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TAXATION LAW IN AUSTRALIA

A Student Study and Teaching Guide

By Dr Adrian Adams

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PREFACE

Preface

BY DR ADRIAN ADAMS

This book is dedicated to helping law students — including LLB, JD and LLM students and students who choose Australian Taxation Law as an elective — understand the structure, reasoning and practical application of Australian taxation law. It is written as a clear, practical and reliable companion from the first chapter and Worked problem through to revision, assessment and the final examination.

My aim is to bridge the gap between doctrine and problem solving by connecting chapters, worked problems and required readings with the exact legislation, cases, ATO rulings, administrative authorities and calculations that students must learn to use. The Worked problems are deliberately treated as a major teaching tool: they show how to identify the taxation issue hidden inside facts, select the correct Act and provision, break the rule into its elements, connect the relevant case or ATO authority, apply the facts, perform the calculation and reach a reasoned conclusion.

Taxation Law is demanding because legal characterisation and numerical calculation operate together. A receipt may be ordinary income, statutory income, capital or non-assessable; expenditure may be deductible, capital, private or specifically denied; a capital gain may require several statutory steps; and a correct legal analysis may still fail if the numbers are not reconciled. This book therefore teaches both the *why* and the *how*.

Dedication and Acknowledgements

I dedicate this book to law students who are working to understand a technically demanding subject and to develop the analytical discipline that legal practice requires. Your curiosity, perseverance and commitment to learning are the reason this book exists.

I gratefully acknowledge Dr Tom O’Sullivan, Lead Educator for the taxation subject, whose teaching and the relevant law and authorities helped inform the learning framework from which this independent study guide was developed. I am also grateful to the educators, colleagues and students whose questions and discussions have reinforced an important lesson: taxation law becomes manageable when each problem is broken into its legal and numerical parts and each conclusion is tied back to authority.

May this book help you approach Australian taxation law with clarity, discipline, confidence and curiosity.

Publication and Source Note

This is an independent study and teaching guide based on Australian taxation legislation, cases, ATO materials, prescribed readings and published reference works. It is not an official publication of, or endorsed by, Thomson Reuters, the Australian Taxation Office or any other institution.

The prescribed textbook used for this study guide is Sadiq, K et al, *Principles of Taxation Law* (Thomson Reuters, Sydney, 2026), referred to in this book as PTL. Students are also encouraged to use Sadiq, K and Pinto, D, *Fundamental Tax Legislation* (Thomson Reuters, Sydney, 2026). This book records the assigned PTL paragraph ranges as a study map; it does not reproduce the prescribed textbook as a substitute for that work.

The material is synthesised for explanation and study. Statutory currency, rates, thresholds, administrative guidance and the status of proposed reforms should always be checked against the legislation and authoritative public sources in force for the relevant income year.

Current-law and income-year discipline

Tax answers are date-sensitive. A strong answer identifies the taxpayer, the entity type and the relevant income year before applying rates, thresholds, residency rules, deduction provisions, capital-gains rules or administrative time limits. Where announced or proposed reforms are discussed, this book distinguishes the law applying to the relevant income year from later amendments and measures.

> Electronic edition: blue hyperlinks are designed to take students to legislation, judgments, ATO legal materials and other authoritative resources so that the primary source can be checked directly.

Official legislation and legal research resources

How to use these resources. Start with the legislation: identify the issue, read the exact Act, Division, Subdivision, section, subsection and paragraph, then use cases, ATO materials and commentary to see how the rule is interpreted and applied. Always verify the law for the relevant income year.

Primary Commonwealth legislation:
Income Tax Assessment Act 1997 (Cth) - Federal Register | Income Tax Assessment

Act 1936 (Cth) - Federal Register | Taxation Administration Act 1953 (Cth) - Federal Register

Case law, ATO materials and commentary:
AustLII | ATO Legal Database | Lexis+ Australia | Westlaw Australia | Australian Treasury

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HOW TO USE THIS BOOK

How to Use This Book

Taxation Law becomes manageable when you know what to look for. Use this book as a working study guide: start with the facts, identify the tax issue, find the controlling legislation, cases and ATO authority, then work through application and calculation. The aim is to build a repeatable method you can use confidently in problem solving, assessments and exams.

The learning method

THE CORE METHOD
FACTS → ISSUE → SUB-ISSUES → TAXPAYER → INCOME YEAR → EXACT LAW: ACT / PART / DIVISION / SUBDIVISION / SECTION / SUBSECTION / PARAGRAPH → ELEMENTS / DEFINITIONS → CASE / ATO AUTHORITY → APPLICATION → CALCULATION → CONCLUSION → ADVICE → NEXT STEP / REMEDY / OBJECTION / REVIEW.

Start with the facts, separate the main issue from each sub-issue, then identify the controlling legislation. Work from the exact statutory rule — Act, Part, Division, Subdivision, section, subsection and paragraph — to its elements and definitions. Cases and ATO authorities explain how those statutory words operate in practice. Application requires each material fact to be tested against each legal element. Taxation Law then adds a further discipline: convert the legal characterisation into the correct numerical result, reach a reasoned conclusion and, where relevant, identify practical advice, the next step, remedy, objection or review.

FACTS → ISSUE → SUB-ISSUES → EXACT LAW → ELEMENTS / DEFINITIONS → CASES / AUTHORITIES → APPLICATION → CALCULATION → CONCLUSION → ADVICE → NEXT STEP / REMEDY.

Cases and statutes

Every major authority should be learned by proposition rather than by name-dropping. Statutory provisions are identified at the most useful level available — Act, Part, Division, Subdivision, section, subsection and paragraph — and connected to the factual trigger that makes them relevant. If a provision contains several limbs, exceptions or method-statement steps, the student should work through them in order rather than merely cite the section number.

Application Masterclasses

Worked application problems are built into the relevant chapter rather than placed at the back as an afterthought. Each problem should be read as an issue-spotting exercise: identify each receipt, outgoing, asset, liability, transaction, taxpayer and income year; classify it; locate the exact rule; state the authority that interprets the rule; apply the facts; perform any required calculation; and give a strong conclusion. Where an assessment, ruling, penalty, objection, review or other procedural consequence is relevant, the answer should identify that outcome as well.

Prescribed and recommended texts

The prescribed textbook is Sadiq, K et al, *Principles of Taxation Law* (Thomson Reuters, Sydney, 2026), referred to throughout this book as PTL. Students are also encouraged to use Sadiq, K and Pinto, D, *Fundamental Tax Legislation* (Thomson Reuters, Sydney, 2026). This study guide integrates the assigned PTL paragraph ranges as a weekly study map while directing students back to the primary law and authorities.

Weekly reading map

Week	PTL required reading
1	[1.000]–[1.190]; [3.000]–[3.190]; [5.00]–[5.170]; [15.00]–[15.40]; [15.80]; [15.100]; [15.160]; [15.170]; [15.210]; [24.160]; Appendix B items 1–5.
2	[4.00]–[4.290]; [16.10]–[16.100].
3	[6.00]–[6.250]; [7.000]–[7.100]; [7.310]–[7.350].
4	[8.00]–[8.280].
5	[9.00]–[9.210]; [10.000]–[10.120]; [10.150]–[10.290]; [5.130]; [5.90].
6	[11.00]–[11.80]; [11.100]; [11.130]; [11.170]–[11.250]; [11.270]–[11.320]; [11.380]–[11.580].
7	[12.00]–[12.230]; [12.270]–[12.300]; [12.320]–[12.350]; [12.370]–[12.440]; [12.580]–[12.780]; [12.800]; [12.810]–[12.850].
8	Review Week 7 required reading.
9	[16.120]–[16.186]; [12.230]–[12.260]; [13.00]–[13.110]; [13.180]; [14.00]–[14.118]; [14.125]; [14.165]–[14.215].
10	Review Week 9; [12.310]; [23.00]–[23.150]; [23.160]; [23.260]–[23.310].
11	Review Week 10; [24.00]–[24.620].
12	Review Week 11.

AGLC4 legal writing

The book models legal writing by identifying the precise statutory source and the authority that supports a proposition. Appendix D provides a quick AGLC4 reference and the bibliography organises the principal sources by category. The objective is that students learn Taxation Law, statutory interpretation, numerical tax reasoning and legal writing at the same time.

Digital & Interactive Edition

Taxation Law in Australia is designed as an electronic companion edition for desktop computers, PCs, Macs, laptops, tablets, iPads, iPhones and Android phones. Blue links connect students directly to chapters, statutory provisions, cases, ATO materials and research resources. The electronic edition is intended to preserve the complete teaching text while making it easier to move from an explanation to the underlying authority.

FUN REVISION RESOURCE

Interactive Glossary of Terms

This glossary brings the Australian Taxation Law revision resource into the study guide as a quick alphabetical reference. Use each definition as a revision prompt, then click the blue subject label to return directly to the relevant teaching chapter for the full legislation, cases, tests, calculations, application and procedural consequences.

Study note: these are short-form revision definitions. For an assessment answer, use the exact current legislation, full authorities and detailed chapter explanations.

A

Accounting basis *[Residency, Source and Derivation]* The method used to determine when income is derived. Cash and accrual approaches are tested by which method gives a substantially correct reflex of the taxpayer's true income.

Accruals basis *[Residency, Source and Derivation]* A derivation method that generally recognises income when it is earned and a recoverable debt has arisen rather than when cash is later received.

Administrative penalty *[Tax Administration]* A statutory penalty imposed for specified compliance failures, including false or misleading statements, failure to lodge and scheme-related shortfalls under the uniform penalty regime.

Aggregated turnover *[Tax System and Formula]* A statutory turnover measure used in several tax concessions and in determining whether a company can qualify as a base rate entity.

Amended assessment *[Tax Administration]* A change to an assessment made within the applicable statutory amendment period or under an exception allowing amendment.

Annuity *[Property Returns and Compensation]* A periodic payment stream whose assessable treatment can involve specific statutory rules, including s 27H ITAA36.

Anti-overlap rule *[Capital Gains Tax]* A rule preventing the same economic gain from being taxed twice under overlapping income and CGT provisions; s 118-20 is a central example.

Apportionment *[General Deductions]* A fair and reasonable division of expenditure or another amount where only part has the required income-producing connection.

Assessable income *[Tax System and Formula]* Income included in the tax calculation, principally ordinary income under s 6-5 and statutory income under s 6-10, subject to exclusions.

Assessment *[Tax Administration]* The Commissioner's formal ascertainment of taxable income, tax payable and relevant offset refunds under the assessment regime.

Australian resident *[Residency, Source and Derivation]* A tax-residency status that determines the scope of Australian assessable income. For individuals the operative definition is found through s 995-1(1) ITAA97 and s 6(1) ITAA36.

B

Bad faith / conscious maladministration *[Tax Administration]* Exceptional concepts relevant to attempts to challenge the validity of an assessment notwithstanding the statutory conclusivity rules.

Balancing adjustment *[Capital, Division 40 and Division 43]* A Division 40 adjustment arising when a balancing-adjustment event occurs for a depreciating asset, comparing termination value with adjustable value.

Base rate entity *[Tax System and Formula]* A company satisfying the relevant aggregated-turnover and passive-income requirements for the concessional company tax rate.

Blackhole expenditure *[Deductions Across Time]* Certain business-related capital expenditure not otherwise recognised that may be deductible over time under s 40-880, subject to exclusions.

Borrowing expenses *[Specific Deductions]* Certain capital costs of obtaining finance that can be deductible over a statutory period under s 25-25 where the borrowing is used for assessable-income purposes.

Business *[Business Income]* An activity carried on with sufficient commercial character, purpose, repetition, organisation, scale and profit-making intention, assessed from the whole factual picture.

Business Activity Statement (BAS) *[Tax Administration]* A periodic statement used by registered entities to report obligations such as GST, PAYG withholding and PAYG instalments.

C

Capital allowance *[Capital, Division 40 and Division 43]* A statutory deduction for the decline in value of a depreciating asset under Division 40 rather than an immediate deduction for the asset's capital cost under s 8-1.

Capital gain *[Capital Gains Tax]* A gain produced under the CGT provisions when the relevant CGT event formula results in a positive amount.

Capital loss *[Capital Gains Tax]* A loss produced under the CGT provisions. Capital losses generally reduce capital gains and do not directly reduce ordinary income.

Capital proceeds *[Capital Gains Tax]* The money or market value received or entitled to be received in respect of a CGT event, subject to statutory modifications.

Capital works *[Capital, Division 40 and Division 43]* Qualifying construction expenditure dealt with under Division 43, commonly for buildings and structural improvements.

Capital/revenue distinction *[Capital, Division 40 and Division 43]* The characterisation boundary that determines whether expenditure is immediately deductible under s 8-1 or instead receives capital treatment.

Carried-forward loss *[Tax System and Formula]* A tax or capital loss not fully used in the current year and preserved for possible application in a later income year under the relevant statutory regime.

Cash basis *[Residency, Source and Derivation]* A derivation method that ordinarily recognises income when it is actually or constructively received.

CGT asset *[Capital Gains Tax]* Property or a legal or equitable right falling within the statutory definition in s 108-5 ITAA97.

CGT discount *[Capital Gains Tax]* A statutory reduction for eligible discount capital gains where the taxpayer and holding-period requirements are satisfied.

CGT event *[Capital Gains Tax]* A statutory event in Division 104 that can give rise to a capital gain or capital loss. The event should be identified before any calculation is attempted.

Collectable *[Capital Gains Tax]* A CGT category subject to special thresholds and quarantining rules for capital losses.

Commerciality *[Business Income]* The objective business-like character of an activity or transaction, relevant to business and isolated profit-making analyses.

Commissioner of Taxation *[Tax Administration]* The statutory office responsible for general administration of the Commonwealth taxation laws.

Compensation receipt *[Property Returns and Compensation]* A receipt generally characterised by identifying what the compensation replaces; the tax character commonly follows the substituted amount or asset.

Constructive receipt *[Residency, Source and Derivation]* A rule treating income as derived where it is applied or dealt with on the taxpayer's behalf or as directed, even if the taxpayer does not physically receive cash.

Cost base *[Capital Gains Tax]* The statutory measure used in many CGT gain calculations, generally comprising five elements under s 110-25.

Current income year (CIY) *[Tax System and Formula]* The income year presently being analysed in a tax problem. Always identify it before applying timing, rates, losses, deductions or CGT rules.

D

Deduction *[General Deductions]* An amount subtracted from assessable income in calculating taxable income. It is not the same as a tax offset.

Deduction denial provision *[Specific Deductions]* A provision that specifically prevents or limits a deduction that might otherwise appear available under a general or specific deduction rule.

Deferred payment *[Residency, Source and Derivation]* An amount contractually earned or otherwise derived in one income year but paid later; derivation depends on the applicable timing rule rather than merely the payment date.

Depreciating asset *[Capital, Division 40 and Division 43]* An asset with a limited effective life that can reasonably be expected to decline in value and is dealt with under Division 40, subject to exclusions.

Derivation *[Residency, Source and Derivation]* The legal timing question asking when income is brought to account for a particular income year.

Dividend *[Property Returns and Compensation]* A company distribution dealt with principally under the dividend provisions of the ITAA36 and associated imputation rules.

Dividend imputation *[Property Returns and Compensation]* The system under which franking credits can attach to distributions of company profits and may generate a tax offset for shareholders.

Domicile test *[Residency, Source and Derivation]* An individual residency limb under s 6(1) ITAA36 that considers Australian domicile and whether the taxpayer has a permanent place of abode outside Australia.

Double deduction *[General Deductions]* The impermissible claiming of the same economic outgoing more than once; s 8-10 prevents double deductions.

E

Effective life *[Capital, Division 40 and Division 43]* The period used in Division 40 to calculate decline in value of a depreciating asset, determined under statutory rules or a permissible taxpayer estimate.

Eligible taxable income of a minor *[Tax System and Formula]* Income of a resident minor potentially subject to the special Division 6AA rates unless it falls within an excepted category.

Excepted income *[Tax System and Formula]* Income of a minor that is excluded from the punitive eligible-income rates and instead generally taxed under ordinary individual rates.

Excepted taxable income *[Tax System and Formula]* Income of a minor to which ordinary rates may apply instead of the special Division 6AA rates.

Exempt income *[Tax System and Formula]* Income that the legislation excludes from assessable income but which may still have other tax consequences.

External benefit *[Personal Exertion and Benefits]* A non-cash or other benefit that may need valuation and statutory analysis to determine whether it is included in assessable income.

F

FEE-HELP repayment *[General Deductions]* Repayment of a study debt; the repayment itself is generally denied as a deduction even where the underlying course fees may have a different deductibility analysis.

Franking credit *[Property Returns and Compensation]* A credit reflecting company tax associated with a franked distribution and potentially included in assessable income with a corresponding tax offset.

Fringe benefit *[Personal Exertion and Benefits]* A benefit provided in respect of employment that may fall within the separate fringe benefits tax regime rather than being directly taxed to the employee as ordinary income.

G

General deduction *[General Deductions]* A deduction potentially available under s 8-1 where a positive limb is satisfied and no negative limb denies the deduction.

General interest charge (GIC) *[Tax Administration]* An interest charge that can apply to late payment of tax liabilities and is calculated under the taxation administration regime.

Gift *[Personal Exertion and Benefits]* A voluntary transfer whose tax character depends on the relationship to income-producing activities; a genuine personal gift is generally not ordinary income, but employment or business-linked receipts may be.

Grant *[Business Income]* Government or other funding whose tax treatment depends on statutory provisions and whether it has the character of ordinary income, business assistance or capital.

Gross capital gain *[Capital Gains Tax]* A capital gain before applying current-year capital losses, prior-year net capital losses, discounts and concessions under the s 102-5 method statement.

H

HELP repayment *[Tax System and Formula]* A compulsory study-loan repayment calculated by reference to statutory repayment income thresholds; it is not an income-tax deduction.

Home office occupancy expense *[General Deductions]* Costs such as rent, mortgage interest, rates and insurance that may be deductible only where part of a home has the character of a place of business and the statutory nexus is satisfied.

Home office running expense *[General Deductions]* Additional costs of working from home, such as electricity and equipment decline in value, potentially deductible to the extent connected with income-producing use.

I

Incidental and relevant *[General Deductions]* The Ronpibon Tin formulation describing the required connection between an outgoing and the gaining or producing of assessable income.

Income protection premium *[General Deductions]* A premium for insurance against loss of earning capacity that can be deductible where the required connection to assessable income is present, as illustrated by Smith.

Income year *[Tax System and Formula]* The annual period for which Australian income-tax liability is calculated, ordinarily 1 July to 30 June.

Incurred *[Capital, Division 40 and Division 43]* The timing concept governing when a loss or outgoing has been sufficiently definitively committed to be considered for deduction.

