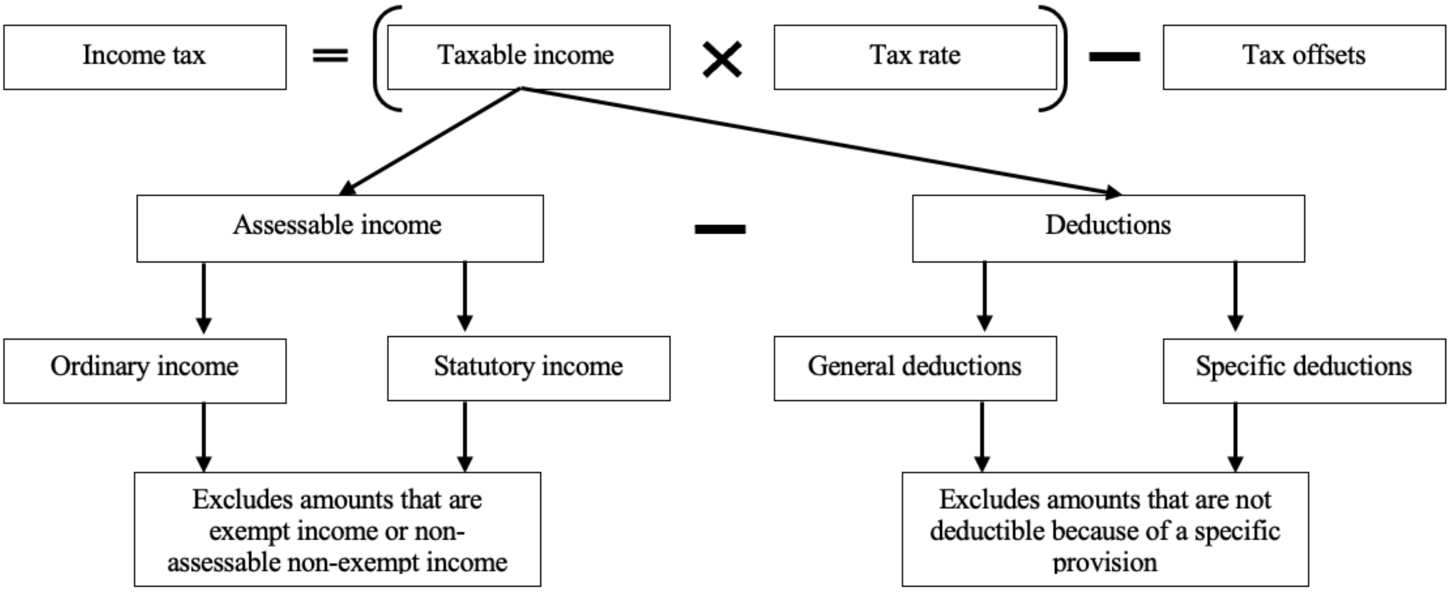
Calculating [Taxpayer]'s Income Tax Liability

Income Tax Forumla



Tax Liability = Income Tax (see above) + Medicare Levy + Medicare Levy Surcharge + HELP repayment

1. [Taxpayer]'s Income Tax Liability

<u>Model response:</u>

'Income tax' is payable on [taxpayer]'s taxable income (s4-10(3) ITAA97), being [**his/her**] assessable income less deductions (s4-15(1) ITAA97). Income tax is (taxable income x rate) less tax offsets (s4-10(3) ITAA97).

- [Taxpayer] 'must pay income tax' for the 20/21 financial year (s4-10(1) ITAA97). Note, the 'income year' is the same as the financial year (1 July 2020 to 30 June 2021) (s 995-1 *ITAA97*). Further, deductions are expressly denied for the payment of:
- Income tax (s 25-5 ITAA97).
- [Company taxpayer]'s income year is the previous financial year (s4-10(2)(a) ITAA97).

