

Overview of the Australian Taxation System

Introduction to taxation (chapter 1)

- Taxes are the main source of income for government expenditure
- Taxes provide social goods such as education, health and defence services
- Taxes play a role of redistribution through the social security system
- The government use the income from taxes to then pay for other things such as disability payments, pensions payments, etc

Where does the power to tax originate?

- Section 51 (ii) provides the ability for the Commonwealth Parliament to make laws with respect to taxation including power to impose laws regarding the collection and administration of taxation
- The constitution also addresses the distribution of taxing rights between the Commonwealth and State governments

Sources of tax law:

- **Primary source** is Statute Law
 - ITAA (income tax assessment act) 1936 (Cth)- assessment Act that measures taxable income
 - ITAA 1997 (Cth)- assessment Act that measures taxable income
 - Fringe Benefits Tax Assessment Act 1986 (Cth)- Act that applies to employees benefits
 - A New Tax System (Goods and Services Tax) 1999 (Cth)- indirect tax on final consumption
- Supported by four supplementary laws
 - Income Tax Act 1986 (Cth)- assessment Act that imposes tax
 - Income Tax Rates Act 1986 (Cth)- sets out rates of tax
 - Tax Administration Act 1953 (Cth)- contains admin rules for collection of tax and penalties
 - International Tax Agreements Act 1953 (Cth)- provides for tax treatings
- **Secondary source** - based on Case Law (judicial precedents)
 - Extent to which precedents binding on future courts depends on level of court creating the precedent.
 - Decisions of High Court (final court of appeal) strongest authority for interpretation of the law.
 - Followed by Full Federal Court and State Supreme Courts.
 - Bottom of ladder are decisions by Administrative Appeals Tribunal.
- **Third source** - based on interpretations issues by the Commissioner in the form of “rulings”.
 - Tax laws empower a statutory officer (Commissioner of Taxation) to administer the taxation laws.
 - The ATO carries out the administration on behalf of the Commissioner.
 - Income tax law, FBT and GST operate on self-assessment system.
 - Private rulings requested by taxpayers unsure of application of legislation, rulings are binding on the Commissioner and a sanitised version may be released for public guidance.
 - Public Rulings set out more generally the ATO’s views on the way in which a provision of the Act should be applied, binding on the Commissioner.

Oversight of the tax system

- **Inspector- General of Taxation-** undertakes reviews into tax administration matters and makes recommendations to the ATO and Government
- **Board of Taxation-** Independent non-statutory body which advises Government on formulation and development of tax policy.
- **Tax Practitioners Board-** Independent statutory body within Treasury portfolio with administrative support from the ATO, deals with registration and where relevant, deregistration of tax agents and BAS agents. Fit and proper person requirements.
 - Qualifications, experience, maintains professional indemnity insurance and ongoing professional education requirements (TASA).
- **The Code of Professional Conduct-** All registered practitioners must comply with the Code (14 principles grouped into 5 categories of Honesty and Integrity, Independence, Confidentiality, Competence and other Responsibilities)

Medicare Levy

- The Australian tax system serves as a collection mechanism for Medicare Levy.
- Medicare is a universal health care system for Australian residents.
- The ML is imposed under Medicare Levy Act 1986 (Cth) with criteria for determining ML liability in Pt VIIIB of ITAA 1936.
- Payable by residents earning above threshold amounts.
- Base levy payable of 2% x taxable income
- Low-income earners exempt or partially exempt- refer text for table
- Certain exemptions including non-residents and some members of the Australian Defence Forces.
- Example: Elizabeth has taxable income of \$50,000. The Medicare levy is calculated at 2% of Elizabeth's taxable income. Therefore, she will be liable to a levy of \$1,000.

Medicare levy low-income earner thresholds 2023-24

- A taxpayer who qualifies as a low-income earner is either fully or partially exempted from the Medicare levy.
- The amount of the exemption will depend on the individual's taxable income and whether they qualify for the Senior and Pensioners tax offset (SAPTO)

	Threshold amounts	Phase-in-limit
• Individual entitled to the Senior and Pensioners Tax Offset (SAPTO)	\$41,089	\$51,361
All other taxpayers	\$26,000	\$32,500

- Example: Rupert has taxable income of \$12,000. He is not entitled to the SAPTO. Rupert is not required to pay the Medicare levy as his taxable income is below the threshold amount.

Medicare Levy Surcharge

- Medicare levy surcharge of additional 1.5% payable by taxpayers above a certain threshold where they do not have private health cover- refer text for table
- Income for surcharge purposes:
 - *Taxable Income + Exempt foreign employment income + Reportable Fringe Benefits + Total Net Investment loss (investment and rental property) + Reportable Super Contributions (employer super and personal deductible)*

Medicare Levy Surcharge Rates

*Add \$1,500 for each dependant child after first

Single income	Family income*	
0-97,000	0-194,000	Nil
97,001-113,000	194,001-226,000	1
113,001-151,000	226,001-302,000	1.25
151,001 +	302,001 +	1.5

Taxation formula (chapter 3)

- ITAA 1997 (Section 3-5) imposes annual tax requirement for individuals, companies and certain other entities.
- Income Tax Formula- ITAA 1997 (Section 4-10)
 - **Income Tax = (Taxable Income x Rate) – Tax Offsets**
- Taxable Income- ITAA 1997 (Section 4-15)
 - **Taxable Income = Assessable Income – Deductions**
- Note: Assessable income is the sum of Ordinary Income and Statutory Income but not Exempt Income or NANE Income
- **Ordinary Income** ITAA 1997 (s 6-5(1)) – income according to ‘ordinary concepts’
 - If an Australian resident, includes income directly or indirectly from all sources, whether in or out of Australia, during the income year.
 - If a foreign resident includes ordinary income from all Australian sources during income year.
 - Income taken to assessed in year in which derived ordinary income.
- Section 6-5 (4) ensures cannot avoid paying income tax by directing income to a different person and not receiving money themselves.
- **Statutory Income:** Amounts included in assessable income because of a specific provision in the legislation
 - Generally includes amounts that the legislatures wished to include in income tax base but fell outside concept of ordinary income).
 - For example s 102-5 includes net capital gain in assessable income
- **Non-assessable Income:** An amount that is not ordinary income and not statutory income and thereby not subject to tax.
 - Also includes income legislation states is ‘exempt income’ or non assessable non exempt’ income.
 - Two classes of exempt income:
 - Entity is exempt regardless of income received for example charity
 - Ordinary or statutory income is of a kind exempt for example certain education scholarships.
- **Tax Deductions:** Expenses incurred by taxpayer in gaining or producing assessable income
 - General deductions (s 8-1) and specific deductions (s 8-5)
 - Serve to reduce taxable income
- **Tax Offsets:** Deducted from income tax payable and reduce amount of tax payable.
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