Indexation *[Capital Gains Tax]* A CGT method that can increase eligible cost-base expenditure by an indexation factor for qualifying pre-1999 assets, subject to statutory limits and taxpayer type.

Interest *[Property Returns and Compensation]* A return for the use of money, generally ordinary income to the recipient and potentially deductible to a borrower where the required nexus exists.

Interest deductibility *[Deductions Across Time]* The character of interest follows the use of the borrowed funds and the continuing nexus with assessable-income production rather than merely the security offered for the loan.

Isolated profit-making transaction *[Business Income]* A one-off commercial transaction capable of producing ordinary income where the taxpayer entered into it with the relevant profit-making purpose and the transaction is commercial in character.

J

Jurisdiction *[Residency, Source and Derivation]* The legal basis on which Australia taxes a taxpayer or receipt, principally through residence and source rules, subject to special provisions and treaties.

L

Lease premium *[Property Returns and Compensation]* A lump-sum payment connected with the grant or acquisition of lease rights, requiring characterisation under income and CGT provisions.

Low income tax offset (LITO) *[Tax System and Formula]* A non-refundable tax offset available to eligible resident individuals within the legislated income ranges.

M

Market value substitution rule *[Capital Gains Tax]* A CGT rule that can substitute market value for actual consideration where statutory conditions are satisfied.

Medicare levy *[Tax System and Formula]* An additional income-tax impost generally calculated as a percentage of taxable income, subject to thresholds and exemptions.

Medicare levy surcharge *[Tax System and Formula]* An additional surcharge for certain higher-income taxpayers who do not hold the required private patient hospital cover.

Mutuality principle *[Tax System and Formula]* The principle that a person cannot make taxable income from themselves; genuine mutual receipts of members can therefore fall outside income.

N

Negative gearing *[Tax System and Formula]* A situation in which deductible investment expenses exceed income from the investment, potentially contributing to a tax loss subject to the general law and any applicable special rules.

Negative limb *[General Deductions]* One of the exclusions in s 8-1(2), including capital, private/domestic, exempt/NANE-related and statutory-denial categories.

Net capital gain *[Capital Gains Tax]* The amount worked out under s 102-5 after applying current-year capital losses, prior-year losses, discounts and concessions; it is included in assessable income as statutory income.

Net capital loss *[Capital Gains Tax]* The amount calculated under s 102-10 and carried forward for application against future capital gains subject to the CGT rules.

Non-assessable non-exempt (NANE) income *[Tax System and Formula]* An amount specifically treated as neither assessable nor exempt income. It is outside assessable income but may affect other provisions.

Non-cash business benefit *[Business Income]* A benefit arising in a business context whose money value can be brought to account under the statutory non-cash business benefit rules.

Non-convertibility principle *[Personal Exertion and Benefits]* The ordinary-income principle associated with Cooke & Sherden that a non-cash benefit not convertible into money is generally not ordinary income, subject to statutory provisions that may override the result.

O

Objection *[Tax Administration]* A formal challenge to a taxation decision made under Part IVC of the TAA53, subject to time limits and procedural requirements.

Objective purpose *[Business Income]* The purpose inferred from the facts and circumstances, especially relevant to isolated profit-making transactions and anti-avoidance analysis.

Occasion of expenditure *[General Deductions]* The factual cause or occasion of an outgoing used to determine whether the necessary nexus with assessable income exists.

Ordinary concepts *[Personal Exertion and Benefits]* The judicial concept used in s 6-5 to identify income according to established principles rather than a single exhaustive statutory definition.

Ordinary concepts residence *[Residency, Source and Derivation]* The first individual residency test, asking whether the taxpayer resides in Australia according to ordinary meaning and the whole factual pattern.

Ordinary income *[Personal Exertion and Benefits]* Income according to ordinary concepts included under s 6-5 ITAA97. Characterisation depends on the quality of the receipt in the taxpayer's hands.

P

Part IVA *[Anti-Avoidance and Integrity]* The general anti-avoidance regime in the ITAA36 requiring analysis of a scheme, tax benefit, dominant purpose and the Commissioner's determination power.

Passive income *[Tax System and Formula]* Income such as certain dividends, interest, rent, royalties and net capital gains relevant to the base-rate-entity passive-income test.

PAYG instalment *[Tax Administration]* A prepayment toward anticipated income-tax liability made progressively during the income year.

PAYG withholding *[Tax System and Formula]* Tax withheld at source from salary, wages and specified payments and later credited against the taxpayer's assessed liability.

Periodicity *[Property Returns and Compensation]* The recurrent or regular character of a receipt, which can support an income character but is not by itself decisive.

Permanent place of abode *[Residency, Source and Derivation]* A concept within the domicile test. Applegate establishes that "permanent" does not mean everlasting; the issue is whether the overseas living arrangement has sufficient permanence.

Personal use asset *[Capital Gains Tax]* A CGT asset used or kept mainly for personal use or enjoyment and subject to special gain/loss rules.

Positive limb *[General Deductions]* One of the two pathways in s 8-1(1) connecting a loss or outgoing with assessable income or the carrying on of a business for that purpose.

Prepayment *[Anti-Avoidance and Integrity]* Expenditure paid in advance that may be subject to statutory timing rules limiting immediate deductibility.

Prior income year (PIY) *[Tax System and Formula]* An earlier income year relevant when considering carried-forward losses, prior transactions or timing comparisons.

Private or domestic expense *[General Deductions]* An outgoing denied under s 8-1(2)(b) to the extent its essential character is private or domestic.

Private ruling *[Tax Administration]* A binding ATO ruling applying the law to a specified entity and arrangement where the statutory conditions are satisfied.

Prize *[Personal Exertion and Benefits]* An award whose tax treatment depends on why it was received. A windfall may be non-assessable while a prize that is an incident of employment, business or professional activity may be income.

Protective clothing *[General Deductions]* Clothing designed to protect the wearer from specific work risks and potentially deductible where the statutory nexus and substantiation rules are satisfied.

Public ruling *[Tax Administration]* A published ATO ruling expressing the Commissioner's interpretation of the law for a class of entities or arrangements and capable of statutory protection when relied upon.

R

Realisation principle *[Tax System and Formula]* The general idea that tax consequences commonly arise when an economic gain is realised through a relevant transaction rather than merely because an asset has increased in value.

Recoverable debt *[Residency, Source and Derivation]* A legally enforceable entitlement to an ascertainable amount, often marking the point of derivation under an accruals method.

Reduced cost base *[Capital Gains Tax]* The statutory measure used in many capital-loss calculations and differing in specified respects from the cost base.

Refundable tax offset *[Tax System and Formula]* A tax offset that can reduce liability below zero and generate a refund, unlike an ordinary non-refundable offset.

Rent *[Property Returns and Compensation]* A return from granting use or occupation of property, generally ordinary income and commonly derived on a cash basis unless the circumstances indicate otherwise.

Repair *[Specific Deductions]* Work that restores the efficiency of function of property without creating or replacing the whole or producing a capital improvement; deductible repairs are principally dealt with under s 25-10.

Residence *[Residency, Source and Derivation]* A jurisdictional concept determining the scope of income Australia taxes. Tax residence is not the same as immigration residence.

Residency — 183-day test *[Residency, Source and Derivation]* An individual residency limb based on physical presence in Australia for more than half of the income year, subject to the statutory exception concerning usual place of abode and intention.

Restrictive covenant *[Personal Exertion and Benefits]* An agreement restricting future conduct; payments for entering such covenants may raise income, employment and CGT issues depending on context.

Royalty *[Property Returns and Compensation]* A payment for specified use of rights or property, subject to ordinary/statutory income rules and specific source and withholding provisions.

S

Scheme *[Anti-Avoidance and Integrity]* A broadly defined arrangement, plan, proposal, action or course of conduct forming the starting point for Part IVA analysis.

Section 8-1 *[General Deductions]* The central general-deduction provision containing two positive limbs and four negative limbs and requiring analysis “to the extent” the nexus is satisfied.

Self-assessment *[Tax Administration]* The system under which taxpayers take primary responsibility for lodging correct returns and working out tax positions, subject to ATO review and amendment powers.

Self-education expense *[General Deductions]* Expenditure on education whose deductibility depends on its connection with the taxpayer’s current income-earning activities and the statutory denial rules.

Shortfall interest charge (SIC) *[Tax Administration]* Interest imposed on additional tax arising from an amended assessment for the period before the amendment, subject to remission provisions.

Source *[Residency, Source and Derivation]* The geographical origin of income, determined as a practical question of fact by reference to the activities, property, payer and other connecting factors relevant to the receipt.

Specific deduction *[Specific Deductions]* A deduction expressly conferred by a provision outside the general deduction rule, such as provisions for tax-related expenses, repairs or borrowing expenses.

Statutory income *[Tax System and Formula]* An amount included in assessable income by a specific statutory provision rather than because it is ordinary income.

Substantiation *[General Deductions]* The evidentiary record-keeping rules, particularly Division 900, that can limit work-related deductions even where the substantive nexus exists.

T

Tax avoidance *[Anti-Avoidance and Integrity]* Conduct seeking to obtain a tax advantage through arrangements that may technically comply with specific provisions but can be defeated by integrity or anti-avoidance rules.

Tax benefit *[Anti-Avoidance and Integrity]* The statutory tax advantage identified for Part IVA purposes, determined by comparing the actual outcome with the required alternative postulate or counterfactual.

Tax evasion *[Anti-Avoidance and Integrity]* Illegal conduct intended to escape tax, such as deliberate concealment or false statements; it must be distinguished from lawful tax planning and avoidance analysis.

Tax loss *[Tax System and Formula]* A loss calculated under Division 36 that can potentially be carried forward and deducted in a later income year subject to the applicable rules.

Tax offset *[Tax System and Formula]* A credit against income tax otherwise payable. It operates after taxable income is calculated and is different from a deduction.

Tax planning *[Anti-Avoidance and Integrity]* Lawful structuring of affairs with regard to tax consequences, subject to specific integrity provisions and Part IVA.

Tax shortfall *[Tax Administration]* The difference between the tax properly payable and the amount worked out from a taxpayer's statement or return, relevant to penalties and interest.

Tax-related expense *[Specific Deductions]* Expenditure on managing tax affairs that may be specifically deductible under s 25-5, subject to the provision's limits.

Taxable income *[Tax System and Formula]* Assessable income minus deductions under s 4-15 ITAA97.

Temporary resident *[Residency, Source and Derivation]* A resident individual satisfying the special temporary-resident definition, with modified Australian taxation of certain foreign-source amounts.

Termination payment *[Personal Exertion and Benefits]* A payment made on termination of employment that may require analysis under specific statutory regimes rather than ordinary-income principles alone.

Trading stock *[Business Income]* Items held for sale, manufacture or exchange in the ordinary course of business and subject to the trading-stock regime rather than ordinary capital rules.

Travel between workplaces *[General Deductions]* Travel between two income-producing activities that may differ from ordinary home-to-work commuting and can require analysis under s 8-1 and s 25-100.

U

Usual place of abode *[Residency, Source and Derivation]* A concept in the exception to the 183-day residency test requiring attention to where the taxpayer ordinarily lives and their intention regarding Australian residence.

V

Value of non-cash benefit *[Personal Exertion and Benefits]* The money value attributed to a non-cash benefit where a statutory valuation rule applies.

W

Windfall gain *[Personal Exertion and Benefits]* An unexpected receipt lacking sufficient employment, business or commercial connection to be ordinary income, subject to any statutory inclusion.

Working Australians Tax Offset *[Tax System and Formula]* An enacted tax offset under Subdivision 61-E ITAA97 that applies to assessments for the 2027-28 income year and later income years; students must apply the law for the income year being examined.

Legal Research: Cases, Legislation and Authorities

Taxation Law is not learned from one textbook or one Act. A strong law student learns how to find the controlling legislation, check the income year, identify the judicial authority behind a proposition, understand the legal effect of ATO materials and then apply the law to the facts and numbers.

Why legal research matters

Australian taxation problems regularly move between the *Income Tax Assessment Act 1997* (Cth), the *Income Tax Assessment Act 1936* (Cth), the *Taxation Administration Act 1953* (Cth), the *Income Tax Rates Act 1986* (Cth), other Commonwealth tax statutes, case law and ATO rulings. The important question is not simply where a source was found. Ask what legal proposition it establishes, how authoritative it is, whether it applies to the relevant income year and whether later legislation or authority has changed the position.

Research platforms students should know

Federal Register of Legislation. Use the official Commonwealth legislation source to check the current wording, commencement, amendments and historical versions of federal tax legislation.

ATO Legal Database. Use it for Taxation Rulings, Determinations, Law Companion Rulings, Practical Compliance Guidelines, Decision Impact Statements, edited private advice and other ATO legal materials. Always identify what type of document you are relying on and its legal effect.

AustLII. A major free Australian legal research database. Use it to locate Commonwealth legislation, judgments and ATO material, and to follow citations to related authorities.

Westlaw Australia and Lexis+ Australia. These subscription services are useful for annotated legislation, commentary, case treatment, citators and journal literature. They are particularly useful when beginning with a statutory section and identifying the cases that interpret it.

Australian Treasury. Use Treasury materials for tax policy, explanatory materials, consultation papers, treaty material and announced reforms. Distinguish proposed reforms from enacted law.

Queensland Revenue Office. Where a problem genuinely raises a Queensland State tax — for example duties, land tax or payroll tax — use QRO material and the relevant Queensland legislation. Do not confuse those State taxes with Commonwealth income tax.

Know what source of law you are using

Legislation is primary law. A High Court or Federal Court decision may interpret statutory language or establish the common-law principles used to characterise income, expenditure, source, derivation and other concepts. ATO rulings can have statutory reliance consequences but are not Acts of Parliament or judgments. Practical Compliance Guidelines generally explain the Commissioner's compliance approach; they do not replace the underlying law.

A simple research method

1. Identify the taxpayer and income year. Rates, thresholds, amendment periods and transitional rules may change with time.

2. Identify the legal issue. Separate each receipt, outgoing, CGT event, timing question or administrative step.

3. Find the legislation. Identify the Act, Part, Division and Subdivision that govern the issue.

4. Find the exact provision. Move to the section, subsection, paragraph and method-statement step that contains the operative rule.

5. Find the leading authority. Identify the case, ruling or other authority that explains the proposition you actually need.

6. Check its status and date. Has it been followed, distinguished, amended around, withdrawn, superseded or affected by later legislation?

7. Read the important part. A summary is a starting point. The judgment, legislation or ruling explains the reasoning and conditions.

8. Connect law to facts and numbers. Apply each element, then calculate. Do not calculate before the amount has been legally characterised.

9. Reach a concrete conclusion. State the assessable amount, deduction, capital gain/loss, taxable income, liability or procedural outcome as precisely as the facts permit.

10. Check review/remedy pathways. Where the question involves administration, consider ruling protection, amendment, objection, ART review, Federal Court appeal, interest and penalties.

The habit to build

For every authority, train yourself to answer: What happened? What was the legal issue? What did the court or authority decide? What rule or statutory interpretation comes from it? Why does it matter? When would I use it in a new problem? When you can answer those questions, you are no longer memorising Taxation Law — you are using it.

> FACT → ISSUE → TAXPAYER → INCOME YEAR → EXACT LAW → ELEMENT → CASE / ATO AUTHORITY → APPLICATION → CALCULATION → CONCLUSION → PENALTY / REMEDY / REVIEW

Authority hierarchy for tax problem solving

Start with the Act. Legislation controls. Then use binding or persuasive judicial authority to interpret and apply the statutory language. ATO public rulings and determinations may provide statutory protection when applicable, but they are not Acts or judgments. Practical Compliance Guidelines generally describe the Commissioner's compliance approach. Commentary from textbooks, Lexis+ and Westlaw is secondary material: useful for locating and understanding primary sources, but not a substitute for them.

CHAPTER 1. FOUNDATIONS OF AUSTRALIAN TAXATION LAW AND THE INCOME TAX FORMULA

tax system • tax formula • assessable income • deductions • offsets • losses • rates • administration

Tax starts with a formula, but a good tax lawyer starts one step earlier: identify the taxpayer, the income year and the legal character of every receipt and outgoing. This chapter builds the framework that every later chapter uses.

LEARNING OUTCOMES

- Recognise what counts as a tax and why governments impose taxes.
- Evaluate a tax system using equity, simplicity, efficiency, certainty and fiscal adequacy.
- Apply the Australian income tax formula in the correct statutory sequence.
- Distinguish ordinary income, statutory income, exempt income and non-assessable non-exempt income.
- Calculate taxable income, basic income tax liability, offsets and common collection adjustments.
- Use the Week 2 worked problem as a complete tax-return problem rather than a list of disconnected receipts.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: how the Australian income-tax calculation is actually built

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income under s 4-15 and apply the tax liability formula in s 4-10.

The distinction between a deduction and a tax offset is fundamental. A deduction reduces taxable income before rates are applied; an offset reduces tax after the basic liability is calculated. PAYG withholding is different again: it is a credit for tax already collected. HELP repayments, Medicare levy and the Medicare levy surcharge are additional liability calculations. A strong numerical answer therefore shows the calculation vertically, in the statutory order, and labels every adjustment.

Issue-spotting discipline For every amount ask: What is it? Who derived or incurred it? In what capacity? In which income year? Is it income, exempt/NANE, a deduction, a tax offset, a credit, or a separate liability? Which exact provision controls the classification?

Tax losses, capital losses and accounting losses are different concepts

Division 36 tax losses arise through the income-tax calculation and may be carried forward subject to the statutory rules. Capital losses arise only under the CGT regime and are quarantined against capital gains. An accounting loss shown in financial statements is not automatically either type of tax loss because accounting recognition and tax recognition differ. When a problem includes a P&L statement, the student must reconcile accounting profit to taxable income rather than simply copy the accounting bottom line.

Worked reconciliation mindset

Begin with accounting profit before tax only if the question gives financial statements. Add back accounting expenses that are not deductible or are deductible under a different timing rule; subtract tax deductions not already reflected correctly; add statutory income such as a net capital gain; remove amounts that are exempt or

NANE; then apply carried-forward tax losses if available. The purpose of the reconciliation is to show how legal characterisation changes the numbers.

In plain English
Think of the income tax formula as a funnel. Start with all amounts that might be income, remove amounts the law excludes, subtract deductions, then apply rates and offsets. PAYG withholding is not the tax itself; it is a credit collected during the year.