Calculating income tax liability

<u>4-1 Who must pay income tax:</u>

Income tax is payable by each individual and company, and some other entities

Some other entities per s9-1 include

S9-1 ITAA97 item 4: A superannuation provider in relation to a complying superannuation fund

S9-1 ITAA97 item 5: A superannuation provider in relation to a non-complying superannuation fund

S9-1 ITAA97 item 9: A corporate limited partnership

Step 1: Assessable income

Salary/wages: s 6-5 *ITAA97*	$A
Rent: s 6-5 *ITAA97*	$A
Net capital gain: s 102-5 *ITAA97*	$A
Dividend: s 44(1) *ITAA36*	$A
Franking credit: s 207-20 *ITAA97*	$A
Proceeds from the sale of trading stock	$A
Interest received on a bank deposit	$A
Total assessable income	**$X**

Step 2: Deductions

....

Goods and Services Tax (GST)

1. Introductory Notes

Key terminology:

ITC = Input tax credits

Price = Amount inclusive of GST (eg $1100)

Value = Amount exclusive of GST (eg $1000) = ‘Price’ x 10/11.

Consequently, GST = 1/11 x ‘Price’

- Suppliers make a taxable supply
- Acquirers make creditable acquisitions

<u>Model introduction:</u>

*GST is payable on taxable supplies (7-1(1) GSTA). This GST payable is ‘10% of the value of the taxable supply’ (**s 9-70 GSTA**) where the value is 10/11th of the price (s 9-75 GSTA). [Supplier] must charge GST of 1/11th of the price of any taxable supply they make (ss9-40; 9-70; 9-75 GSTA).*

[Supplier] must charge GST on the [$insert price] if it constitutes a taxable supply (s9-40 GSTA). ‘Taxable supply has [its] meaning given by sections 9-5’ (s195-1 GSTA).

Issue 1: Is this a taxable supply per s9-5 GSTA? (SMALL)

Has the supply been made for consideration? (s9-5(a) GSTA) (BOLD)

Yes. The supply of [insert supply eg dental work or shoes]…

…

- Commercial property for rent (*s9-10(1) GSTA; MBI Properties*), as opposed to residential…
- A promise (*Qantas Airways*— promise to carry passengers and baggage, NOT actual carriage**;** *ATS Pacific* – **promise** that tour providers would provide products such as car and accommodation to the tourists, NOT supply of actual products)

… per s 9-10(insert letter) GSTA is a

(a) supply of goods;

(b) supply of services;

(c) provision of advice or information;

(d) grant, assignment or surrender of real property, specifically the interest over [land] (s 195-1 GSTA definition of 'real property').

(e) creation, grant, transfer, assignment or surrender of any right;

(f) *financial supply; (go to page 21 for more information - this is an input taxed supply)

(g) an entry into, or release from, an obligation:

(i) to do anything; or

(ii) to refrain from an act; or

(iii) to tolerate an act or situation;

(h) any combination of any 2 or more of the matters referred to in paragraphs (a) to (g).

… from [supplier], made for consideration in the form of…

<u>Connection with supply</u>

- …a payment of [$...] (s9-15(1)(a) GSTA) from [acquirer]…
- …an act of forbearance in the form of [insert act of forbearance] (s9-15(1)(a) GSTA) from [acquirer]…

… in connection with a supply of [insert supply].

OR

Inducement of a supply

- …a payment of [$...] (s9-15(1)(b) GSTA) from [acquirer]…
- …an act of forbearance in the form of [insert act of forbearance] (s9-15(1)(b) GSTA) from [acquirer]…

… in response to or for the inducement of a supply of anything,

Conclusion: Thus, s9-5(a) GSTA is satisfied.

Ancillary issues relating to consideration:

Side issue 1: Consideration was provided by a third party

The fact the [payment/act/forbearance] was

- [voluntary/involuntary] (s9-15(2)(a) GSTA)
- by [insert third party] (s9-15(2)(b) GSTA)

… does not matter.

