

# Assessable Income

## Receipts from Personal Exertion

Wages, salaries and commission	<p><b>S 6(1)</b> – Income derived from personal exertion</p> <p>Wages are derived from personal exertion s6(1). AI under s6-5 OI because they are receipts directly from employment as they were received immediately in return for it: <b>British Columbia</b></p> <p><u>Other factors to support it include:</u></p> <ul style="list-style-type: none"> <li>- Connection to employment-</li> </ul> <p><b>Direct</b> (<i>British Columbia</i>)</p> <p><b>Incidental</b> (<i>FCT V Dixon</i>), (<i>Kelly v FCT</i>), <i>FCT v Rowe</i>)</p> <p>-state they were eligible to receive by virtue of that employment (if he could play well enough to secure the most votes)</p> <p><b>Unrelated</b> (<i>Hayes v FCT</i>)</p> <ul style="list-style-type: none"> <li>- Reasonable expectation for payment to be received</li> <li>- Dependent upon to meet regular living expenses</li> <li>- The payment is made involuntarily</li> <li>- Genuine commercial considerations in making the payments (if payments are made under contract).</li> <li>- The payments are also periodical, recurrent and regular; and money or convertible into money.</li> </ul>	Receipt from personal exertion – AI under 6-5.
Wages of minor	<p>The wages of X are “excepted assessable income” from employment that are not subject to Div 6AA. The wages are AI under s6-5 as OI because they are receipts directly from M’s employment, as they were received immediately in return for work done by her: <b>British Columbia</b></p>	AI under s6-5
Tips	<p>Incidental to TP employment therefore income</p> <p>Tips are derived from personal exertion s6(1). Indirect connection to employment, reasonable expectation to receive, dependent on payment, periodical and regular. - <b>AG of British Columbia and Kelly’s</b></p>	Receipts from personal exertion AI s6-5

	<b>Case</b>	
Bonuses	<p><b>Ordinary Income s6-5</b></p> <p><i>The connection needs to be direct or incidental:</i></p> <p><b>Direct:</b> immediately received in return for employment/services rendered: <b>British Columbia</b></p> <p><b>Incidental:</b> occurs or is likely to occur in connection by virtue of the service performed: <b>Kelly's case</b>.</p> <p>If paid to an employee then it is assessable as OI → there is a clear connection to employment (see wages and commission)</p> <p><b>Voluntary Payment (e.g. as Christmas Bonuses)</b></p> <p>– <b>Haye's case</b> – it may be SI under 15-2: Allowances and other things provided in respect of employment or services.</p> <p><b>Statutory Income s15-2</b></p> <p>If paid to an employee, there is a clear connection to the employer, a consequence of the employment. One off payment.</p> <p>s15-2 does not apply if the amount is OI: s 15-29(3)(d).</p>	<p>AI under s15-2</p> <p>Unless AI under s6-5.</p> <p>S15-2(3)(d) says s6-5 prevails</p>

# Deductions

## For individuals

### Non-work related

Rental/investment property expenses	GD under s8-1 as they fall within the first limb in s8-1(1)(a) because they have the essential character of investment property expenses that are “directly connected” and relevant to rental AI produced, and they are all “non-capital in nature”  Should be apportioned if the investment property is used for personal use: <b>Ronpibon</b>	GD under 8-1
Interest Expense	General deduction under s8-1  Interest expenses incurred on a loan is a GD in so far as the loan being used for producing assessable income: <b>Munro; Amalgamated Zinc</b> e.g. collecting rent from a home.  Consider the scale of the loan and the scale of the security – if it just a home then it is unlikely to COB (MacDonald’s case)  Nature of security is irrelevant <b>Ronpibon</b> – if lending money for multiple purposes, need to apportion, only deduct to the extent of incoming generating e.g. if borrow and on lend at lower rate.	Generally deductible under s8-1(1)(a)
Fines	s26-5 prevents a deduction because the fines are an amount payable by way under <Act>, which is an Australian law that is turn defined as a law of the state.	Prevented deduction s26-5
Gain/Loss on sale of home	No deduction because loss of \$xxx is not deductible under s8-1 as the home is capital or private in nature: Case 50. s118-10 capital gain or loss is disregarded as the home was used solely as a residence.	Specific exemption s118-10
Maintenance payments	Not deductible because the expenses were not directly or indirectly related to producing assessable income	No deduction
Tax related advice	SD under 25-10 because it is expenditure in managing tax affairs assuming the advice was provided by a “recognised tax advisor” and was not “capital expenditure”	SD 25-5

# Deductions

## For COB

Advertising Expense	<p>“Falls within the second limb in s 8-1(1)(b) as a necessary outgoing incurred in carrying out the T/P’s business because it was reasonably appropriate to pursue the business ends of {insert business reasons e.g sustaining business and COB at same volume as previously}: <b>Magna Alloys</b>”</p> <p>It can be deductible if it is revenue; not capital – see <i>Snowden &amp; Wilson</i>, where ads were placed to counter adverse publicity following a law suit. If it is a recurrent expense just for the purpose of sustaining and COB without a lasting advantage, then yes, deductible.</p> <ul style="list-style-type: none"> <li>- However, if it is change of business name, logo and signage, then it is not capital.</li> </ul> <p><b>The negative limb – capital or domestic nature?</b></p> <p><b>Capital Nature – Sun Newspaper Test</b> (page 129)</p> <p>“However, it is not a GD as it is capital or of a capital nature because of the lasting advantage acquired from &lt;business reason e.g. change of business name&gt;; the expense relates to the identity of the profit yielding subject, and is incurred once only: <b>Sun Newspapers</b>”</p> <p><b>Bonus mark:</b> Even though it cannot form part of element (4) of the CB of business goodwill: s110-25(5A), it also appears not to fall within s40-880 as it is incurred in relation to a legal right that consists of goodwill: s40-880(5)(d) (unless it relates to only to preserving the value of goodwill and not to enhancing that value: s40-880(6)).</p>	<p>GD allowed if not capital under second limb of s 8-1.</p> <p>If mixture, contemplate apportionment</p>
Travelling expense	<p><b>Travel from home to place where t/p COB</b> - Generally not deductible under second limb of 8-1 for same reasons as Lumney (see individual travelling expenses), the expenses did not have the essential character of a business expense:</p> <p><b>Hayley’s case</b></p>	Generally not deductible
Business Interest Expense	<p>Refinancing expenses are deductible as GD s8-1(1)(b) as outgoings necessarily incurred in carrying out the T/P’s business because it is reasonably appropriate to incur expenses to operate the business and ensure there is sufficient cash flow (for operations rather than capital):</p> <p><b>Magna alloys</b></p>	GD under s 8-1 (second limb)
Borrowing	Deductible under s25-25 as they were used to xxx for the	s25-25

expenses	purpose of producing assessable income.	
Child care expenses for employees	“Falls within the second limb in s 8-1(1)(b) as a necessary outgoing incurred in carrying out the T/P’s business because it was reasonably appropriate to pursue the business ends of assisting employees to attend work and attracting the best employees whilst eliminating the distraction of employees children: <b><i>Magna Alloys</i></b> ” Also Case 50 – not of a domestic nature	GD under s8-1(1)(b)
Trading Stock On hand	SD under s 70-35(3) because the Opening Inventory of \$xxx x at the start of the year exceeds Closing Inventory of \$xxx at end of the year. The difference is deductible	SD 70-35(3)