Key language

tax | equity | taxable income | assessable income | ordinary income | statutory income | exempt income | NANE income | deduction | offset | PAYG | Medicare levy | tax loss | income year | entity | withholding | negative gearing | HELP | GST | tax formula

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

1.1 Start with the architecture: how Australian income tax actually works

Taxation Law becomes much easier once you stop treating it as a long list of sections and start seeing it as a sequence of legal questions. Almost every income-tax problem can be organised in the same order. First identify who the taxpayer is. Second identify the income year. Third ask what amounts enter assessable income. Fourth identify deductions. Fifth calculate taxable income. Sixth apply the relevant rate, levy and offsets. Finally compare the resulting liability with amounts already paid or withheld.

This sequence is reflected in the legislation. The liability framework begins with the *Income Tax Assessment Act 1997 (Cth)* (ITAA97), particularly ss 4-1, 4-5, 4-10 and 4-15. Section 4-10 is the bridge between taxable income and the tax payable, while s 4-15 gives the core taxable-income equation: taxable income = assessable income − deductions. A student should know this formula so well that it becomes the mental checklist used whenever a new set of facts is presented.

> **Student shortcut**
> Do not start a problem by asking “what tax rate applies?” Start by asking: *who is taxed, for what year, on what assessable income, after what deductions?* A rate is applied only after the legal character of the receipts and outgoings has been resolved.

1.2 What is a tax?

The classic Australian starting point is *Matthews v Chicory Marketing Board (Vic)* (1938) 60 CLR 263. The case is used for the proposition that a tax is, in substance, a compulsory exaction of money by a public authority for public purposes, enforceable by law, and not simply a payment for a particular service rendered to the payer. This matters because constitutional and statutory questions often depend on whether an exaction is truly a tax, fee, charge or price for a service.

MacCormick v Federal Commissioner of Taxation is important for the related requirement that a purported tax not be arbitrary in the sense relevant to the constitutional concept. In an introductory chapter, the point is not to turn this into a constitutional-law problem. It is to teach the student that “tax” is a legal category with consequences, not merely a colloquial word for money paid to government.

1.3 Why governments tax: the policy concepts behind the rules

The relevant rules identify several reasons for taxation: funding public goods and social goods; correcting market failures; discouraging harmful consumption or environmental conduct; economic stabilisation; redistribution; and raising sufficient revenue to fund government. These purposes help explain why tax rules sometimes look different even when taxpayers appear economically similar.

When evaluating a tax system, keep seven recurring criteria in mind: equity, simplicity, efficiency/neutrality, certainty, compliance costs, fiscal adequacy and suitability for economic objectives. Horizontal equity asks whether similarly situated taxpayers are treated similarly. Vertical equity asks whether taxpayers with different capacities to pay are treated differently. Progressive individual rates are one mechanism used to pursue vertical equity, but the tax system also contains flat rates, special rates and concessions.

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

1.4 The legislative map students must know

Provision	What it does	How to use it
ITAA97 ss 4-1, 4-5	Identify who is liable and the basic income-tax framework.	Use at the beginning of the liability analysis.
ITAA97 s 4-10	Provides the basic income-tax calculation and connects taxable income with rates and offsets.	Use after taxable income has been calculated.
ITAA97 s 4-15	Taxable income = assessable income − deductions.	Core formula for every income-tax problem.
ITAA97 s 6-5	Includes ordinary income in assessable income, subject to jurisdictional rules.	Test salary, business receipts, rent, interest and other receipts with an ordinary-income character.

ITAA97 s 6-10	Includes statutory income where another provision makes an amount assessable.	Use where a specific provision taxes an amount even if it is not ordinary income.
ITAA97 ss 6-15, 6-20, 6-23	Identify amounts that are not assessable, exempt, or non-assessable non-exempt (NANE).	Always check exclusions before adding a receipt to assessable income.
ITAA97 s 6-25	Coordinates overlapping income provisions.	Prevents double counting where more than one rule appears to include the same amount.
ITAA97 ss 8-1, 8-5, 8-10	General deductions, specific deductions and no-double-deduction rule.	Classify each outgoing under the correct deduction provision.
ITAA97 s 13-1	Index to specific deductions.	Useful research gateway when s 8-1 does not resolve the deduction.
ITAA97 ss 36-10, 36-15	Calculate and deduct tax losses for relevant taxpayers.	Use where deductions exceed assessable income.
ITAA36 s 21	Money-value rule for non-cash consideration.	Valuation rule only; it does not itself make an amount income.
ITAA97 ss 6-5(4), 6-10(3)	Constructive receipt rules.	Relevant where income is dealt with on the taxpayer's behalf rather than paid directly.
ITAA36 s 23L / ITAA97 exclusions	Coordinates fringe-benefit treatment and income-tax treatment.	Do not automatically include a fringe benefit in the employee's assessable income.
TAA53 Sch 1 Div 357	Framework for rulings and taxpayer protection.	Use when discussing certainty, reliance and ATO advice.

1.5 Assessable income: ordinary income and statutory income are different questions

A common exam mistake is to say that something is “income” without identifying the legal route by which it enters assessable income. The better approach is to ask two

questions. First, is it ordinary income under s 6-5? If not, second, does a specific statutory provision under s 6-10 include it?

Ordinary income is a judicial concept. Courts have developed characteristics that often indicate income: periodicity, recurrence, connection with employment or services, receipts from business, and returns from property. But no single characteristic is decisive in every case. Capital receipts, gifts and windfalls can fall outside ordinary income, although another statutory provision may still apply.

Federal Coke Co Pty Ltd v FCT and *Zobory v FCT* are useful reminders that characterisation turns on the receipt in the hands of the taxpayer and the circumstances in which it is derived. *FCT v Myer Emporium Ltd* becomes especially important later because a one-off gain may nevertheless be ordinary income when made in a business operation or commercial transaction entered into with a profit-making purpose. For now, the lesson is simply that “one-off” does not automatically mean “capital”.

1.6 Amounts that do not enter assessable income

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

Examples in this book include certain Defence Force or reserve payments, maintenance payments, fringe-benefit interactions, and GST components. The correct answer is not “tax-free” unless you can identify *why*. State whether the amount is not ordinary income, exempt income, NANE income, or excluded by a specific rule. That precision is what turns a general answer into a legal answer.

1.7 Deductions and tax losses

After assessable income is identified, deductions are subtracted to calculate taxable income. Section 8-1 is the general deduction provision and will receive detailed treatment later. Section 8-5 recognises specific deductions, and s 8-10 prevents a double deduction. A student should never write “expense = deduction”. The legal question is whether the expense satisfies a deduction-conferral provision and is not excluded by a denial provision.

If deductions exceed assessable income, the result may be a tax loss rather than a negative taxable-income figure. Sections 36-10 and 36-15 govern the calculation and later use of losses for relevant taxpayers. This is the legal foundation behind common discussion of “negative gearing”: the activity may generate deductible outgoings

exceeding income, and the tax effect depends on the loss rules and the taxpayer's other income.

1.8 Rates, Medicare levy, offsets and collection: do not confuse the stages

Once taxable income is known, the rate schedule for the relevant taxpayer and income year is applied. Resident individual rates are progressive. Companies generally face a flat rate, with the relevant law and authorities distinguishing the general company rate from the base-rate-entity rate under the *Income Tax Rates Act 1986 (Cth)*, including ss 23AA and 23AB.

The Medicare levy is analytically separate from income tax. The relevant rules include ITAA36 ss 251R and 251S and the relevant thresholds. Tax offsets are then considered. A tax offset reduces tax payable; a deduction reduces taxable income. Mixing those concepts produces calculation errors.

PAYG withholding is also separate. If an employer withholds tax from salary, the gross salary is ordinarily still the amount considered for assessable-income purposes. The withholding is a credit against the ultimate liability. The student therefore calculates the liability first and applies withholding credits later when determining the balance payable or refund.

2025-26 calculation map - rates, offsets, levies and collection

Resident individual rates. For 2025-26, the resident individual schedule is: $0-$18,200: nil; $18,201-$45,000: 16%; $45,001-$135,000: $4,288 plus 30% of the excess over $45,000; $135,001-$190,000: $31,288 plus 37% of the excess over $135,000; and $190,001 and above: $51,638 plus 45% of the excess over $190,000. The first marginal rate is legislated to reduce to 15% for 2026-27 and 14% for 2027-28. Always use the schedule for the income year in the problem.

Part-year residents. Under s 20(1) of the Income Tax Rates Act 1986 (Cth), the part-year resident tax-free threshold is worked from $13,464 plus $4,736 multiplied by the number of months of Australian residence divided by 12, subject to the statutory counting rules.

Foreign residents. For 2025-26, the individual foreign-resident schedule is $0-$135,000: 30%; $135,001-$190,000: $40,500 plus 37% of the excess over $135,000; and $190,001 and above: $60,850 plus 45% of the excess over $190,000. Foreign residents do not receive the resident tax-free threshold.

Resident minors - Div 6AA ITAA36. For eligible taxable income that is not excepted income: $0-$416: nil; $417-$1,307: 66% of the excess over $416; and $1,308 and above: 45% of the entire eligible taxable income. Excepted taxable income is dealt with under the ordinary rules. The character of the minor's income therefore matters before the rate is applied.

Companies. The general company rate is 30%. A qualifying base rate entity can access the 25% rate. Apply s 23AA ITRA86 and s 23AB ITRA86: broadly, aggregated turnover must be below $50 million and no more than 80% of assessable income may be base rate entity passive income.

2025-26 item	Teaching rule
Medicare levy	Generally 2% of taxable income, subject to exemptions and low-income reduction rules. For a single non-senior taxpayer, the 2025-26 low-income threshold is $28,011 and the phase-in ceiling is $35,013. Apply ITAA36 ss 251R-251S and the current threshold legislation.
Medicare levy surcharge - singles	$101,000 or less: 0%; $101,001-$118,000: 1%; $118,001-$158,000: 1.25%; $158,001 and above: 1.5%, subject to the private-patient hospital cover rules and the applicable family thresholds.

Low Income tax offset	s 61-110 ITAA97 governs entitlement; s 61-115 governs the amount. Up to $37,500: $700; $37,501-$45,000: $700 less 5 cents per $1 over $37,500; $45,001-$66,667: $325 less 1.5 cents per $1 over $45,000; above $66,667: nil.
Working Australians tax offset	Subdivision 61-E is enacted for 2027-28 and later income years. ss 61-155 and 61-160 ITAA97 govern entitlement and amount; the maximum offset is $250.
HELP compulsory repayment - 2025-26	Repayment income $67,000 or less: nil; $67,001-$125,000: 15% of the excess over $67,000; $125,001-$179,285: $8,700 plus 17% of the excess over $125,000; $179,286 and above: 10% of total repayment income.

Calculation order

Use this sequence in a full tax-liability problem: taxable income -> basic income tax -> subtract non-refundable tax offsets -> add Medicare levy and any Medicare levy surcharge -> add HELP/other compulsory study-loan repayment -> subtract refundable offsets -> subtract PAYG withholding and other credits -> balance payable or refund. Keep each statutory component separate so a deduction is never confused with an offset, levy or credit.

Repayments of previously derived income. Do not replace the operative repayment rule with an unrelated provision. ITAA97 s 59-30 is expressly the provision for "Amounts you must repay" where its statutory requirements are satisfied.

1.9 Non-cash receipts and constructive receipt

Tax problems often try to distract students by changing the form in which value is received. Section 21 ITAA36 provides a money-value rule for non-cash consideration. But remember the distinction between characterisation and valuation: s 21 does not itself turn a non-income item into assessable income. First identify a provision that makes the receipt income; then use the appropriate valuation rule.

Sections 6-5(4) and 6-10(3) address constructive receipt. Income can be treated as derived where, at the taxpayer's direction, it is applied or dealt with on the taxpayer's behalf. This is why paying an amount to a third party can still amount to derivation by the taxpayer. In an exam, write the steps separately: (1) what is the income? (2) who derived it? (3) when was it derived? (4) how is it valued?

1.10 Case authority map: what each case is doing

Authority	Legal proposition	When to use it
Matthews v Chicory Marketing Board	Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.	Definition and character of a tax.
MacCormick v FCT	Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.	Introductory nature-of-tax discussion.
FCT v Myer Emporium Ltd	A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.	Do not assume a one-off gain is capital.
Zobory v FCT	Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.	Characterisation of receipts.
Federal Coke Co Pty Ltd v FCT	Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.	Third-party payments and receipt character.
FCT v Cooke & Sherden	Non-cash benefits not convertible into money were not ordinary income on the facts.	Convertibility and non-cash income; later compare s 21A.
Payne v FCT	Frequent-flyer rewards were not assessable as ordinary income on the facts.	Non-cash rewards and connection with earning activity.

FCT v La Rosa	Note: this is a deduction case, not an income-characterisation case — it concerns whether stolen cash used in a business (drug trafficking) satisfied the general deduction nexus, not whether a receipt is ordinary income. Included here only because it historically illustrates the breadth of nexus concepts; the deductibility outcome is now overridden by the statutory denial in s 26-54. See the deductions chapters for its proper doctrinal home.	Why a positive deduction nexus is not the end of the analysis — do not use this case as authority for characterising a receipt as income.
Martin v FCT ; Case K25	Illustrate the distinction between hobby/ gambling activity and business.	Whether receipts/ losses arise from a business.
Kelly v FCT	Prize or award can be income where sufficiently connected with employment or income-producing activity.	Prize/award characterisation.

1.11 Application masterclass — Alex: turn the facts into a tax computation

The Week 2 worked problem is deliberately broad. Alex has salary, a fringe benefit, an employer gift voucher, Uber income and tips, rent, bank interest, inherited property, Army Reserve income, lottery winnings, a net capital gain, a returned club contribution, work/Uber/rental deductions, HELP debt and an earlier-year loss. The teaching purpose is to force you to classify *each item independently* before performing the arithmetic.

Step 1 — Build an issue table before calculating

Fact	Question to ask	Likely legal pathway
Salary	Gross or net amount? What is the effect of withholding?	s 6-5; withholding is later credited.
Employer fringe benefit	Is it included in Alex's assessable income or dealt with under FBT?	Check s 23L and the FBT interaction.

Birthday gift voucher	Employment reward or genuine personal gift?	s 6-5; potentially s 15-2 depending facts.
Uber fares and tips	Business receipts? Is the GST component assessable?	s 6-5; GST exclusion/NANE coordination.
Rent and interest	Returns from property?	s 6-5.
Inheritance	Income or capital/ windfall?	Ordinary-income characterisation; CGT consequences may arise later but are not automatically current income.
Army Reserve payment	Is there a specific exemption?	Check s 51-5 and relevant item.
Lottery winning	Windfall or proceeds of a gambling business?	Ordinary-income principles; Martin/ Case K25 if business issue arises.
Net capital gain	Already calculated statutory income?	s 102-5.
Returned club contribution	Return of capital or income?	Characterisation in Alex's hands.

Step 2 — Calculate only after classification

A high-quality answer should show a subtotal for assessable income, then a subtotal for deductions, then taxable income under s 4-15. Only after that should you apply the individual rate schedule, Medicare levy if applicable, offsets, HELP repayment rules if the problem requires them, and PAYG credits. If there is a carried-forward tax loss, apply ss 36-10 and 36-15 in the correct statutory order.

Step 3 — Explain negative gearing rather than merely using the label

If Alex's rental deductions exceed his rental income, the economic activity has generated a net rental loss. “Negative gearing” is not itself a deduction section. The legal effect arises because individual deductible outgoings are allowed under the relevant provisions and then enter the taxpayer's overall taxable-income calculation. A student should always identify the actual deduction provisions and loss rules rather than treating “negative gearing” as a freestanding rule.

1.12 How to write the IRAC answer

I — Issue

Identify each receipt and outgoing separately, then state the overall computation issue: which amounts are assessable, which deductions are available, what is Alex's taxable income, and what is the resulting liability/ refund?

R — Rule

State s 4-15, then the relevant inclusion or exclusion provision for each item. Use s 6-5 for ordinary income, s 6-10 for statutory income, ss 6-15/6-20/6-23 for exclusions, the relevant deduction provisions, and ss 36-10/36-15 for losses. Cite the authority that explains any contested characterisation.

A — Application

Apply the facts item by item. Do not write one paragraph saying “most receipts are income”. Explain why salary, business receipts, rent and interest have an income character; why a genuine inheritance or lottery windfall may not; why a specific exemption or NANE provision matters; and why GST or withholding must not be double-counted. Then show the arithmetic in a separate calculation.

C — Conclusion

State the taxable income and, if all necessary rate/levy information is supplied, the final liability or refund. If an item is fact-sensitive, give the better view and the alternative consequence.

1.13 Common mistakes to avoid

- Using net salary after PAYG withholding instead of gross salary for income characterisation.
- Calling every cash receipt ordinary income without identifying the source or character.
- Ignoring statutory income because an amount is not ordinary income.
- Calling exempt income and NANE income the same thing.
- Treating a tax offset as a deduction.
- Subtracting a capital loss from ordinary income rather than applying the CGT rules.

- Using “negative gearing” as if it were a statutory provision.
- Calculating before classifying each receipt and outgoing.

1.14 Plain-English chapter summary

The tax system is a legal classification exercise followed by a calculation. Identify the taxpayer and year. Work out assessable income by asking whether each receipt is ordinary income or statutory income and whether an exclusion applies. Work out deductions under a real deduction provision. Calculate taxable income under s 4-15. Apply the rates, levies and offsets. Finally apply credits such as PAYG withholding. If you can perform those steps carefully, every later topic—residency, business income, CGT, deductions, anti-avoidance and administration—has somewhere to fit.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

From accounting information to taxable income

Income tax does not begin with a tax rate. It begins by identifying the taxpayer, the income year and the legal character of every receipt and outgoing. Accounting records are evidence of transactions, but taxable income is a statutory construction. A receipt shown as revenue in a profit and loss statement may be exempt, non-assessable non-exempt, capital, or subject to a specific statutory rule. An accounting expense may fail s 8-1, may be capital, private or domestic, or may instead be deductible under a specific provision.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

ITAA97 ss 4-1, 4-5, 4-10 and 4-15 provide the architecture: income tax is imposed on taxable income; taxable income is assessable income less deductions. ITAA97 ss 6-5

and 6-10 then divide assessable income into ordinary and statutory income. Sections 6-15, 6-20 and 6-23 explain why some amounts do not enter assessable income.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Matthews v Chicory Marketing Board is useful at the threshold because it gives the classic description of a tax. MacCormick v FCT is relevant to the constitutional idea that a tax must operate under law rather than arbitrary exaction. These cases explain what the system is before the computation begins.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot the taxpayer first; then mark each fact as receipt, outgoing, asset transaction, tax credit/withholding item, loss or administrative fact. Do not calculate until each item has a legal category.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Build two columns: accounting treatment and tax treatment. Reconcile from accounting profit to taxable income by adding back non-deductible expenses, removing non-assessable accounting income, adding statutory/ordinary income omitted from accounts, and substituting tax deductions such as capital allowances for accounting depreciation.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the

legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Ordinary income, statutory income and exclusions

The central classification question is not whether money was received, but why it was received and which legal provision brings it into the tax base. Ordinary income under s 6-5 is informed by judicial concepts such as periodicity, recurrence, product of employment, product of business and product of property. Statutory income under s 6-10 is assessable because another provision says so. The two categories must be kept distinct because different timing, exemption and deduction rules can follow.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use s 6-5 for ordinary income; s 6-10 for statutory income; s 6-25 to prevent double inclusion where an amount could fall within both. Use ss 6-15, 6-20 and 6-23 to identify amounts outside assessable income. ITAA36 s 21 is a valuation rule for non-cash consideration, not an independent charging provision.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer,

reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Zobory v FCT supports the proposition that an amount must be derived beneficially. Federal Coke shows why payment to or by a third party does not alone determine character. Myer Emporium becomes important later because a commercial profit may be ordinary income even outside repetitive business sales where the profit-making purpose and transaction support that characterisation.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

For every receipt ask: what activity or asset produced it; was it earned, gifted, substituted, compensated, capital realised, or specifically included; is it cash or non-cash; is it derived beneficially in this income year?