Side issue 2: Court or order or legal settlement:

The fact the [payment/act/forbearance] was in compliance with a

- court order (s9-15(2A)(a) GSTA)
- legal settlement (s9-15(2A)(b) GSTA)

… does not matter.

Issue: gifts, prizes, grants and subsidies

Issue: out-of-court settlements as supplies

The $[insert amount] payment appears to be an out-of-court settlement. Unlike court ordered damages, out-of-court settlements can give rise to a voluntary taxable supply as a surrender of rights within the meaning of s9-10(2)(e) and (g) GSTA (*GSTR 2001/14*). The supply here is a voluntary surrender of [supplier]'s' right to pursue legal action in respect of the [insert matter eg damaged skis] and the release of each other from obligations in relation to the dispute.

…

Ordinary Income

Model response: The $[insert amount] [taxpayer] received for the [insert type of sale eg new residential premises] sale is ordinary income (s6-5 ITAA97) because it represents the 'ordinary proceeds' of a business activity of a [insert industry professional eg builder] in their business (*Californian Copper*). However, the GST payable from this amount (i.e. $[insert GST amount]) is considered non-assessable, non-exempt income (s17-5(a) ITAA97). Therefore, $[insert total amount-insert GST amount] is [taxpayer]'s assessable income (s6-1(1) ITAA97).

••••

Gross and net amount (MUST MENTION)

Model response (Gross):

[Taxpayer]'s income includes the gross amount [insert amount] from the

- **ordinary proceeds from carrying on a business** (*GP International Pipecoaters*)
- gross **rental** received under a **lease** (*Citibank*)

Therefore, [insert amount] need be included in [taxpayer]'s ordinary income (s6-5 ITAA97) and consequently assessable income (s6-1 ITAA97).

Model response (Net Basis):

The $[profit from sale] ($[selling price]-$[cost price]) is considered ordinary income (s6-5 ITAA97) and consequently assessable income (s6-1 ITAA97) as profit from carrying out isolated schemes should be calculated on a net basis (*Myer; Moana Sands; McCurry*).

The gain of $[insert gain] ($[selling price]-$[cost price]) made by the (pick one)

- the bank
- insurance company
- investment companies

from the realisation of their investments should be calculated on a net basis (*Punjab Co-operative Bank; Colonial Mutual Life Assurance Society; London Australia Investment*)

Deduction - net basis (model response)

As the net basis for calculating income applies

- to taxpayers who make profits from carrying out isolated schemes (*Myer; Moana Sand; McCurry*)
- to [banks/insurance companies/investment companies]

the $[cost price] outgoing is <u>not</u> deductible per s8-1 ITAA97.

....

Four categories of ordinary income

1. **Income from personal exertion.**
   - Rewards for services and payments incidental to employment, but not gifts or payments for relinquishing or restricting rights
   - Includes renumeration from employment (***Dean***) and rewards from rendering personal services (***Brent***).

2. **Income from business.**
   - The ordinary proceeds of a business and profits from trading transactions, but not gains from the mere realisation of capital assets
   - Includes ordinary proceeds of business (***Blockey***) and gains from trading activities (***Californian Copper***).

3. **Income from profit-making schemes.**
   - Profits from isolated schemes entered into with the purpose of making a profit
   - Includes gains from isolated schemes that are entered into with the purpose of making profit (***Myer***).

4. **Income from property.**
   - Includes amounts like rent from a lease (***Adelaide Fruit***) and interest from a sum of money (***Riches***).
   - Flows from the use of capital assets, but not gains accruing to capital assets

1. Income from personal exertion

Model response: The gain arose from or was incidental to the [**taxpayer**]'s personal exertion and is a payment that is a [**apply below**]

- A. Rewards for services (salary and wages) (page 8)
- B. V'ty payments relating to professional activities (tips & collections for sport performance) (page 8)
- C. Payment that is incidental to employment (page 9)
- D. Payments to induce employment (page 9)
- E. Payments that are a substitute for salary (page 9)
- F. Deferred payments (page 9)
- G. Payments that are personal gifts (page 10)
- H. Payments for relinquishing rights (page 10)
- I. Payments for entering into restrictive covenants (page 11)

… Therefore, it will be characterised as ordinary income (s 6-5 ITAA97) and assessable under (s 6-1 ITAA97).