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

In a schedule, list gross ordinary income separately from statutory income and then identify excluded/exempt/NANE amounts. This prevents accidental double counting and forces the legal reason for each number.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance

rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Deductions, tax losses, capital losses and offsets are different legal objects

Students often use the word loss too loosely. A deductible outgoing reduces assessable income in calculating taxable income. A tax loss under Division 36 is a statutory amount calculated for an income year and carried forward subject to the relevant rules. A capital loss is quarantined to the CGT regime and is not simply deducted from salary or business income. A tax offset reduces tax payable after taxable income and rates have been applied; it is not a deduction from assessable income.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

ITAA97 s 8-1 is the general deduction provision. Division 36, including ss 36-10, 36-15 and for companies s 36-17, deals with tax losses. CGT capital losses are worked through ss 102-5, 102-10 and 102-15. Tax offsets are applied after basic income tax is calculated under the relevant method.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Ronpibon Tin later explains apportionment under s 8-1. The relevant law and authorities deliberately distinguish tax losses from capital losses and offsets in Chapter 1 because the ordering affects every later calculation.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

When a fact says “loss”, identify which regime produced it. Never subtract a prior-year tax loss or capital loss merely because the word loss appears.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Create separate loss ledgers: ordinary/tax loss, net capital loss, collectable loss and any specific quarantined amount. Show opening balance, current-year use and closing carry-forward.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add

any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Rates, offsets, withholding and final liability

Once taxable income is known, the calculation moves from the tax base to liability. Rates determine basic income tax. Levies and surcharges may add amounts. Tax offsets reduce tax payable according to their own rules. PAYG withholding is generally a credit against the final assessed liability rather than a deduction from income. HELP repayment obligations are separate statutory consequences triggered by repayment income and thresholds.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

The relevant law and authorities use the 2025–26 resident rates, LITO, Medicare concepts, PAYG withholding and HELP to teach the ordering. Part-year residence can alter the tax-free threshold under the Income Tax Rates Act 1986 framework identified in Chapter 1.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The authorities on ordinary income do not decide the rate calculation. This is an important methodological point: cases classify amounts; legislation calculates the liability.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing

analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

If a question provides PAYG withheld, circle it but do not subtract it when calculating taxable income. Apply it only after the gross tax/levy/offset stages have been resolved.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Use a final liability reconciliation: taxable income → basic tax → levies/surcharges → less offsets → plus HELP/other liabilities where applicable → less PAYG credits → amount payable/refundable.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Alex Chen — classification and taxable-income workpaper

Step / item	Tax-law treatment	Number / working

Salary	Gross salary is the income figure; PAYG withholding is a later credit, not a deduction	$100,000 salary; $25,000 PAYG withheld
Employer fringe benefit	Chapter 1 identifies fringe benefits as excluded/NANE to employee under s 23L where FBT treatment applies	$1,500 not simply added to taxable income; also stated non-reportable for the worked problem
Birthday voucher	Classify under ordinary income/ service benefit/FBT interface; do not assume every employer gift is cash salary	$100 – state the governing treatment and reason
Uber fares	Remove GST payable under s 17-5 before income-tax assessable income	$11,000 gross incl $1,000 GST → $10,000 income-tax amount before other issues
Tips	Cash not banked is still capable of being derived; classify GST component according to the facts/ rules	$440 gross stated; physical banking is not the derivation test
Rent / interest	Ordinary returns from property/ capital	$35,000 rent + $3,000 interest
Inheritance / lottery	Capital/windfall analysis; mere inheritance and ordinary lottery windfall are not ordinary income on the stated facts	$3,000 table / $500 lottery excluded from ordinary income subject to any separate CGT event later
Army Reserve	Chapter 1 identifies exemption under s 51-5 item 1.4 subject to conditions	$4,000 exempt on stated assumption

Net capital gain	Statutory income included through s 102-5	$5,000
Mutual refund	Mutuality principle: return of member contribution is not a gain from an external source	$400 refund
Deductions	Work, Uber and rental deductions are tested separately	$4,000 + $3,000 + $43,000
Prior-year tax loss	If the PIY facts produce a $10,000 tax loss under s 36-10, apply s 36-15 at the correct stage	$100,000 assessable − $110,000 deductions = $10,000 PIY tax loss

The purpose of the worked problem is the legal sequence. The final taxable income depends on the precise treatment of the voucher/tips and any statutory interactions; show those reasons before the arithmetic. PAYG and HELP are liability-stage items, not taxable-income deductions.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally
The Current Income Year (CIY) is the 2025/26 income year.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
The Prior Income Year (CIY) is the 2024/25 income year.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.

The Future Income Year (FIY) is the 2026/27 income year.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
Alex Chen lives on the Gold Coast and is an Australian tax resident for the entire CIY. Alex is single, with no dependants, and he does not have private health insurance. Alex's receipts and related expenses for the CIY are set out below.	This is an outgoing trigger. Identify nexus, timing, capital/private character and any specific deduction or denial provision before quantifying the deduction.
Alex derived salary from his employment of $100,000 for the CIY. Alex's employer withheld $25,000 from this amount under the PAYG withholding system, so the net salary Alex received in his bank account was $75,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Received a fringe benefit from his employer with a taxable value of $1,500. If relevant, assume this is not a reportable fringe benefit.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
Received a $100 Westfield gift voucher from his employer for his 30th birthday.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Alex is an Uber driver in his spare time. He received $11,000 during the CIY from his customers (which includes $1,000 in GST as Alex is GST registered).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Received tips from customers as an Uber driver totaling $440 (including GST). Assume $110 of these tips were in cash that Alex did not bank.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
Alex received rent of $35,000 from a residential investment property he owns in Brisbane that he purchased 2 years ago.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Derived bank interest of $3,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Alex inherited an antique dining table from the estate of his late aunt during the CIY. The dining table is convertible into cash and has a money value of $3,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Alex joined the Army Reserve in the CIY and he derived $4,000 in army reserve income for the CIY.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Alex won $500 in lottery winnings from Powerball.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Alex had a net capital gain for the CIY of $5,000 (see s 102-5 ITAA97).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Alex is a member of tennis club in his local area. Two years ago, Alex contributed $1,000 to the club to help finance renovations to the club house. The works ended up being less extensive than originally planned, and the club returned $400 of these funds to Alex during the CIY.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Alex had work-related deductions for the CIY of $4,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Deductions related to his Uber driving were $3,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Deductions related to his Brisbane rental property were $43,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Alex has an accumulated HELP debt of $20,000 as at 30 June CIY.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Advise Alex whether the above receipts are assessable income for the CIY. Provide a reason to support your answer for each receipt. (This will be a key part of the discussion so please prepare a considered answer).	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Calculate Alex's taxable income for the CIY. What does your answer show about negative gearing?	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Calculate Alex's liability to the ATO, or refund due, on lodgment of his income tax return for the CIY. Ignore the small business income tax offset.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
Assume Alex had a poorly performing, passive investment in the PIY that resulted in his total assessable income for the PIY being $100,000 and his total deductions for the PIY being $110,000. Alex disposed of that investment towards the end of the PIY. Would these additional facts change your answer to question 2 at all for the CIY, and if so, how? (Consider s 36-10 and 36-15 ITAA97).	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
(Only if time permits) - How would your answer to question 3 change if Alex was a New Zealand resident who migrated to Australia and became an Australian tax resident on 8 September CIY? Assume Alex is entitled to Medicare benefits from the time he arrived in Australia and that all income above is Australian sourced.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.

Explain why the receipts in FCT v Cooke & Sherden 80 ATC 4140 and FCT v Payne 96 ATC 4407 were not assessed to the taxpayers as ordinary income.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: If you see former s 25(1), how should you read this?

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: How do you read former s 26(e)?
Historical/current law: former s 26(e) ITAA36 is used here to understand the older authorities and development of the law. For the current employment/services statutory inclusion, read s 15-2 ITAA97.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: for part of the income year, their tax-free threshold is apportioned for

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: become, or cease to be, a resident) using the following formula (s 20(1)

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: resident child (aged under age 18 on 30 June 2026) under Div 6AA ITAA36:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: ordinary resident individual tax rates apply to that part of income.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A company is a base rate entity for an income year if (s 23AA ITRA86):

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Examples of base rate entity passive income include (see s 23AB ITRA86

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: are liable to pay the Medicare Levy: s251S ITAA 36.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: (see Subdiv 61-D ITAA97). It is an important tax offset to know because

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: ITAA 97 s4-1 and s4-10 - on your taxable income for the income year

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: ITAA 97 s4-10(3):

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: sections 251R and 251S of the ITAA 36.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: capacities: s 960-100(3) ITAA97. For example, an individual can act in

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: ITAA 97 s4-15: Taxable Income = Assessable Income - Deductions

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s6-5 Ordinary Income (note jurisdictional rules)

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and

consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s6-10 Statutory Income (note jurisdictional rules)

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s6-15 What is not assessable income

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s6-20 Exempt Income. Examples:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Exempt fringe benefits: s 23L(1A) ITAA36

Fringe-benefit exclusion

Where the FBT regime applies to the employee benefit, use the statutory exclusion so the employee is not also assessed on the fringe benefit as ordinary income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: full-time service): s 51-5 ITAA97 (item 1.4)

Exempt service/reserve income

Apply the exact item and conditions in the exemption table; this book uses Army Reserve income as the example.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Maintenance payments to a spouse or child: s 51-30 (item 5.1), and s 51-50-

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s6-23 Non Assessable Non Exempt Income (NANE Income). Examples include:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: GST payable on a taxable supply (s 17-5 of the ITAA 97);

GST excluded from assessable income

Where GST is payable on a taxable supply, remove the GST component from income-tax assessable income rather than treating the gross GST-inclusive receipt as income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: fringe benefits (s23L(1) of the ITAA 36); and

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: others (see Subdivision 11-B of the ITAA 97).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s6-25 Relationship between rules about income (ie No double taxation &

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s8-1 General deductions

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s8-5 Specific deductions

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s8-10 No double deductions

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: See the list in ITAA 97 s13-1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Eg ITAA 97 Subdiv 61-D Low Income Tax Offset (see above)

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Eg ITAA 97 s207-20(2) Dividend imputation offset

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: subject to the refundable tax offset rules (see Division 67 ITAA 97 -

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: for in the Taxation Administration Act 1953 (Cth) (TAA53), Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: formula in s 4-10(3) ITAA 97), a credit is available for the tax that

How income tax is worked out

Use the statutory calculation sequence rather than jumping from receipts straight to a tax rate.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s 36-10 How to calculate a tax loss for an income year.

Calculate tax loss

Use the Division 36 method rather than equating accounting loss with tax loss.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s 36-15 How to deduct tax losses of entities other than corporate tax

Use carried-forward non-corporate tax losses

Apply prior-year tax losses at the correct stage and subject to the ordering/rules for the entity.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: s 36-17 How to deduct tax losses of corporate tax entities (subject to

Corporate tax losses

Recognise that companies use the corporate loss rules and can also be subject to continuity/business tests in Divisions 165 and 166.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: ruling from any adverse consequences: Div 357 TAA53, Sch 1.

Rulings framework

Separate the legal effect of rulings from the substantive tax law and identify the protection available where an applicable ruling is followed.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: for the year ending 30 June). See sections 4-1, 4-5 and 4-10 of the 1997

Charging architecture

Income tax is payable by the entities identified by the Act. Use this only as the opening architecture; the amount is worked through the later provisions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Substituted accounting periods - see section 18 of the 1936 Act.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 21 ITAA36 - if consideration is not in cash, the “money value” of

Money value of non-cash consideration

Use as a valuation rule after establishing that the non-cash consideration is otherwise income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note that section 21 is a valuation rule and does not make consideration

Money value of non-cash consideration

Use as a valuation rule after establishing that the non-cash consideration is otherwise income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 96 of the 1936 Act - Generally speaking, trustees are not liable

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 59-30 ITAA 1997 - amounts that must be repaid

Repaid income

Where previously derived income is repaid, identify whether the statutory deduction/ adjustment conditions are met rather than simply reversing prior income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 17-5 ITAA97 - GST on a taxable supply - this section also

GST excluded from assessable income

Where GST is payable on a taxable supply, remove the GST component from income-tax assessable income rather than treating the gross GST-inclusive receipt as income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Role of sections 6-5(4) and 6-10(3) of the 1997 Act - the constructive

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The application of s 21A ITAA36, former s 26(e) ITAA36 and current s 15-2 ITAA97

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For temporary residents, qualifying foreign-source income may be NANE under s 768-910, while certain capital gains and capital losses are disregarded under s 768-915.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Alex had a net capital gain for the CIY of $5,000 (see s 102-5 ITAA97).

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Advise Alex whether the above receipts are assessable income for the CIY. Provide a reason to support your answer for each receipt. (This will be a key part of the discussion so please prepare a considered answer).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Assume Alex had a poorly performing, passive investment in the PIY that resulted in his total assessable income for the PIY being $100,000 and his total deductions for the PIY being $110,000. Alex disposed of that investment towards the end of the PIY. Would these additional facts change your answer to question 2 at all for the CIY, and if so, how? (Consider s 36-10 and 36-15 ITAA97).

Calculate tax loss

Use the Division 36 method rather than equating accounting loss with tax loss.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: consider whether s 21A ITAA 1936 would alter the outcome if the facts happened today.

Non-cash business benefits

First identify the benefit as connected with business; then apply the statutory valuation/inclusion machinery. Do not use valuation to create income where no inclusion rule exists.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: Matthews v Chicory Marketing Board (1938) 60 CLR 263.
classic description of a tax as a compulsory exaction of money by public authority for public purposes, enforceable by law; use to explain the legal nature of taxation rather than to calculate taxable income

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: It must be contestable and not arbitrary: MacCormick v FCT 84 ATC 4230.
taxation must operate under lawful, contestable criteria rather than arbitrary exaction; use in the introductory legal framework

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v The Myer Emporium Ltd 87 ATC 4363.
a profit from an isolated commercial transaction can be ordinary income where the transaction is entered into with a profit-making purpose in a business/commercial context; also supports analysing what a compensation/profit amount replaces

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: * Zobory v FCT 95 ATC 4251
income must be derived beneficially by the taxpayer; use when legal receipt/control and beneficial entitlement diverge

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Federal Coke Company Pty Ltd v FCT 77 ATC 4255.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Cooke & Sherden 80 ATC 4140
non-convertible non-cash benefits illustrate why inclusion and valuation are separate questions; modern s 21A must then be considered for business benefits

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Payne v FCT 96 ATC 4407
travel between separate income-producing activities requires careful statutory/nexus analysis; ordinary commuting principles remain distinct

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Eisner v Macomber (1920) 252 US 189 - capital was compared to a tree and

This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Constable v FCT (1952) 86 CLR 402; [1952] HCA 64
Constable is important to former s 26(e) because the High Court majority treated employer contributions paid to provident-fund administrators as not, merely by being contributed, an allowance or benefit 'allowed, given or granted' to the employee. The case is useful when asking whether and when an employment-related benefit has actually been conferred on the taxpayer; apply it with the current statutory regime rather than treating the former provision as current law.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v La Rosa 2003 ATC 4510 (26-54 ITAA97 now overrides the deductibility
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: income producing activities. Eg Martin v FCT (1953) 90 CLR 470
business versus hobby/gambling character depends on organisation, system, scale and commerciality, not merely profit

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: 1. What if the taxpayer is in the business of gambling? Eg Case K25 78

This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Eg Kelly v FCT 85 ATC 4283
a third-party prize can be ordinary income where it is a normal incident or product of the taxpayer's professional income-producing activity

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Explain why the receipts in FCT v Cooke & Sherden 80 ATC 4140 and FCT v Payne 96 ATC 4407 were not assessed to the taxpayers as ordinary income.
non-convertible non-cash benefits illustrate why inclusion and valuation are separate questions; modern s 21A must then be considered for business benefits

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.

- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. PTL [1.000]–[1.190]; [3.000]–[3.190]; [5.00]–[5.170]; [15.00]–[15.40]; [15.80]; [15.100]; [15.160]; [15.170]; [15.210]; [24.160]; Appendix B items 1–5. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) (“PTL”). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the

> readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Australian income tax is easiest to learn when the student separates the legal stages. The first question is not “how much tax is payable?” It is “who is the taxpayer, what is the income year, and what legal category does each receipt or outgoing fall into?” Only after those classifications are made should the arithmetic begin. This ordering prevents a common error: treating every cash inflow as income and every expense as a deduction.

The legislative structure is cumulative. The ITAA97 identifies who pays income tax and the method for working out taxable income; the ITAA36 continues to contain important definitions, integrity rules and legacy provisions; the Income Tax Rates Act supplies rates; and the Taxation Administration Act 1953 (Cth) provides much of the collection, withholding, ruling, penalty and procedural machinery. A university answer should therefore name the Act and provision rather than referring vaguely to “tax law”.

This chapter also establishes the difference between a liability rule and a collection rule. PAYG withholding is normally a credit against the ultimate liability, not a substitute for calculating the liability. Likewise, a tax offset is not a deduction: deductions reduce taxable income; offsets reduce tax after the tax on taxable income has been calculated. A tax loss is different again because it arises from the statutory loss calculation and may be carried forward subject to the applicable rules.

the legal materials deliberately introduce a series of structural principles—realisation, beneficial derivation, character in the hands of the recipient, non-cash valuation, capital/revenue distinction, illegality, windfalls, gifts, compensation and mutuality. These are not isolated trivia. They are recurring filters that explain why later receipts are included or excluded.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 ss 4-1, 4-5, 4-10 and 4-15	These provisions supply the basic liability architecture. Section 4-15 gives the core taxable-income formula: assessable income less deductions. Section 4-10 then connects taxable income with the rate rules and tax offsets.	Use these provisions at the beginning of a full tax-liability problem so the marker can see that the calculation follows the statutory sequence.

ITAA97 ss 6-5 and 6-10	Section 6-5 brings ordinary income into assessable income; s 6-10 brings statutory income into assessable income. The two categories overlap in everyday language but are legally distinct.	For every receipt, ask ordinary income first, then identify any specific statutory inclusion. Do not simply call everything “income”.
ITAA97 ss 6-15, 6-20 and 6-23	These provisions direct attention to amounts that are not assessable, exempt income and non-assessable non-exempt (NANE) income. The distinction matters because exempt and NANE amounts can interact differently with loss and deduction rules.	Use them whenever a fact pattern includes fringe benefits, military/other statutory exemptions, GST components or a specific exclusion.
ITAA97 ss 8-1, 8-5 and 8-10	Section 8-1 is the general deduction rule, s 8-5 recognises specific deductions and s 8-10 prevents double deductions.	Never write “expense = deduction”. Identify a deduction-conferral provision and then test any denial rule.
ITAA97 ss 36-10, 36-15 and 36-17	These provisions deal with the calculation and use of tax losses. the legal materials distinguish non-corporate and corporate loss rules.	Use after the taxable-income calculation shows deductions exceeding assessable income; do not confuse a tax loss with a capital loss or a tax offset.
ITAA36 s 21; ITAA97 ss 6-5(4) and 6-10(3)	Section 21 provides a money-value rule for non-cash consideration. The constructive receipt rules prevent a taxpayer avoiding derivation merely by directing payment elsewhere.	Separate characterisation from valuation: first identify why the receipt is income; only then value it.
ITAA97 s 17-5; ITAA36 s 23L	the legal materials use these provisions to demonstrate amounts kept outside assessable income, including GST payable on a taxable supply and fringe benefits in the employee’s hands.	When a gross cash figure includes GST or an employer-provided benefit, isolate the statutory treatment rather than taxing the headline number.

TAA53 Sch 1 Div 357	The ruling regime can protect a taxpayer who relies on an applicable ruling even where the law later proves less favourable.	Use this provision to distinguish administrative protection from the substantive source of the tax liability.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Matthews v Chicory Marketing Board (Vic) (1938) 60 CLR 263	Classic definition of a tax as a compulsory exaction by public authority for public purposes, enforceable by law and not simply a payment for services.	Use when the legal character of an exaction matters.
MacCormick v FCT 84 ATC 4230	the legal materials use the case when discussing the requirement that taxation be legally contestable rather than arbitrary.	Use in the introductory constitutional/ administrative understanding of taxation.
FCT v Myer Emporium Ltd 87 ATC 4363	Introduces the importance of characterisation, realisation and profit-making transactions; it reappears later in the book.	Use cautiously in Chapter 1 as a structural principle, then fully in the business-income chapter.
FCT v Cooke & Sherden 80 ATC 4140	Shows that a non-cash benefit may fail to be ordinary income where it is not convertible into money, subject today to statutory rules such as s 21A in business contexts.	Use when a benefit is valuable but not cash or readily realisable.
Payne v FCT 96 ATC 4407	Used with Cooke & Sherden to reinforce the convertibility/value problem for non-cash receipts.	Use for non-cash receipt characterisation before applying later statutory additions.

Zobory v FCT 95 ATC 4251	Supports beneficial derivation: an amount must be derived by the taxpayer beneficially rather than held for another.	Use when the taxpayer receives money subject to an obligation to account to someone else.
FCT v La Rosa 2003 ATC 4510	Illustrates that illegality alone does not necessarily prevent income or deduction consequences, although Parliament may enact specific denial rules such as s 26-54.	Use to separate general characterisation from specific statutory denial.
Martin v FCT (1954) 90 CLR 470 and Case K25 78 ATC 243	The materials use these authorities to contrast ordinary recreational gambling/windfalls with a genuine gambling business.	Use where repeated betting or prize activity raises the business threshold.

Worked application — fact-by-fact reasoning map

Salary and PAYG
Start with the gross salary as the income figure. Treat PAYG withheld as a collection credit at the end of the liability calculation, not as a reduction of salary income.

Employer fringe benefit
Ask whether it is a fringe benefit within the FBT regime and therefore excluded from the employee's assessable income under the identified ITAA36 provision. Do not tax the taxable value again to the employee.

Birthday gift voucher
Characterise the voucher by asking whether the employment relationship is the real cause of the benefit or whether it is a personal gift. If employment is the source, consider the personal-exertion and fringe-benefit regimes.

Uber fares and GST
Separate the GST component from the underlying business receipt. The statutory GST exclusion prevents the GST payable component being treated as assessable income.

Tips
Cash not banked can still be derived. The practical question is character, not whether the taxpayer deposited the money.

Rent and bank interest
These are classic returns from property and ordinarily form part of assessable income, subject to timing rules developed in later chapters.

Inheritance, lottery and other windfalls
Do not assume a large receipt is income. Apply the ordinary-income characteristics, statutory inclusions and the windfall/capital distinction.

Net capital gain
Include the net capital gain under s 102-5 only after the CGT method statement has been applied; do not insert gross sale proceeds into ordinary income.

Uber and rental deductions
Apply the deduction provisions to each outgoing and apportion mixed/private amounts where required. A loss from the rental activity can affect the taxable-income calculation subject to the loss rules.

Prior-year tax loss
Use ss 36-10 and 36-15 in the statutory order. State the amount carried forward and the extent to which it can be deducted in the current year.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 1 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. In Matthews v Chicory Marketing Board (Vic) (1938) 60 CLR 263, the High Court's classic description of a tax was:

1. Any payment made to the Commonwealth government
2. A compulsory exaction of money by a public authority for public purposes, enforceable by law, and not a payment for services rendered
3. Any amount included in a person's assessable income
4. A payment made under a contract with the Australian Taxation Office

Q2. Under ITAA97 s 4-15, taxable income is calculated as:

1. Ordinary income minus statutory income
2. Assessable income minus deductions
3. Gross receipts minus GST payable
4. Total income minus tax offsets

Q3. Assessable income under ITAA97 is divided by s 6-1 into which two categories?

1. Personal income and business income
2. Ordinary income (s 6-5) and statutory income (s 6-10)
3. Exempt income and non-exempt income
4. Capital income and revenue income

Q4. FCT v Myer Emporium **(1987) 163 CLR 199 established that a profit from an isolated, one-off commercial transaction can be ordinary income where:**

1. The taxpayer is a company rather than an individual
2. The transaction was entered into with a profit-making purpose and has the character of a commercial dealing
3. The transaction involved real property
4. The profit exceeds $10,000

Q5. In FCT v Cooke and Sherden**, the taxpayers received a non-cash holiday benefit that could not be converted into money. The High Court held that:**

1. The market value of the holiday was assessable as ordinary income
2. The benefit was not ordinary income because it was not convertible into money
3. The benefit was assessable as statutory income under s 15-2
4. The benefit was a capital gain subject to CGT

Q6. In Payne v FCT**, frequent-flyer reward points earned from business travel paid for by an employer were held:**

1. Assessable in full as ordinary income
2. Not assessable as ordinary income on the facts of that case
3. Assessable only if redeemed for cash
4. A fringe benefit taxable to the employer only

Q7. MacCormick v FCT **(1984) 158 CLR 622 is significant because it establishes the constitutional requirement that a Commonwealth tax:**

1. Must be approved by all States
2. Cannot operate as an arbitrary exaction and must be assessed by reference to a criterion of liability
3. Must be collected by the ATO rather than a State body
4. Cannot exceed 45% of income

Q8. Non-assessable non-exempt (NANE) income under s 6-23 differs from exempt income because:

1. NANE income is taxed at a concessional rate rather than being excluded
2. Both are excluded from assessable income, but the label affects other calculations (e.g. tax losses, franking) differently
3. Exempt income must be declared but NANE income need not be
4. There is no legal difference between the two categories

Q9. FCT v La Rosa **[2003] FCAFC 125 (the stolen drug-trafficking cash case) is properly understood as authority on:**

1. Whether a receipt is ordinary income
2. The general deduction nexus under s 8-1, now overridden by the specific denial in s 26-54
3. The CGT main residence exemption
4. The constitutional definition of taxation

Q10. Section 6-25 deals with the relationship between ordinary and statutory income primarily to prevent:

1. Foreign income from being taxed at all
2. The same amount being taxed twice under two different provisions
3. Deductions from exceeding assessable income
4. Capital gains from being taxed as ordinary income

Chapter 1 Mastery Quiz — Answers and Explanations

A1. Answer: B

Matthews v Chicory Marketing Board (Vic) (1938) 60 CLR 263 gives the classic description: a tax is a compulsory exaction of money by a public authority for public purposes, enforceable by law, and not a payment for services rendered.

A2. Answer: B

ITAA97 s 4-15: Taxable income = Assessable income − Deductions.

A3. Answer: B

Ordinary income (s 6-5) and statutory income (s 6-10) are the two limbs of assessable income under the Act's architecture in ss 6-1, 6-5 and 6-10.

A4. Answer: B

Myer Emporium establishes that a commercial profit from an isolated transaction can be ordinary income where the taxpayer had a profit-making purpose and the transaction bears a commercial character — it need not be part of the taxpayer's ordinary business activities.

A5. Answer: B

Because the holiday benefit in Cooke and Sherden was not convertible into money, the High Court held it was not ordinary income — convertibility into money is a significant factor in characterising non-cash benefits.

A6. Answer: B

On the facts in Payne v FCT, the frequent-flyer points were held not assessable as ordinary income — the connection between the points and any income-producing activity of the taxpayer personally was not sufficiently direct.

A7. Answer: B

MacCormick v FCT stands for the constitutional principle (tied to s 51(ii) of the Constitution) that a purported tax cannot be an arbitrary exaction — it must be assessed by reference to an ascertainable criterion of liability.

A8. Answer: B

Both exempt income and NANE income are excluded from assessable income, but the distinction matters elsewhere in the Act — for example, in how tax losses are calculated and how the franking-account rules apply.

A9. Answer: B

La Rosa concerns the general deduction nexus (whether stolen cash used in a drug-trafficking business satisfied s 8-1), not whether a receipt is ordinary income. The deduction outcome in that case is now overridden by the specific denial in s 26-54. Do not cite this case as authority for characterising a receipt as income.

A10. Answer: B

Section 6-25 exists to prevent an amount that could fall under both ordinary and statutory income from being counted, and taxed, twice.

Chapter 1 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Explain the difference between ordinary income (s 6-5) and statutory income (s 6-10), giving one example of each.

SA2. Using Zobory v FCT, explain why the character of a receipt is determined in the hands of the recipient rather than by its source alone.

SA3. Explain the "profit-making purpose" principle from FCT v Myer Emporium and how it distinguishes an isolated commercial transaction from the mere realisation of a capital asset.

SA4. FCT v La Rosa is sometimes cited in income-characterisation discussions. Explain why this is doctrinally incorrect and identify the correct area of law the case belongs to.

SA5. Set out the income tax formula in ITAA97 s 4-10(3) and briefly explain each component (taxable income, rate, tax offsets).

Chapter 1 Short-Answer Questions — Model Answers

Model Answer SA1

Ordinary income (s 6-5) is income according to ordinary concepts — for example, salary and wages, or business profits. Statutory income (s 6-10) is an amount that is not ordinary income but which a specific provision of the Act includes in assessable income — for example, a net capital gain under s 102-5. Both are assessable income, but each is governed by its own tests and exceptions.

Model Answer SA2

Zobory v FCT illustrates that the legal and economic character of a receipt is assessed by reference to the recipient's own position — an amount is not automatically income merely because of where it came from or how it was labelled by the payer; what matters is what the taxpayer actually received and in what capacity (for example, whether they received it beneficially or merely as a conduit).

Model Answer SA3

The Myer Emporium principle holds that a profit from a transaction outside a taxpayer's ordinary business activities can still be ordinary income if the transaction was entered into with the purpose of making a profit and has the character of a business or commercial dealing. This is distinguished from the mere realisation of a capital asset (a passive change in the form of an existing investment), which does not attract this principle because no profit-making scheme or purpose is present.

Model Answer SA4

La Rosa concerns whether a general deduction (s 8-1) was available for cash stolen from a taxpayer during illegal drug-trafficking activity — it is a deductions case, not an authority on when a receipt is characterised as ordinary income. It belongs doctrinally with the general deductions topic (see the deductions chapters), and its result is now superseded for drug-related expenditure by the specific denial in s 26-54.

Model Answer SA5

ITAA97 s 4-10(3) sets out: Income tax = (Taxable income × rate) − tax offsets. Taxable income is assessable income less deductions (s 4-15); the rate is the relevant rate scale for the taxpayer's category and income year; tax offsets are amounts that directly reduce the tax otherwise payable (e.g. the low income tax offset), applied after the basic tax has been calculated.

Chapter 1 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Is a birthday gift from a friend or family member assessable income?

Q: Does income have to be money to be assessable?

Q: Why does it matter whether an amount is ordinary income or statutory income?

Q: If I receive a loan, is it assessable income?

Q: Can an amount be both exempt income and NANE income?

Chapter 1 — Frequently Asked Questions: Suggested Answers

FAQ 1

Generally no. A gift made out of personal generosity or affection, with no connection to an income-earning activity, lacks the character of ordinary income (compare Scott v FCT, considered in Chapter 3). It also is not one of the categories of statutory income.

FAQ 2

Not necessarily as a matter of general principle, but FCT v Cooke and Sherden shows that a non-cash benefit that cannot be converted into money will often fail to be ordinary income precisely because it lacks money's essential quality of exchangeability.

FAQ 3

Both are assessable income, but they are governed by different provisions with different tests, exceptions, and interactions with other parts of the Act (for example, capital gains are statutory income under s 102-5, not ordinary income, which affects how the CGT discount and cost base rules apply).

FAQ 4

No. A loan is a capital receipt because it must be repaid — there is no derivation of income, since the borrower's net worth is unaffected once the corresponding liability is taken into account. This is a different question from whether interest paid on money lent is assessable to the lender (it usually is, as ordinary income).

FAQ 5

No — they are mutually exclusive statutory categories. An amount is exempt income if a provision says so (s 6-20), while NANE income is a separate category (s 6-23) covering amounts Parliament has decided should not be assessable but which are also not formally "exempt" for other statutory purposes (such as the tax-loss and franking-account rules, which treat the two categories differently).

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income included by a specific provision under s 6-10. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

An amount subtracted from assessable income under a deduction-conferral provision. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define TAX and explain why it matters to the Chapter 1 analysis.
2. Define Equity and explain why it matters to the Chapter 1 analysis.

3. Define Progressive and explain why it matters to the Chapter 1 analysis.
4. Define taxable income and explain why it matters to the Chapter 1 analysis.
5. Define assessable income and explain why it matters to the Chapter 1 analysis.
6. Define ordinary income and explain why it matters to the Chapter 1 analysis.
7. What role does s 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 4-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does ss 4-1, 4-5, 4-10 and 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does ss 6-5, 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does ss 4-1, 4-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Matthews v Chicory Marketing Board illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does MacCormick v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does FCT v Myer Emporium Ltd illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does Zobory v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Federal Coke Co Pty Ltd v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Emma earns $92,000 salary with $20,000 PAYG withheld. She receives a $600 birthday voucher from her employer, $12,000 of Uber receipts (stated exclusive of GST), $24,000 rent, $1,200 bank interest and a $10,000 lottery prize. Her deductible Uber costs are…
20. What should a strong Chapter 1 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. Answer

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. Answer

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. Answer

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. Answer

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. Answer

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

8. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

9. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

10. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

11. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

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For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

14. Answer

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

15. Answer

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

16. Answer

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

17. Answer

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

18. Answer

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 4-15 in this chapter?

1. s 4-15
2. ss 4-1, 4-5, 4-10 and 4-15
3. ss 6-5, 6-10
4. s 4-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 4-10 in this chapter?

1. s 4-10
2. ss 6-5, 6-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-15

3. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5, 4-10 and 4-15 in this chapter?

1. ss 4-1, 4-5, 4-10 and 4-15
2. ss 6-5, 6-10
3. s 4-10
4. s 4-15

4. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5, 6-10 in this chapter?

1. s 4-15
2. ss 6-5, 6-10
3. s 4-10
4. ss 4-1, 4-5, 4-10 and 4-15

5. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5 in this chapter?

1. s 4-15
2. s 4-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. ss 4-1, 4-5

6. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 4-15
2. s 6-5
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-10 in this chapter?

1. s 4-10
2. s 4-15
3. s 6-10
4. ss 4-1, 4-5, 4-10 and 4-15

8. Which provision is the relevant statutory reference for the rule or method associated with ss 6-15, 6-20, 6-23 in this chapter?

1. ss 6-15, 6-20, 6-23
2. ss 4-1, 4-5, 4-10 and 4-15
3. s 4-10
4. s 4-15

9. Which authority is connected with this proposition: Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

1. MacCormick v FCT
2. FCT v Myer Emporium Ltd
3. Zobory v FCT
4. Matthews v Chicory Marketing Board

10. Which authority is connected with this proposition: Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

1. Zobory v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. MacCormick v FCT

11. Which authority is connected with this proposition: A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

1. FCT v Myer Emporium Ltd
2. Matthews v Chicory Marketing Board
3. MacCormick v FCT
4. Zobory v FCT

12. Which authority is connected with this proposition: Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

1. MacCormick v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. Zobory v FCT

13. Which authority is connected with this proposition: Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

1. Matthews v Chicory Marketing Board
2. MacCormick v FCT
3. Federal Coke Co Pty Ltd v FCT
4. FCT v Myer Emporium Ltd

14. Which authority is connected with this proposition: Non-cash benefits not convertible into money were not ordinary income on the facts.

1. MacCormick v FCT
2. FCT v Cooke & Sherden
3. Matthews v Chicory Marketing Board
4. FCT v Myer Emporium Ltd

15. Which taxation-law term or authority best matches this description: A compulsory exaction by public authority for public purposes.

1. taxable income
2. TAX
3. Equity
4. Progressive

16. Which taxation-law term or authority best matches this description: Tax-system criterion concerned with fairness.

1. Equity
2. Progressive
3. taxable income
4. assessable income

17. Which taxation-law term or authority best matches this description: Rate structure in which the average rate rises as income rises.