A. Rewards for services

Employees salary (model response):

An employee's salary is considered ordinary income (*Dean & Anor*). This $[insert amount] is ordinary (s6-5 ITAA97) and consequently assessable income (s6-1 ITAA97).

Provision of services (model response): The provision of services by [taxpayer] in return for the one-off retention payments (analogous to *Brent*) is ordinary (s6-5 ITAA97) and consequently assessable income (s6-1 ITAA97).

Brent – wife of robber granted media company exclusive right to publish her life story - money paid in consideration of making herself available for interviews - amount received were of an income nature. Not for giving up of capital, no property rights, simply reward for services (Gibbs J)

B. Voluntary payments that relate to professional activities

....

3 Income from profit-making schemes

Myer

Facts:

- Taxpayer carried on a retail trading and property development business and also acted as a finance company for other companies in its group. To obtain funding, taxpayer entered into following transactions.
- **6 Mar 1981** – taxpayer (Myer) **lent $80m to Myer Finance** (shelf company it acquired). Loan provided that MF was required to repay loan 'on but not prior' to 30 Jun 1988 and interest at commercial rate of 12.5% p.a. Payment was payable on dates set out - total interest was $72m.
- **9 Mar 1981** – taxpayer **assigned to Citicorp** (company with tax losses) 'the money due or to become due as the interest payments and the interest thereon' in consideration of Citicorp paying the taxpayer a lump sum of **$43.37 mill** on that day.

The Court was not prepared to view the **loan** and the **assignment** as separate transactions. Instead, it **viewed the two transactions as interrelated,** since it found that the taxpayer would not have made the **loan** to Myer Finance **unless** it knew in advance that **Citicorp would pay the $43.37 mill for the assigned interest.**

- Viewed from the taxpayer's perspective, the two transactions were integral elements of an overall profit-making scheme.

Issue: Whether the **$43.37 mill** was income?

- **Taxpayer argued that** the right to the interest was a 'chose in action' which it had merely realised a capital asset in an isolated transaction outside the ordinary course of Myer's business.

Held:

1. HCA rejected **argument.** Held **$43.37 mill** as **income**

Model response

Ordinarily, gains made from the sale of capital asset/mere realisation of a capital asset, are not assessable income (***Ruhamah***; ***Scottish Australian Mining***) (unless they are in the business of selling land). However, if the taxpayer entered into the transaction with a profit-making purpose, and makes a profit through the means intended, they will be assessable on the profits under **s 6-5 ITAA97**. An amount will be assessable as ordinary income if either of the strands from ***Myer*** are made out.

Strand 1

Strand 1 of *Myer* states gains made from **isolated or extraordinary transactions** may nevertheless be of an **income nature** where they arise from business operations or a commercial transaction entered into by taxpayers with the **intention or purpose of making a profit**.

- *Myer* applies where you have Profit making scheme, time of entering transaction there is a profit making purpose and the profit is made by the means intended

First strand **does** apply: Under the first strand, although the gain from the [insert business operation or commercial transaction eg sale of property] arose outside the ordinary course of carrying on [taxpayer]'s [insert business eg dental practice], an intention (purpose) of making a profit existed from the outset (comparable to *Westfield;* distinguishable to *Henry Jones* and *SP Investments*). This purpose is consider a 'not insignificant' purpose articulated (*Cooling*). Further, as required by *Myer* and *Westfield*, the profit was made by the means intended, which in this case was the [insert means eg resale of the property]. Note, an isolated commercial transaction like this one may be assessable income (*Myer; Californian Copper*).

First strand **does not** apply: …….

A) Two purposes but the predominant one is to sell the land ……

….

4 Income from property

You need to distinguish amounts that are received for the use of the money (eg interest for a loan) and amounts received for the sale of the underlying asset (e.g. the amount used to pay for the purchase of a capital asset)

Model response: Amounts received from the exploitation or use of capital assets

The [**rent**/**interest**] received from the capital asset (**apartment**/**funds**) compensates the [**lessor**/**lender**] for being deprived of the use of the [**apartment**/**funds**] which could otherwise be invested to earn income (***Adelaide Fruit;*** s6-5 ITAA97; ***Federal Wharf***; ***Riches***).

If no GST: Thus, [taxpayer']s assessable income from the lease/loan is $[insert amount] so should be included in [**X's**] assessable income (s6-1 ITAA97).

If GST: However, the GST payable from this amount (i.e. $[insert GST amount]) is considered non-assessable, non-exempt income (s17-5(a) ITAA97). Therefore, $[insert total amount-insert GST amount] is [taxpayer]'s assessable income (s6-1(1) ITAA97).

Model response: Amounts received from the sale or realisation of capital assets

Principle: Gains from the sale of capital assets are not ordinarily income in nature (***Ruhamah***; ***Scottish Australian Mining***). Further, an amount received for the realisation (sale) of an asset, whether paid in a lump sum or by instalments, would be capital in nature (***Foley v Fletcher***). These instalments are therefore not assessable per s6-1 ITAA97.

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Capital Gains Tax (CGT)

1. CGT Exemptions (start of response)

Capital gains and losses relating to certain kinds of assets are disregarded in the following circumstances

Exemption 1: Pre 20 September 1985 assets

CGT Event A1 (disposal of CGT asset)/C2 (intangible CGT asset cancelled)

As [taxpayer]

- acquired (s104-10(5)(a) ITAA97)
- granted a lease (s104-10(5)(b)(i) ITAA97)
- renewed or extended a lease (s104-10(5)(b)(ii) ITAA97)

[for the/the] [insert CGT asset] [**before**/**after**] 20 September 1985, specifically on [insert [**pre**/post] Sept 1985 date], any capital gains and losses [**are**/**are not**] disregarded in relation to [insert CGT Event].

CGT event A1: s104-10(5)(a) ITAA97, s104-10(5)(b)(i) ITAA97, s104-10(5)(b)(ii) ITAA97
CGT event C2: s104-25(5)(a) ITAA97, s104-25(5)(b)(i) ITAA97, s104-25(5)(b)(ii) ITAA97

Other CGT Events

As [taxpayer]

- acquired (INSERT SECTION)

the [insert CGT asset] before 20 September 1985, the CGT regime will not apply to [him/her] by way of [insert CGT event].

Relevant section and CGT event to insert

- ➢ s104-20(4) ITAA97 + CGT Event C1
- ➢ s104-35(5) ITAA97 + CGT Event C3

Exemption 2: Motor Vehicle Exemption

<u>Model response</u>

As the CGT asset is a

- (a) Motor cycle
- (a) Car that carries a load of less than one tonne and fewer than nine passengers (s 995-1 ITAA97)
- (a) similar vehicle

a capital loss or gain is disregarded per s 118-5 ITAA97

Exemption 3: Main Residence Exemption

Main residence exemption = a capital gain or capital loss made in relation to a dwelling that is a taxpayer's 'main residence' is disregarded (s 118-110 ITAA97).

Exemption 4: Personal use assets and collectables (discussed below)

....

...

Dividend

Model response: PAYMENT OF DIVIDEND (Resident company to Resident Shareholder)

[Company issuing dividend/Supplier]

GST

GST is payable on taxable supplies (7-1(1) GSTA). This GST payable is '10% of the value of the taxable supply' (s 9-70 GSTA) where the value is 10/11th of the price (s 9-75 GSTA). [Company issuing dividend] must charge GST of 1/11th of the price of any taxable supply they make (ss9-40; 9-70; 9-75 GSTA).

[Company issuing dividend] must charge GST on the $[insert dividend amount] if it constitutes a taxable supply (s9-40 GSTA). 'Taxable supply has [its] meaning given by sections 9-5' (s195-1 GSTA).