1. assessable income
2. Progressive
3. taxable income
4. ordinary income

18. Which taxation-law term or authority best matches this description: Assessable income less deductions under s 4-15.

1. assessable income
2. ordinary income
3. statutory income
4. taxable income

19. Which taxation-law term or authority best matches this description: Income brought into the statutory tax base.

1. statutory income
2. Deduction
3. assessable income
4. ordinary income

20. Which taxation-law term or authority best matches this description: Income according to ordinary concepts under s 6-5.

1. ordinary income
2. tax loss
3. Deduction
4. statutory income

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. A. s 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

2. A. s 4-10

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

3. A. ss 4-1, 4-5, 4-10 and 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

4. B. ss 6-5, 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

5. D. ss 4-1, 4-5

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

6. B. s 6-5

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

7. C. s 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

8. A. ss 6-15, 6-20, 6-23

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

9. D. Matthews v Chicory Marketing Board

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

10. D. MacCormick v FCT

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

11. A. FCT v Myer Emporium Ltd

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

12. D. Zobory v FCT

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

13. C. Federal Coke Co Pty Ltd v FCT

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

14. B. FCT v Cooke & Sherden

Non-cash benefits not convertible into money were not ordinary income on the facts.

15. B. TAX

TAX: A compulsory exaction by public authority for public purposes.

16. A. Equity

Equity: Tax-system criterion concerned with fairness.

17. B. Progressive

Progressive: Rate structure in which the average rate rises as income rises.

18. D. taxable income

taxable income: Assessable income less deductions under s 4-15.

19. C. assessable income

assessable income: Income brought into the statutory tax base.

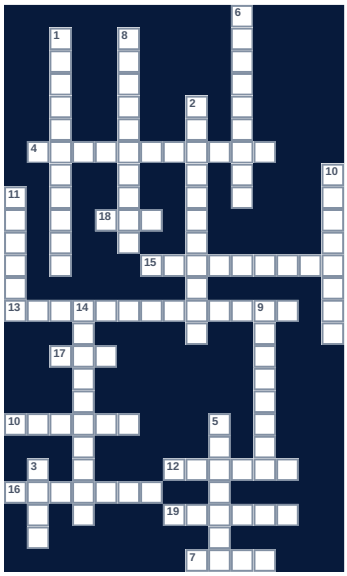
20. A. ordinary income

ordinary income: Income according to ordinary concepts under s 6-5.

20-CLUE CROSSWORD

Crossword - Chapter 1: Foundations of Australian Taxation Law and the Income Tax Formula

Launch Chapter 1 Active Crossword to type directly into the grid and check your answers.



Across

1. Principle that gains are generally taxed on a recognised event rather than unrealised appreciation.
2. Collection system involving withholding or instalments.
3. A credit that reduces tax payable rather than taxable income.
4. Non-cash exchange requiring money-value analysis.
5. Assessable income less deductions under s 4-15.
6. An amount subtracted from assessable income under a deduction-conferral provision.
7. A statutory loss calculated under Division 36.
8. Consumption tax component that must not be double-counted as income where excluded.
9. A compulsory exaction by public authority for public purposes.
10. Tax-system criterion concerned with fairness.

Down

1. Rate structure in which the average rate rises as income rises.
2. Amount collected in advance and credited against final liability.
3. Non-assessable non-exempt income.
4. The statutory sequence used to calculate taxable income and tax payable.
5. Income included by a specific provision under s 6-10.
6. Income must generally be derived for the taxpayer’s own benefit.
7. Separate levy considered after taxable income is established.
8. Income according to ordinary concepts under s 6-5.
9. Income made exempt by statute.
10. Income brought into the statutory tax base.

CROSSWORD ANSWERS

Crossword Answers - Chapter 1

4 Across - REALISATION	7 Across - PAYG
10 Across - OFFSET	12 Across - BARTER
13 Across - TAXABLEINCOME	15 Across - DEDUCTION
16 Across - TAXLOSS	17 Across - GST
18 Across - TAX	19 Across - EQUITY
1 Down - PROGRESSIVE	2 Down - WITHHOLDING
3 Down - NANE	5 Down - FORMULA
6 Down - STATUTORY	8 Down - BENEFICIAL
9 Down - MEDICARE	10 Down - ORDINARY
11 Down - EXEMPT	14 Down - ASSESSABLE

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Comprehensive individual computation

Problem

Emma earns $92,000 salary with $20,000 PAYG withheld. She receives a $600 birthday voucher from her employer, $12,000 of Uber receipts (stated exclusive of GST), $24,000 rent, $1,200 bank interest and a $10,000 lottery prize. Her deductible Uber costs are $4,000 and rental deductions are $30,000. She also has a $4,000 carried-forward tax loss. Advise Emma how the items enter the statutory income-tax calculation and calculate taxable income before rates, levy, offsets and PAYG credits.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Comprehensive individual computation

Issue and sub-issues. Emma's receipts must be classified before any rate is applied: salary and Uber receipts, rent and interest, the employer birthday voucher, the lottery prize, deductions, the carried-forward Division 36 loss, and finally PAYG withholding.

Rule / Law. Taxable income is assessable income less deductions under ITAA97 s 4-15. Ordinary income is included under s 6-5; statutory income under s 6-10; tax losses are dealt with under Div 36. A genuine private windfall is ordinarily outside s 6-5. An employer-provided fringe benefit is generally excluded from the employee's assessable income by ITAA36 s 23L because it is dealt with under the FBT regime. PAYG withholding is a collection credit, not a deduction from assessable income.

Application and calculation. Salary $92,000, Uber business receipts $12,000, rent $24,000 and bank interest $1,200 are ordinary income: $129,200. On the stated facts the $10,000 lottery prize is a private windfall, not business gambling income. The $600 employer voucher should first be tested as a fringe benefit; if it is a fringe benefit, it is not included again in Emma's assessable income. Deductible Uber costs are $4,000 and rental deductions $30,000, total deductions $34,000. This gives $95,200 before prior losses. Applying the $4,000 carried-forward tax loss (assuming the Div 36 requirements are satisfied) gives taxable income of $91,200. The $20,000 PAYG withheld is applied later against the final liability; it does not reduce taxable income.

Conclusion. On the facts supplied, Emma's taxable income before rates, Medicare levy, offsets and PAYG credits is $91,200. If the voucher is not a fringe benefit, its character would need separate analysis before finalising that figure.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Non-cash receipts and tax losses

Problem

Noah operates a graphic-design business. A client pays a $5,000 invoice by transferring a laptop worth $5,000. Noah also receives $3,000 cash for work completed, incurs $11,000 deductible business expenses and has no other

assessable income. Explain the character and valuation of the laptop, calculate the resulting tax-loss position and distinguish the tax loss from a capital loss and a tax offset.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Non-cash receipts and tax losses

Issue. The issues are the character and value of the laptop received instead of cash, the $3,000 cash receipt, the $11,000 business deductions and whether the resulting negative amount is a tax loss.

Rule / Law. Business receipts are ordinary income under ITAA97 s 6-5. A non-cash receipt does not escape tax merely because no money is paid; ITAA36 ss 21 and 21A provide money-value rules for non-cash consideration/business benefits. Taxable income is computed under s 4-15 and a tax loss is calculated under Div 36. A capital loss is a CGT concept and a tax offset reduces tax payable after taxable income is calculated.

Application and calculation. The laptop discharges a $5,000 business invoice and is received because of Noah's business services. Its money value is $5,000, so it is included as business income together with the $3,000 cash receipt. Assessable income is therefore $8,000. Deductible business expenditure is $11,000. The excess deductions are $3,000, producing a $3,000 tax loss (subject to the Div 36 rules), not negative taxable income.

Conclusion. Noah has $8,000 assessable business income, $11,000 deductions and a $3,000 tax loss. It is not a capital loss and not a tax offset.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 2. JURISDICTION, RESIDENCY, SOURCE AND DERIVATION

residency • source • derivation • jurisdiction • timing • temporary residents • double-tax context

Australian income tax is jurisdictional. Before classifying income, ask whether Australia has the right to tax the taxpayer and the receipt. Residency, source and derivation answer different questions and must not be collapsed into one test.

LEARNING OUTCOMES

- Apply the individual residency tests and understand how they interact.
- Distinguish tax residency from immigration status.
- Determine source as a practical question of fact.
- Explain when income is derived and why cash and accrual methods differ.
- Apply constructive receipt and timing principles to salary and business income.
- Work through Hillary's facts by period and income year.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: residence, source and derivation must be kept separate

Residency decides the width of Australia’s tax jurisdiction over the taxpayer. Source decides whether a particular receipt has a sufficient Australian connection. Derivation decides the income year in which the amount enters the tax calculation. These are different questions and must be answered separately. A student who proves

residence has not yet proved when income is derived; a student who identifies an Australian source has not necessarily shown that the taxpayer is resident.

Individual residence: work through every relevant limb of s 6(1) ITAA36

Start with ordinary concepts. Examine physical presence, purpose, continuity, family and employment ties, accommodation, assets, social connections and actual conduct. Then separately consider domicile and the permanent-place-of-abode exception, the 183-day test and its statutory exception, and the Commonwealth superannuation limb. The authorities are used to explain how those statutory or ordinary concepts operate: *Levene* and *Lysaght* on ordinary residence; *Applegate* and *Jenkins* on permanent place of abode; and TR 2023/1 as the Commissioner's current interpretative guidance.

Source: identify what really produced the income

Source is practical and fact-sensitive. Salary commonly points to where the services are performed; business income can depend on where contracts are made and operations occur; interest may turn on the place of the lending transaction and debtor; dividends and royalties can engage statutory rules. An answer should identify the category of income before choosing the source factors.

Derivation: cash and accruals are not elective accounting preferences

Carden establishes the central question: which method gives a substantially correct reflex of true income? *Henderson*, *Firstenberg*, *Dunn* and *Barratt* show how scale, employees, credit, circulating capital and the nature of professional activities affect the answer. Under an accruals method, a recoverable debt commonly marks derivation; under a receipts method, actual or constructive receipt is central. *Arthur Murray* demonstrates why money received in advance may not yet be earned where future services remain to be performed.

Problem-solving sequence

For a taxpayer like Hillary, split the facts by income year and by period of residence. Determine residence for each period; identify where the services producing each salary amount were performed; determine when salary was derived, including any constructive receipt or redirection of payment; then calculate the amount assessable in each income year.

In plain English
Residency answers 'how wide is Australia's tax net for this person?' Source

> answers 'where did this income come from?' Derivation answers 'when does the amount enter the tax calculation?' Keep those questions separate.

Key language

resident | domicile | permanent place of abode | 183-day test | Commonwealth superannuation test | temporary resident | source | derivation | cash basis | accrual basis | constructive receipt | worldwide income | foreign source | Australian source | ordinary concepts | company residency | double tax agreement | salary source | dividend source | timing

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

2.1 The jurisdiction question comes before the income question

Before asking whether a receipt is ordinary or statutory income, Australian income tax law often requires a more basic question: why does Australia have jurisdiction to tax this taxpayer or this income? The answer usually depends on residence and source. Broadly, an Australian tax resident is exposed to Australian income tax on worldwide ordinary and statutory income, while a foreign resident is generally taxed

only on Australian-sourced income, subject to specific statutory rules and treaties. This chapter directs students to ITAA97 ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5).

This means a strong answer separates four questions that weaker answers often blur together: (1) Is the taxpayer an Australian resident? (2) If not, does the income have an Australian source? (3) When was the income derived? (4) Is a treaty or special rule relevant?

2.2 Residence is a tax concept, not an immigration label

Section 995-1(1) ITAA97 directs the reader to the definition of “resident” in s 6(1) ITAA36. For an individual, s 6(1) contains several alternative routes to residence. A taxpayer need satisfy only one. The ordinary concepts test asks whether the person “resides” in Australia according to ordinary meaning. The domicile test can treat a person as resident where their domicile is in Australia unless the statutory exception applies. The 183-day test addresses physical presence during the income year, subject to its exception. The Commonwealth superannuation limb applies to specified members and certain family members.

> **Exam discipline**
> Do not write: “Hillary is a resident because she lived in Sydney.” Write: “Hillary must be tested separately under each applicable limb of s 6(1) ITAA36. The strongest issue is ordinary concepts; the 183-day test must also be checked for each income year; domicile requires separate analysis.”

2.3 Ordinary concepts residence: quality of presence, not just day counting

TR 2023/1 is a major authority. It explains that residence under ordinary concepts concerns whether a person's presence is usual and settled rather than merely temporary or casual. Relevant factors include physical presence, intention and purpose, conduct while in Australia, family and employment ties, assets, and social and living arrangements. No single factor is decisive.

Levene v IRC and *Lysaght v IRC* illustrate that residence is a question of degree and connection. Repeated or regular presence, accommodation and continuity can support residence even where the taxpayer maintains substantial foreign connections. Conversely, a short, clearly temporary work assignment may not establish the necessary settled quality.

In a problem question, organise facts under headings rather than recounting them chronologically: duration; accommodation; purpose; family/relationship ties;

employment; financial arrangements; social integration; retained overseas home; stated intention; and actual conduct. Then weigh those factors collectively.

2.4 The domicile test: domicile plus “permanent place of abode”

The domicile limb of s 6(1) ITAA36 operates differently from ordinary concepts. A person whose domicile is in Australia will be resident unless the Commissioner is satisfied that the person's permanent place of abode is outside Australia. Domicile is a legal concept. The relevant rules also include s 10 of the *Domicile Act 1982 (Cth)*, under which acquiring a domicile of choice involves an intention to make a home indefinitely in the relevant country.

FCT v Applegate is the leading authority on the phrase “permanent place of abode”. “Permanent” does not mean everlasting. The question is whether the overseas abode has a degree of permanence inconsistent with a merely temporary or transitory stay. *FCT v Jenkins* reinforces that a fixed period can still be sufficiently permanent; an intended stay of substantial duration does not become temporary merely because the taxpayer eventually returns early.

The exam trap is to ask only how long the taxpayer was absent. Duration matters, but so do the living arrangements, abandonment or retention of Australian accommodation, family arrangements and objective character of the overseas home.

2.5 The 183-day and Commonwealth superannuation tests

The 183-day limb asks whether the individual was actually present in Australia, continuously or intermittently, for more than half of the income year. It contains an exception concerning the taxpayer's usual place of abode and intention to take up residence. Do not reduce the test to “more than 183 days = resident” without stating the exception.

The Commonwealth superannuation limb is technical and should be applied by reference to the exact statutory categories in s 6(1), including specified scheme members and certain spouses or children. In most problem questions it can be disposed of quickly if the facts show it is irrelevant, but a complete answer acknowledges it.

2.6 Temporary residents: residence does not always mean full worldwide taxation

The concept of a “temporary resident” is defined through s 995-1(1) ITAA97 and associated provisions. It matters because a person may be an Australian tax resident yet receive concessional treatment for some foreign-source income and gains.

Therefore, after concluding that a person is resident, ask whether temporary-resident rules alter the normal worldwide-income result.

This is a good example of the difference between status and tax consequence. Residence is one classification. Temporary-resident treatment is a later statutory question. Do not merge them.

2.7 Company residence

Section 6(1) ITAA36 also contains the company-residence definition. A company incorporated in Australia is resident. A company not incorporated here can still be resident where the statutory tests concerning carrying on business and central management and control, or voting power, are met. This chapter refers to TR 2018/5 for central management and control. In company problems, identify where high-level strategic decisions are actually made rather than merely where lower-level operations occur.

2.8 Source of income: a practical question of fact

If the taxpayer is a foreign resident, source becomes central. *Nathan v FCT* provides the classic proposition that source is a practical, hard matter of fact. There is no single universal source test for every category of income.

For remuneration, *FCT v French* supports the importance of where the services are performed. But *FCT v Mitchum* warns against turning that factual indicator into an inflexible rule of law. Contractual arrangements and the true income-producing activity may alter the analysis.

For dividends, a key authority is *Esquire Nominees Ltd v FCT* and to s 44(1) ITAA36. For royalties, s 6C ITAA36 can deem Australian source in defined circumstances. The student should therefore ask: *what produced the income?* Work? Property? A contract? A business? Intellectual property? The source test follows the character of the income.

2.9 Derivation: when does income belong to the income year?

Even after residence, source and character are resolved, timing remains. Sections 6-5(2) and 6-5(4) are central for ordinary income. The law asks when income is “derived”, and the answer can depend on the taxpayer's activities and accounting method.

Carden's case is foundational. The method that gives a substantially correct reflex of income is selected in light of the taxpayer's circumstances. The cash/receipts basis may be appropriate for some personal-services activities, while an earnings/accruals

basis may better reflect larger professional or business operations. This analysis is developed through *Henderson v FCT*, *Firstenberg*, *Dunn* and *Barratt*, together with TR 98/1.

For an accruals taxpayer, derivation commonly occurs when a recoverable debt arises: the taxpayer has done what is required and has a legal entitlement to an ascertainable amount. *Arthur Murray (NSW) Pty Ltd v FCT* is important for prepaid amounts: receipt of cash does not necessarily mean the whole amount is derived immediately where the taxpayer has substantial unperformed obligations and the proper income treatment defers recognition.

Ballarat Brewing also assists with timing and accounting concepts. Interest may be constructively received when credited, while financial institutions can be subject to different accrual principles, as note that with TR 93/27.

2.10 Constructive receipt and payments directed to third parties

Section 6-5(4) prevents taxpayers from avoiding derivation merely by directing income to someone else or asking for it to be applied on their behalf. If an employer satisfies the employee's debt or pays a third party at the employee's direction out of salary otherwise due, the employee may still derive the amount. This principle becomes important in the Hillary worked problem.

2.11 Statutory and authority map

Rule	Authority / provision	What the student should say
Resident worldwide income	ITAA97 ss 6-5(2), 6-10(4)	An Australian resident generally includes ordinary/statutory income from all sources.
Foreign resident	ITAA97 ss 6-5(3), 6-10(5)	Generally limited to Australian-sourced amounts and other specifically included income.
Individual residence	ITAA36 s 6(1); TR 2023/1	Apply each relevant test separately.
Permanent place of abode	*Applegate*; *Jenkins*	Permanent means more than temporary/ transitory, not everlasting.

Source	*Nathan*; *French*; *Mitchum*	Source is factual; place of services is important but not an absolute rule.
Derivation method	*Carden*; *Henderson*; TR 98/1	Use the method giving the substantially correct reflex of income.
Prepayments	*Arthur Murray*	Cash received in advance may not all be derived immediately where obligations remain.

2.12 Application masterclass — Hillary's Australian secondment

Hillary's facts are designed to test changes over time. She initially comes to Australia for four months, stays in hotels and serviced apartments, remains paid by the UAE office, retains her principal financial and personal ties in Dubai and intends to return. Later she accepts a 10-month extension, rents a furnished Sydney apartment, moves belongings, opens an Australian bank account, obtains a local mobile plan and joins a professional network. A good answer must consider whether the quality of her presence changes from June 2026.