Applied here ...

Deduction

[Company issuing dividend] is not entitled to a deduction for the payment of dividends (*Macquarie Finance*).

[Shareholder]

ITC

As the issuing of dividends is not a taxable supply to (s11-5(b) GSTA) (see above), no ITC is available (s11- 20 GSTA).

Income

This distribution is a dividend as it satisfies the positive elements of a dividend (s 6(1) ITAA36). It is a payment made by [insert company] to [shareholder], [in money ($X)/ in property (X)] (s 6(1)(a) ITAA36); and is an amount 'credited' by [insert company] to [insert shareholder] (s 6(1)(b) ITAA36). A debt is created that is recorded in the company's account (*Taylor*) and the amount is credited in [shareholder]'s capacity as a 'shareholder' (and not as debtor) (*Black*).

Therefore ....

Superannuation

Different contributions

Concessional contributions

- 1. Employer contributions (page 204)
  - Superannuation Guarantee Scheme (page 206)
- 2. Deductible personal contributions (w/ notice) (page 210)

Non-concessional contributions:

- 1: Spouse contributions (page 211)
- 2. Personal contributions without notice (page 213)

Government co-contributions

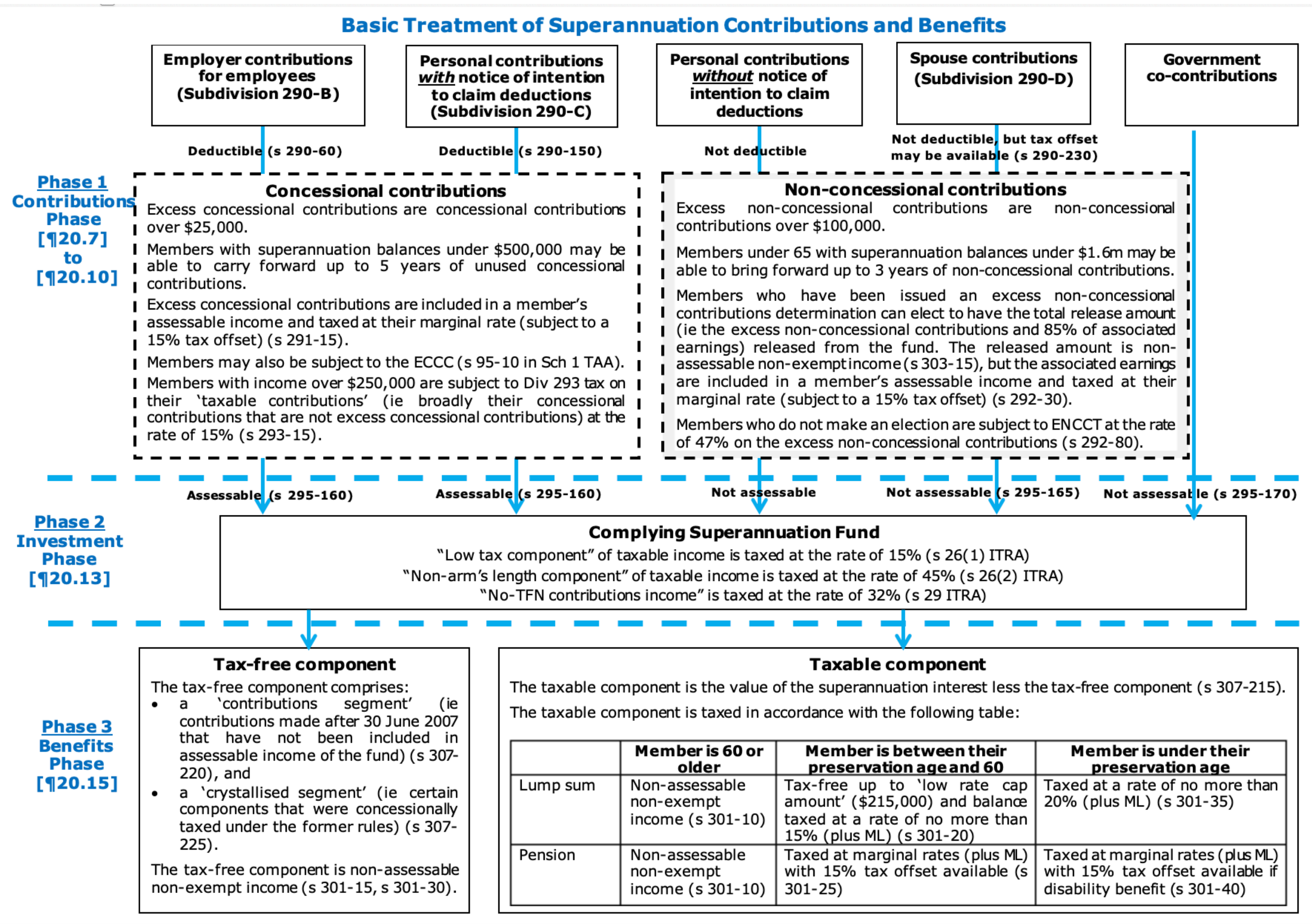
- Type 1: Co-contribution for concessional contributions (eg employer contributions such as SG contributions and deductible personal contributions) (page 214)
- Type 2: Co-contribution for non-concessional contributions (eg non-deductible personal contributions) (page 215)