Issue 1 — Residence for 2025–26

Apply ordinary concepts first. Her initial four-month secondment looks temporary: short defined duration, temporary accommodation, strong Dubai ties and an intention to return. The extension and move into an apartment strengthen the Australian connection. Do not state a conclusion solely from her expressed intention; compare intention with objective conduct. Then check the 183-day test for that income year and the domicile test. Her foreign background and continuing Dubai home/ties are highly relevant.

Issue 2 — Residence for 2026–27

The longer period, established apartment and local arrangements make ordinary-concepts residence more arguable. The 183-day test also becomes important because she remains in Australia for much of the year. Analyse the statutory exception rather than counting days only.

Issue 3 — Salary source

For periods in which Hillary is a non-resident, ask whether salary attributable to work physically performed in Australia has an Australian source. *French* strongly supports that result on ordinary employment facts, while *Mitchum* reminds you to consider the contract and the real source rather than assert a rigid rule.

Issue 4 — Timing and redirected salary

Amounts paid by the employer to discharge Hillary's accommodation debt or paid to her partner at Hillary's request are not ignored merely because they bypass Hillary's bank account. Apply constructive receipt. The requested deferral of $4,000 from 30 June to 5 July raises a separate derivation issue: was the income already derived or constructively received when it was due and dealt with at her direction? Use the facts and the reference to *Brent v FCT* carefully.

2.13 HD IRAC structure for a residency problem

I — Issue

Whether Hillary was an Australian resident during each relevant period; if not, whether salary was Australian-sourced; and when the June salary was derived.

R — Rule

Set out ITAA36 s 6(1) by separate tests, ITAA97 ss 6-5(2)–(4), the source principles in *Nathan*, *French* and *Mitchum*, and the derivation authorities relevant to salary and constructive receipt.

A — Application

Apply each residence test to each period. Do not treat residence as an all-year label where facts change. Then classify the salary attributable to Australian work and analyse the payments/deferral separately.

C — Conclusion

State the better view for each income year and quantify which salary amounts enter Australian assessable income on that view. Identify any alternative outcome if residence is genuinely contestable.

2.14 Plain-English summary

Residence tells you how wide Australia's tax net is. Source tells you whether Australia can tax particular income of a foreign resident. Derivation tells you the income year in which the amount enters the calculation. Keep those questions separate. Apply every relevant s 6(1) residence test, use source cases according to the type of income, and then deal with timing. If the facts change during the year, your legal analysis may also change during the year.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Residency is the jurisdictional gateway

Australian tax liability depends first on the taxpayer's status and the territorial connection of the income. Residence for tax is a statutory concept informed by ordinary meaning and specific tests; it is not the same as citizenship, visa status or immigration residence. A person may become or cease to be resident during an income year, so the analysis can require date-sensitive conclusions rather than one label for the whole year.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

ITAA97 s 995-1(1) directs the individual residence question to ITAA36 s 6(1). This chapter works through the ordinary-resides test, domicile test, 183-day test and Commonwealth superannuation test. ITAA97 ss 6-5(2)/(3) and 6-10(4)/(5) define the different assessable-income scope for residents and foreign residents.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Levene and Lysaght illustrate ordinary residence as a question of fact and degree. Applegate is central to "permanent place of abode" in the domicile test; Jenkins shows that permanence is relative and practical rather than everlasting. TR 2023/1 supplies the ATO's current administrative view in the relevant law and authorities.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot facts about duration, continuity, home, family, assets, living arrangements, intention, return pattern and overseas accommodation. Apply each test separately; passing one test is sufficient for residence.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Create a residence timeline by date. Then allocate receipts to the period of residence/foreign residence and apply the correct jurisdictional rule before considering source or derivation.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Source is receipt-specific and fact-sensitive

Source asks where income comes from in a practical legal sense. It is not determined by where money is paid or banked. Different types of income have different connecting factors: services often focus on where the work is performed; business profits on operations and contracts; interest on the use and provision of capital and relevant obligations; dividends and property returns have their own statutory and factual connections.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

For foreign residents, Australian-source ordinary and statutory income can remain assessable under ss 6-5(3) and 6-10(5). Residents generally face worldwide inclusion under ss 6-5(2) and 6-10(4), subject to specific rules and relief.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Nathan v FCT is the classic statement that source is a practical matter of fact. French supports the importance of the place services are performed, while Mitchum demonstrates that service-income source cannot be reduced to one mechanical factor.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

When facts cross borders, identify each receipt independently. Do not say “the taxpayer is non-resident, therefore no Australian tax” or “salary paid overseas is foreign-source”.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Use a source matrix: receipt; payer; contract location; performance location; asset/business location; payment location; strongest source factor; conclusion.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Derivation decides the income year

After character and jurisdiction, derivation asks when an amount belongs to an income year. Cash receipt is not always the answer. The appropriate method depends on the nature of the income-producing activity and whether a receipts or earnings basis gives the substantially correct reflex of income.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Section 6-5 taxes ordinary income derived in the income year. The relevant law and authorities also use constructive receipt principles and ITAA36 s 19-type concepts where income is dealt with on the taxpayer's behalf or as directed. Timing can therefore differ from physical receipt.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Carden is foundational for choosing a method that gives a substantially correct reflex of income. Henderson illustrates accrual/earnings principles in a business/ professional setting. Firstenberg, Dunn and Barratt help with professional receipts and work in progress. Arthur Murray explains why prepaid amounts can be deferred where obligations remain. Brent is especially relevant to personal services and timing.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot salary advances, amounts earned but unpaid, deferred at the taxpayer's request, amounts redirected to another person, prepaid fees and invoices outstanding at year end.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined

sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Build an income-year allocation schedule showing amount, work/earning period, receipt date, derivation rule and income year included.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Hillary — residence/source/derivation timeline

Step / item	Tax-law treatment	Number / working
1 Jul 2025–2 Feb 2026	$130,000 salary for work outside Australia before Sydney secondment	Test residence and source; do not include merely because later resident
3 Feb–31 May 2026	$75,000 salary for work physically performed in Australia	Australian source strongly indicated even if Hillary remains foreign resident

1–30 Jun 2026	$15,000 salary; residence position changes in significance after accepting extension/renting apartment	Allocate to 2025–26; then analyse $3,000 and $1,000 advances and $4,000 requested deferral
1 Jul 2026–7 Apr 2027	$170,000 for Australian work during extended stay	Apply 2026–27 residence/source conclusions
8 Apr–30 Jun 2027	$55,000 after return to Dubai	Test residence cessation and source separately
June advance to accommodation provider	$3,000 paid on Hillary's behalf	Constructive/beneficial derivation can occur even though cash is not received personally
June advance to partner	$1,000 directed to partner	Still potentially derived by Hillary; partner ordinarily receives a directed payment/gift rather than salary for partner's services
Requested 5 July payment	$4,000 earned/due 30 June but deferred at Hillary's request	Apply derivation/ constructive receipt and Brent reasoning rather than cash-date alone

A strong answer gives a date-sensitive residence conclusion, then calculates Australian assessable salary for each income year. Residence, source and derivation are three separate questions.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally

Hillary is a UK citizen who moved to the United Arab Emirates (UAE) as a child when her parents relocated there for work. She has lived in Dubai since that time and she is not a tax resident of the UK. Hillary has been employed as a commercial lawyer at the Dubai office of an international law firm for the past five years. Hillary lives with her parents and maintains all of her bank accounts, investments, and personal ties in Dubai.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
From February to May 2026, Hillary stays in hotels and serviced apartments, travels between Sydney and Brisbane for work, and continues to be paid by the UAE office into her UAE bank account. During this time, Hillary begins a romantic relationship with an Australian citizen, which she regards as having long-term potential.	This is an outgoing trigger. Identify nexus, timing, capital/private character and any specific deduction or denial provision before quantifying the deduction.
From 7 June 2026, Hillary rents a furnished apartment in Sydney and moves some personal belongings to Australia. She opens an Australian bank account to receive her salary (paid from the UAE office) and to cover living expenses. Hillary obtains a local mobile phone plan and joins a professional networking group in Sydney. However, she keeps her main financial and personal ties in the UAE.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
Hillary’s salary for various periods is set out in the following table:	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.

Salary attributable to work performed during each period	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
Advise Hillary whether she is an Australian tax resident, and if so, during which periods.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Advise Hillary on the amount of her salary that is included in her assessable income in Australia (if any) for the income years ending 30 June 2026 and 30 June 2027.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Hillary's salary for the period from 1 June 2026 to 30 June 2026 was due to be paid to her by the firm on 30 June 2026 (by immediate electronic funds transfer), and would normally be assessable income to her at that time.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
Hillary was experiencing cash flow difficulties in June 2026 due to the need to pay a four-week bond on her Sydney apartment. On 15 June 2026, Hillary requested that the firm pay part of her June salary in advance to meet immediate needs, namely:	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
$3,000 to discharge an outstanding amount owed to her serviced-accommodation provider for May 2026; and	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

$1,000 to her Australian partner to assist with urgent medical expenses.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
The firm agreed and made these payments on 16 June 2026, treating them as advances against Hillary's June 2026 salary.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
On 28 June 2026, Hillary also asked if $4,000 of her June salary (due to be paid on 30 June 2026) could instead be paid on 5 July 2026 as she anticipated the AED/AUD exchange rate might be more favourable. The firm agreed.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
Would Hillary's partner be assessable on the $1,000 payment? Why?	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: Note the application of sections 6-5(2), 6-5(3), 6-10(4), 6-10(5) ITAA97.

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 995-1(1) ITAA97 defines an “Australian resident” as ‘a person who is a resident for the purposes of the ITAA36.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For individuals, s 6(1) ITAA36 defines a "resident" or resident of Australia to mean a person who resides in Australia and includes a person:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Domicile of choice - According to s 10 Domicile Act 1982 (Cth), the intention that a person must have in order to acquire a domicile of choice in a country is the intention to make his or her home indefinitely in that country.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A person is a "temporary resident" (as defined in s 995-1(1) ITAA97) if:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: However, a person is not a temporary resident if they have been an Australian resident (as defined in s 6(1) ITAA36), and any of paragraphs (a), (b) and (c) above are not satisfied.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A company is a resident under s 6(1) ITAA 36 if it:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and

consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 44(1) ITAA36 provides the source rule.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Where a royalty is paid by an Australian business to a non-resident, then s 6C ITAA36 deems it to have an Australian source.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Sections 6-5(2) and 6-5(4) ITAA97: when is ordinary income derived?

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For dividends, see s 44(1) ITAA36. Dividends are recognised when ‘paid’ and paid is defined in section 6(1) to mean ‘credited or distributed’.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Hillary was experiencing cash flow difficulties in June 2026 due to the need to pay a four-week bond on her Sydney apartment. On 15 June 2026, Hillary requested that the firm pay part of her June salary in advance to meet immediate needs, namely:

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: Read Taxation Ruling TR 2023/1. The ATO says in TR 2023/1 (at paras 19-21, 29-30):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Lysaght v IRC [1928] AC 234
residence is a question of fact and degree and can coexist with substantial overseas connections

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Levene v IRC [1928] AC 217
ordinary residence is determined from the quality and continuity of life/presence, not a single day count

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Consider the following Example 1 from TR 2023/1 (at paras 111 to 113):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Applegate v FCT 79 ATC 4307 - 'Permanent' in the context of the domicile test does not mean 'everlasting' but, rather, something that is 'more than temporary or transitory'.
"permanent place of abode" outside Australia means enduring/settled in the practical sense, not everlasting; central to the domicile test

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Jenkins 82 ATC 4098 - a stay outside Australia for a fixed period can still be "permanent" rather than "temporary" if the period is of a substantial duration (eg 3 years in this case, although the taxpayer returned early after 18 months due to ill health).
reinforces the practical, relative meaning of permanence when testing an overseas place of abode

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The ATO says in TR 2023/1 (at 65-66 and 77):

This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The ATO says in TR 2023/1 (at 90):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Consider Taxation Ruling TR 2018/5.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The ascertainment of the actual source of a given income is a practical, hard matter of fact: Nathan v FCT (1918) 25 CLR 183.
source is a practical matter of fact; identify the real source of the particular income rather than payment location alone

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v French (1957) 98 CLR 398 - in this case, the source of personal exertion income was the place where work is performed.
place where personal services are performed is a powerful source factor for salary/service income

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: But see FCT v Mitchum (1965) 113 CLR 401, where the High Court held that there is no rule of law that wages are always sourced where work is performed. In that case, the nature of the contract raised doubt whether it was simply wages for work performed in Australia.
service-income source is not reduced to one mechanical factor; weigh the whole arrangement

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The location of the fund of profits which is distributed as a dividend is the place where those profits are made: Esquire nominees Ltd v FCT 72 ATC 4076.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: DCT (SA) v Executor Trustee and Agency Co of South Australia Ltd (Carden's case) (1938) 63 CLR 108 - sole medical practitioner.
choose a derivation method that gives a substantially correct reflex of income for the activity

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Henderson v FCT (1970) 119 CLR 612 - large accounting practice.
earnings/accrual method can be appropriate where income is earned through a structured professional/business operation

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Firstenberg 76 ATC 4049 - sole practitioner with one employee.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Dunn 89 ATC 4141 - sole practitioner with a few employees (mostly family)
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Barrat & Ors v FCT 92 ATC 4275 - partners in a pathology practice, with many staff who generated sizeable income.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The case law and the Tax Office (see, for example, Taxation Ruling TR 1998/1) have established that the following factors are relevant to deciding which method to use:
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The point of derivation usually occurs when a recoverable debt is created (ie when the taxpayer is legally entitled to an ascertainable amount as a result of having performed an agreed task (see paras 9-11 of Taxation Ruling TR 98/1)).
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Ballarat Brewing Co v FCT (1951) 82 CLR 364.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Arthur Murray (NSW) Pty Ltd v FCT (1965) 114 CLR 314.
prepaid amounts may not be derived immediately where obligations to perform remain and business practice supports deferral

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Interest - note that interest credited to an account is received constructively. There are obviously exceptions here. For example, the interest income of financial institutions is usually derived on a daily accrual basis (Taxation Ruling TR 93/27).
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195. personal services income and derivation depend on what the taxpayer did to earn the amount and when it was derived; useful for timing and redirected salary facts

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. PTL [4.00]–[4.290]; [16.10]–[16.100]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) (“PTL”). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Jurisdiction is a gatekeeping question. Before deciding whether a salary, dividend, interest receipt or business profit is income, a student must determine the scope of Australia’s claim to tax that taxpayer. The statutory rules distinguish residents and non-residents and then use source rules to identify which Australian-connected amounts are taxable to non-residents. Residence and source must therefore be analysed before the detailed character of the receipt.

Individual residence is not determined by citizenship, visa status or a single day count. The s 6(1) ITAA36 definition contains several alternative tests. A taxpayer can be resident under ordinary concepts even if another statutory test is not satisfied. Conversely, a person who spends substantial time in Australia may remain non-resident depending on the facts and the statutory exceptions. Each test should be applied separately and the conclusion should identify the date or period for which residence changes.

Derivation is a different problem again. It allocates income to an income year. the legal materials contrast cash and accruals approaches and emphasise that the correct method depends on the nature of the income-producing activity. Constructive receipt prevents timing manipulation where money is credited or dealt with at the taxpayer's direction.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 ss 6-5(2), 6-5(3), 6-10(4), 6-10(5)	These provisions define the jurisdictional reach of ordinary and statutory income for residents and foreign residents.	State the taxpayer's residence status first, then use the correct subsection to determine the geographical scope of assessable income.
ITAA97 s 995-1(1) and ITAA36 s 6(1)	The ITAA97 definition of Australian resident points back to the ITAA36 residence definition. For individuals, analyse the resides test and each statutory inclusion separately.	Do not merge the tests into a single impressionistic conclusion.
Domicile Act 1982 (Cth) s 10	The domicile test requires attention to domicile and whether the person has a permanent place of abode outside Australia; the Domicile Act informs acquisition of a domicile of choice.	Use when a taxpayer has Australian domicile but is living overseas, or has moved countries with an asserted indefinite intention.

Temporary resident definition in ITAA97 s 995-1(1)	A person can be an Australian resident yet obtain modified tax treatment as a temporary resident if the statutory conditions are satisfied.	Keep residence and temporary-resident status analytically separate.
ITAA36 s 6(1) company residence	Company residence is governed by its own limbs, including incorporation and the statutory central-management/control/voting-power framework.	Do not apply the individual residence tests to a company.
ITAA36 s 44(1) and s 6C	The materials identify statutory source rules for dividends and royalties in addition to ordinary source principles.	Check for a specific source rule before relying only on common-law source analysis.
ITAA97 ss 6-5(4) and 6-10(3)	Constructive receipt treats an amount as derived where it is applied or dealt with on the taxpayer's behalf or as directed.	Use when salary or other income is redirected, credited or paid to a third party.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217	Foundational authorities on residence under ordinary concepts and the weight given to the quality, continuity and pattern of a person's presence.	Use to frame the resides-test analysis rather than relying on days alone.
Applegate v FCT 79 ATC 4307	"Permanent" in permanent place of abode does not mean everlasting; it contrasts with temporary or transitory living arrangements.	Use in the domicile test when a taxpayer lives abroad for a substantial but not lifelong period.

FCT v Jenkins 82 ATC 4098	A fixed overseas period can still be sufficiently permanent for the domicile test; early return does not necessarily destroy the original character of the overseas abode.	Use where the taxpayer planned an overseas assignment for a substantial fixed period.
Nathan v FCT (1918) 25 CLR 183	Source is a practical, hard matter of fact.	Use as the opening authority in a source analysis.
FCT v French (1957) 98 CLR 398	The place where services are performed is a strong source factor for employment income.	Use for ordinary salary/ wage source.
FCT v Mitchum (1965) 113 CLR 401	Rejects an inflexible rule that remuneration is always sourced where work is physically performed; contract and surrounding factors can matter.	Use as the counterweight to an oversimplified French analysis.
Carden's case (1938) 63 CLR 108 and Henderson v FCT (1970) 119 CLR 612	Key authorities on the cash/ accruals derivation question for professional income and the nature/scale of the practice.	Use when deciding whether income is derived on receipt or when a recoverable debt arises.
Firstenberg; Dunn; Barratt	This book uses these authorities to demonstrate that derivation method depends on the organisation and scale of the professional activity.	Use to compare a sole practitioner, small practice and larger professional operation.

Worked application — fact-by-fact reasoning map

> **Initial four-month secondment**
> Analyse ordinary-concepts residence using the intended duration, accommodation, ties, purpose and continuity of presence. Then apply the domicile and 183-day tests separately.