Contributions tax

Type 1: Excess concessional contributions (page 217)

Type 2: Excess non-concessional contributions (page 219)

Div 293 Tax (page 224)



	Member is 60 or older	Member is between their preservation age and 60	Member is under their preservation age
Lump sum	Non-assessable non-exempt income (s 301-10)	Tax-free up to 'low rate cap amount' ($215,000) and balance taxed at a rate of no more than 15% (plus ML) (s 301-20)	Taxed at a rate of no more than 20% (plus ML) (s 301-35)
Pension	Non-assessable non-exempt income (s 301-10)	Taxed at marginal rates (plus ML) with 15% tax offset available (s 301-25)	Taxed at marginal rates (plus ML) with 15% tax offset available if disability benefit (s 301-40)

1. Concessional contributions

Importantly, deductions for superannuation contributions can only be claimed under div 290 (s 290-10).

2 types

1. Employer contributions (Subdivision 290-B)
2. Personal contributions (w/ notice of intention to claim deductions) (Subdiv 290-C)

Types of concessional contributions

Concessional contribution 1: Employer contributions (Subdiv. 290-B ITAA97)

Step 1: Requirements (*Deduction for [employer]*)

Model response: Under s 290-60(1) ITAA97, [**employer**] may fully deduct the contribution of [**$insert amount**] to [**employee**]'s superannuation fund as they are their employee. [**Employer**] must satisfy ss 290-70, 290-75 and 290-80 ITAA97 to claim deductions (s 290-60(2) ITAA97).

Firstly, under s 290-70 ITAA97, the employee is:

- Engaged in the production of [**employer**]'s assessable income; or
- An Australian resident engaged in [**employer**]'s business.

Secondly, under s 290-75 ITAA97, [**employer**]'s satisfies the complying super fund requirements as:

(a) [**Insert super fund**] is a complying super fund (within meaning on s 45 SISA); or
(b) [**Employer**] has reasonable grounds to believe that the fund is complying; or
(c) The trustee has given written notice that the fund is regulated under SISA.

Thirdly, under s 290-80 ITAA97, the contribution was made (pick one)

- (a) before [**employee**] turned 75
- (b) under an [industrial award/determination/notional agreement preserving state awards],OR
- (c) to reduce the employer's SGC percentage.

Therefore, [employer]'s $[insert amount] contribution to [employee's] superannuation fund is **deductible** (s 290-60(1) ITAA97).

Side issue: Is there a contribution made by an employer to a former employee? (Only mention if relevant)

No. Therefore, this issue need not be considered.
Yes. This contribution of $[insert amount] by employer on behalf of their former employees are deductible because the contribution

- reduces the employer's SGC percentage,
- Is a one-off payments in lieu of salary or wages that relate to a period when such persons were employees,
- Is made within 4 months of such persons ceasing to be employees (s 290-85).

Step 2: Consequences for super fund

The trustee of the super fund is assessed on the employer contributions (s 295-160 ITAA97) and generally taxed at 15% (s26(1)(a) ITRA). Therefore, the fund is taxed $X ($ [insert amount] x 15%).

NEXT STEP

- Go on to **government co-contributions** if [taxpayer's] adjusted taxable income for the income year is lower than $37,000
- Check excess concessional contributions.
- Check if [**taxpayer**] is a high-income earner as the Division 293 Tax will apply and is taxed at 15% on top of this.

Step 3: Superannuation Guarantee Scheme

RED FLAG: Monthly salary<$450 — See 'Issue 1: Is this salary included for SG purposes?'
RED FLAG: If quarterly salary > $57,090 — YOU MUST START WITH 'Issue 2: Does the total salary exceed the maximum contributions base of $57,090?'

Explanation: The SG scheme is designed to ensure that, subject to limited exceptions, employees are provided with a minimum level of superannuation support from their employers. This level is currently 9.5% of the employee's salary or wages for a quarter and operates subject to a 'maximum contributions base'.

Issue 1: Does the quarterly salary exceed the maximum contributions base for the quarter of $57,090?

[Employee]'s quarterly salary is $[**quarterly salary**] ($[annual salary]/4).

<u>Option 1:</u> $**quarterly salary**>$57,090

Yes. This is because the salary of [$**quarterly salary**]>$57,090] is bigger than the maximum contributions base per quarter of $57,090 for 2020/21 (s 19(4) SGAA). Therefore, the total salary taken into account when determining any SG shortfall relating to [employee] is $57,090 (not $[quarterly salary]). It is therefore sufficient for [employer] to contribute $**5,423.55** (ie 9.5% of $57,090) to [employee]'s superannuation fund for the quarter.

<u>Option 2:</u> [$**quarterly salary<**$57,090]

••••

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Broking services charged to [mere investor] on the purchase of shares from [seller] by [mere investor] 249

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Purchase of premises (without GST issue) 260

Purchase of equipment (without GST issue) 261

Sale of New Residential Property

[Seller]

GST

The surrender of real property is a supply (ss9-10(2)(d); 9-5(b) GSTA). Consideration of $[insert amount] was received, satisfying s9-5(a) GSTA. As [seller] is in the business of [insert business eg building], [seller] is carrying on an enterprise (ss9-20; 9-5(b) GSTA). Therefore, this is a taxable supply and [seller] must charge (1/11 x $insert amount) $ [GST amount] GST (ss9-5; 9-40; 9-70; 9-75 GSTA).

Often the sale of real property is input taxed to the extent they are residential premises to be used predominantly for residential accommodation (ss40-65(1); 40-70(1) GSTA). As the property is used completely for residential purposes it is input taxed. Therefore, no GST is payable (s9-40 GSTA).

However

…

Income

…

CGT

…

[Buyer]

ITC

[Buyer] has paid $[insert amount] consideration (s11-5(c) GSTA) on a taxable supply (s11-5(b) GSTA). [Buyer] has acquired real property (ss11-10(2); 11-5(a) GSTA) for a creditable purpose (s11- 15(1) GSTA) to the extent [s/he] requires it in carrying on their enterprise of leasing the property (ss9- 20(c); 9-5(b) GSTA).

However, the property acquisition relates to input taxed supplies through

- leasing residential premises (s40-35 GSTA) and
- the sale of residential property (ss40-65(2); 40-75(1) GSTA).

Therefore, the property is not acquired for a creditable purpose (s11-15(2)(a) GSTA). Hence, [buyer] is not entitled to an ITC (s11-20 GSTA).

Deduction

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