Extension accepted on 1 June 2026
A change in objective circumstances can alter residence prospectively. Explain why the extension, rented apartment, local banking and social/professional ties may strengthen residence even if the taxpayer says she plans to return to Dubai.

UAE home and continuing ties
Evidence of an available home, family, financial connections and continuing employment in Dubai supports the counterargument. Explain the weight rather than merely listing the facts.

Salary source
Start with where services are performed, then consider the contract and broader earning activity under French and Mitchum. Allocate source by period if the facts justify it.

Advance salary
Distinguish an advance that has become income from a mere loan or recoverable amount. Apply the derivation method and the legal entitlement to the amount.

Directed/deferred payment
Use constructive receipt if salary is credited or applied at Hillary's direction. The timing question is legal derivation, not simply the date money reaches a personal bank account.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 2 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. ITAA97 s 995-1(1) directs the individual residence question to:

1. The Migration Act 1958
2. ITAA36 s 6(1)
3. The Constitution s 51(ii)
4. TR 98/17 only

Q2. Levene v IRC and Lysaght v IRC are the leading authorities on:

1. The 183-day test
2. Ordinary residence — a settled, habitual pattern of life in a place
3. Source of business income
4. The Commonwealth superannuation test

Q3. FCT v Applegate and FCT v Jenkins primarily concern:

1. The domicile test and the "permanent place of abode" exception
2. Constructive receipt of salary
3. The source of dividend income
4. Capital gains tax residency changes

Q4. A taxpayer can:

1. Only ever be resident for a full income year or not at all
2. Become or cease to be an Australian resident partway through an income year, requiring date-sensitive analysis
3. Never change residency status once established
4. Choose their residency status by election to the Commissioner

Q5. Which ATO ruling is the Commissioner's current interpretative guidance on individual residency tests?

1. TR 98/17
2. TR 2023/1
3. IT 2650
4. TD 2012/1

Q6. For salary income, the most common indicator of source is:

1. The taxpayer's citizenship
2. Where the services are physically performed
3. The currency in which the salary is paid
4. Where the employment contract was signed, regardless of where work is done

Q7. Carden's case establishes that the choice between the cash and accruals method of accounting for derivation is:

1. Always the taxpayer's free election
2. Governed by which method gives a substantially correct reflex of true income, not an elective preference
3. Determined solely by the taxpayer's annual turnover
4. Irrelevant to when income is derived

Q8. Henderson, Firstenberg, Dunn and Barratt are used to illustrate that the correct derivation method for a professional practice depends on:

1. The taxpayer's personal preference
2. Scale, employees, credit terms and the circulating-capital nature of the practice
3. Whether the practice is incorporated
4. The taxpayer's country of residence

Q9. Under an accruals method of accounting, derivation is generally marked by:

1. Actual cash receipt only
2. A recoverable debt arising
3. The end of the income year
4. Issuance of a tax invoice, regardless of enforceability

Q10. In an IRAC residency problem, why should residence, source, and derivation be analysed as separate issues rather than one combined issue?

1. Because they are tested by entirely unrelated Acts
2. Because each answers a different legal question (how wide the tax net is; whether Australia can tax a non-resident's income; and the timing of assessability) and can produce different answers on the same facts
3. Because only one of the three is ever legally relevant
4. Because the ATO requires them to be addressed in a fixed order under statute

Chapter 2 Mastery Quiz — Answers and Explanations

A1. Answer: B

ITAA97 s 995-1(1) directs the individual residence question to the definition of "resident" in ITAA36 s 6(1).

A2. Answer: B

Levene and Lysaght are the leading UK House of Lords authorities on "ordinary residence" — a settled, habitual pattern of life in a place, not merely physical presence.

A3. Answer: A

Applegate and Jenkins concern the domicile test and its "permanent place of abode outside Australia" exception.

A4. Answer: B

Residency is date-sensitive — a taxpayer can become or cease to be a resident partway through an income year, and the legal analysis must follow the facts as they change.

A5. Answer: B

TR 2023/1 is the ATO's current ruling on the individual residency tests.

A6. Answer: B

For salary, source commonly points to where the services are physically performed.

A7. Answer: B

Carden's case establishes that the method chosen must give a substantially correct reflex of true income — it is not simply an elective preference of the taxpayer.

A8. Answer: B

Henderson, Firstenberg, Dunn and Barratt show how scale, employees, credit and the circulating-capital nature of a practice affect which derivation method is appropriate.

A9. Answer: B

Under an accruals method, a recoverable debt commonly marks the point of derivation.

A10. Answer: B

Residence, source and derivation each answer a distinct legal question and can produce different answers on the same facts, so conflating them risks missing an issue or applying the wrong test.

Chapter 2 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Explain the difference between the "ordinary resides" test and the "183-day test" under ITAA36 s 6(1), including why a person could satisfy one but not the other.

SA2. Using Applegate, explain what "permanent place of abode outside Australia" means and why "permanent" does not mean "everlasting".

SA3. Explain why source and residence are analytically separate questions, using an example of a non-resident earning Australian-sourced income.

SA4. Using Carden's case, explain why a business cannot simply choose the cash method of accounting to defer derivation of income.

SA5. Explain why a taxpayer's residency status might change partway through an income year, and what this means for how their assessable income is calculated for that year.

Chapter 2 Short-Answer Questions — Model Answers

Model Answer SA1

The "ordinary resides" test asks whether the taxpayer's pattern of life shows a settled, habitual connection to Australia, considering factors such as family, employment and social ties, regardless of the number of days present. The 183-day test is a separate statutory test based on physical presence for at least 183 days in the income year, subject to its own exception where the Commissioner is satisfied the person's usual place of abode is outside Australia and they do not intend to take up residence here. A person could be physically present for over 183 days yet successfully argue the statutory exception applies, or could be present for fewer than 183 days yet still be a resident under the "ordinary resides" test on the strength of their settled connection to Australia.

Model Answer SA2

"Permanent place of abode outside Australia" does not require the person to intend to live there forever — Applegate establishes that "permanent" is contrasted with "temporary" or "transitory", not with "everlasting". A place of abode adopted for a fixed but substantial period (such as an extended overseas work posting) can qualify, even though the taxpayer plans to eventually return to Australia.

Model Answer SA3

Residence determines how wide Australia's tax net is for a given taxpayer (worldwide income for residents; only Australian-sourced income for non-residents). Source determines whether a particular item of income has a sufficient connection to Australia to be taxed here at all. A non-resident earning rent from an Australian investment property is a clear example: they are not an Australian resident, but the rental income is Australian-sourced (from Australian real property) and is therefore assessable in Australia despite their non-resident status.

Model Answer SA4

Carden's case holds that the correct accounting method is the one that produces a substantially correct reflex of the taxpayer's true income, having regard to the nature and scale of the business — it is not a free election. A business with significant credit sales, employees and circulating capital will generally be required to use the accruals method, because the cash method would not accurately reflect income actually earned in the relevant period, even if received later.

Model Answer SA5

A person's residency status can change during an income year — for example, if they permanently emigrate partway through the year or arrive in Australia to take up ongoing residence. Where this occurs, the taxpayer is treated as a resident for part of the year and a non-resident for the remainder, and their assessable income must be apportioned accordingly: worldwide income for the resident period, and only Australian-sourced income for the non-resident period. The tax-free threshold and certain other calculations may also need to be apportioned on a part-year basis.

Chapter 2 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Is Australian citizenship the same as tax residency?

Q: If I am overseas for more than 183 days, am I automatically a non-resident?

Q: Does it matter which method (cash or accruals) I use to record income for my own bookkeeping?

Q: Can two countries both claim a person as a tax resident in the same year?

Q: Why does the source of income matter if I'm already an Australian resident?

Chapter 2 — Frequently Asked Questions: Suggested Answers

FAQ 1

No. Tax residency under ITAA36 s 6(1) is a statutory and factual concept, entirely separate from citizenship, visa status or immigration residence. A citizen can be a non-resident for tax purposes, and a non-citizen can be an Australian tax resident.

FAQ 2

No — the 183-day test is one of several tests, and it has its own statutory exception. A person can still be found resident under the "ordinary resides" test or the domicile test even where the 183-day test alone would not apply, and vice versa.

FAQ 3

Your own bookkeeping preference is not the legal test. Carden's case requires the method that gives a substantially correct reflex of true income for that particular business — for most professional practices, this depends on factors like scale, credit terms and whether recoverable debts exist.

FAQ 4

Yes — dual residency can occur, which is why double tax agreements (treaties) contain "tie-breaker" rules to allocate residency for treaty purposes, even though domestic law in each country may separately treat the person as resident.

FAQ 5

For an Australian resident, source matters less for domestic assessability (residents are generally taxed on worldwide income), but it remains critical for foreign income tax offset calculations and for applying double tax agreements.

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does Residency mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Resides mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Domicile mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does Abode mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does Source mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does Derivation mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does worldwide income mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Foreign mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does Residency mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Status that determines the breadth of Australia's income-tax jurisdiction. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

2. What does Resides mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Ordinary-concepts limb in the individual residence definition. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

3. What does Domicile mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Statutory residence test linked to permanent place of abode. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

4. What does Abode mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Place considered under the domicile and 183-day exceptions. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

5. What does Source mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Practical factual connection locating where income is produced. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

6. What does Derivation mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Timing concept identifying when income belongs to an income year. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

7. What does worldwide income mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Scope generally applying to Australian residents. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

8. What does Foreign mean, why does it matter in Chapter 2, and how should a student use it in a problem question?

Status generally limiting ordinary income to Australian-source amounts. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define Residency and explain why it matters to the Chapter 2 analysis.
2. Define Resides and explain why it matters to the Chapter 2 analysis.
3. Define Domicile and explain why it matters to the Chapter 2 analysis.
4. Define Abode and explain why it matters to the Chapter 2 analysis.

5. Define Source and explain why it matters to the Chapter 2 analysis.
6. Define Derivation and explain why it matters to the Chapter 2 analysis.
7. What role does s 6(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does s 995-1(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does s 10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does s 44(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 6C play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does ss 6-5(2) and 6-5(4) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195. illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does Applegate v FCT 79 ATC 4307 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does FCT v Jenkins 82 ATC 4098 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Nathan v FCT (1918) 25 CLR 183 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Maya is domiciled overseas and comes to Sydney for a four-month secondment, staying in serviced apartments while maintaining her home, partner and investments overseas. After three months she accepts an 11-month extension, rents an apartment, moves personal…
20. What should a strong Chapter 2 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

Status that determines the breadth of Australia’s income-tax jurisdiction. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

2. Answer

Ordinary-concepts limb in the individual residence definition. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

3. Answer

Statutory residence test linked to permanent place of abode. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

4. Answer

Place considered under the domicile and 183-day exceptions. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

5. Answer

Practical factual connection locating where income is produced. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

6. Answer

Timing concept identifying when income belongs to an income year. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

7. Answer

Section 995-1(1) ITAA97 directs the reader to the definition of “resident” in s 6(1) ITAA36. For an individual, s 6(1) contains several alternative routes to residence. A taxpayer need satisfy only one. The ordinary concepts test asks whether the person “resides” in Australia according to ordinary meaning. The domicile test can treat a person as resident where their domicile is in Australia unless the statutory exception applies. The 183-day test addresses physical presence during the income…

8. Answer

Before asking whether a receipt is ordinary or statutory income, Australian income tax law often requires a more basic question: why does Australia have jurisdiction to tax this taxpayer or this income? The answer usually depends on residence and source. Broadly, an Australian tax resident is exposed to Australian income tax on worldwide ordinary and statutory income, while a foreign resident is generally taxed only on Australian-sourced income, subject to specific statutory rules and treaties.…

9. Answer

Section 995-1(1) ITAA97 directs the reader to the definition of “resident” in s 6(1) ITAA36. For an individual, s 6(1) contains several alternative routes to residence. A taxpayer need satisfy only one. The ordinary concepts test asks whether the person “resides” in Australia according to ordinary meaning. The domicile test can treat a person as resident where their domicile is in Australia unless the statutory exception applies. The 183-day test addresses physical presence during the income…

10. Answer

Before asking whether a receipt is ordinary or statutory income, Australian income tax law often requires a more basic question: why does Australia have jurisdiction to tax this taxpayer or this income? The answer usually depends on residence and source. Broadly, an Australian tax resident is exposed to Australian income tax on worldwide ordinary and statutory income, while a foreign resident is generally taxed only on Australian-sourced income, subject to specific statutory rules and treaties.…

11. Answer

For dividends, the course refers to Esquire Nominees Ltd v FCT and to s 44(1) ITAA36. For royalties, s 6C ITAA36 can deem Australian source in defined circumstances. The student should therefore ask: what produced the income? Work? Property? A contract? A business? Intellectual property? The source test follows the character of the income.

12. Answer

For dividends, the course refers to Esquire Nominees Ltd v FCT and to s 44(1) ITAA36. For royalties, s 6C ITAA36 can deem Australian source in defined circumstances. The student should therefore ask: what produced the income? Work? Property? A contract? A business? Intellectual property? The source test follows the character of the income.

13. Answer

Even after residence, source and character are resolved, timing remains. Sections 6-5(2) and 6-5(4) are central for ordinary income. The law asks when income is “derived”, and the answer can depend on the taxpayer's activities and accounting method.

14. Answer

This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.

15. Answer

Foundational authorities on residence under ordinary concepts and the weight given to the quality, continuity and pattern of a person's presence.

16. Answer

"Permanent" in permanent place of abode does not mean everlasting; it contrasts with temporary or transitory living arrangements.

17. Answer

A fixed overseas period can still be sufficiently permanent for the domicile test; early return does not necessarily destroy the original character of the overseas abode.

18. Answer

Source is a practical, hard matter of fact.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 6(1) in this chapter?

1. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
2. s 995-1(1)
3. s 10
4. s 6(1)

2. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5) in this chapter?

1. s 10
2. s 6(1)
3. s 995-1(1)
4. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)

3. Which provision is the relevant statutory reference for the rule or method associated with s 995-1(1) in this chapter?

1. s 995-1(1)
2. s 6(1)
3. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
4. s 10

4. Which provision is the relevant statutory reference for the rule or method associated with s 10 in this chapter?

1. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
2. s 6(1)
3. s 995-1(1)
4. s 10

5. Which provision is the relevant statutory reference for the rule or method associated with s 44(1) in this chapter?

1. s 6(1)
2. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
3. s 44(1)
4. s 995-1(1)

6. Which provision is the relevant statutory reference for the rule or method associated with s 6C in this chapter?

1. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
2. s 6C
3. s 6(1)
4. s 995-1(1)

7. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5(2) and 6-5(4) in this chapter?

1. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
2. s 6(1)
3. s 995-1(1)
4. ss 6-5(2) and 6-5(4)

8. Which provision is the relevant statutory reference for the rule or method associated with s 6-5(4) in this chapter?

1. s 995-1(1)
2. s 6-5(4)
3. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
4. s 6(1)

9. Which authority is connected with this proposition: This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.

1. Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.
2. Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217
3. FCT v Jenkins 82 ATC 4098
4. Applegate v FCT 79 ATC 4307

10. Which authority is connected with this proposition: Foundational authorities on residence under ordinary concepts and the weight given to the quality, continuity and pattern of a person's presence.

1. Applegate v FCT 79 ATC 4307
2. Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.
3. Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217
4. FCT v Jenkins 82 ATC 4098

11. Which authority is connected with this proposition: "Permanent" in permanent place of abode does not mean everlasting; it contrasts with temporary or transitory living arrangements.

1. Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217
2. Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.
3. Applegate v FCT 79 ATC 4307
4. FCT v Jenkins 82 ATC 4098

12. Which authority is connected with this proposition: A fixed overseas period can still be sufficiently permanent for the domicile test; early return does not necessarily destroy the original character of the overseas abode.

1. FCT v Jenkins 82 ATC 4098
2. Applegate v FCT 79 ATC 4307
3. Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217
4. Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.

13. Which authority is connected with this proposition: Source is a practical, hard matter of fact.

1. Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217
2. Applegate v FCT 79 ATC 4307
3. Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.
4. Nathan v FCT (1918) 25 CLR 183

14. Which authority is connected with this proposition: The place where services are performed is a strong source factor for employment income.

1. Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217
2. Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.
3. Applegate v FCT 79 ATC 4307
4. FCT v French (1957) 98 CLR 398

15. Which taxation-law term or authority best matches this description: Status that determines the breadth of Australia's income-tax jurisdiction.

1. Residency
2. Abode
3. Resides
4. Domicile

16. Which taxation-law term or authority best matches this description: Ordinary-concepts limb in the individual residence definition.

1. Source
2. Resides
3. Abode
4. Domicile

17. Which taxation-law term or authority best matches this description: Statutory residence test linked to permanent place of abode.

1. Source
2. Abode
3. Domicile
4. Derivation

18. Which taxation-law term or authority best matches this description: Place considered under the domicile and 183-day exceptions.

1. Abode
2. worldwide income
3. Derivation
4. Source

19. Which taxation-law term or authority best matches this description: Practical factual connection locating where income is produced.

1. worldwide income
2. Derivation
3. Foreign
4. Source

20. Which taxation-law term or authority best matches this description: Timing concept identifying when income belongs to an income year.

1. Derivation
2. Applegate
3. Foreign
4. worldwide income

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. D. s 6(1)

Section 995-1(1) ITAA97 directs the reader to the definition of “resident” in s 6(1) ITAA36. For an individual, s 6(1) contains several alternative routes to residence. A taxpayer need satisfy only one. The ordinary concepts test asks whether the person “resides” in Australia according to ordinary meaning. The domicile test can treat a person as…

2. D. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)

Before asking whether a receipt is ordinary or statutory income, Australian income tax law often requires a more basic question: why does Australia have jurisdiction to tax this taxpayer or this income? The answer usually depends on residence and source. Broadly, an Australian tax resident is exposed to Australian income tax on worldwide ordinary…

3. A. s 995-1(1)

Section 995-1(1) ITAA97 directs the reader to the definition of “resident” in s 6(1) ITAA36. For an individual, s 6(1) contains several alternative routes to residence. A taxpayer need satisfy only one. The ordinary concepts test asks whether the person “resides” in Australia according to ordinary meaning. The domicile test can treat a person as…

4. D. s 10

Before asking whether a receipt is ordinary or statutory income, Australian income tax law often requires a more basic question: why does Australia have jurisdiction to tax this taxpayer or this income? The answer usually depends on residence and source. Broadly, an Australian tax resident is exposed to Australian income tax on worldwide ordinary…

5. C. s 44(1)

For dividends, the course refers to Esquire Nominees Ltd v FCT and to s 44(1) ITAA36. For royalties, s 6C ITAA36 can deem Australian source in defined circumstances. The student should therefore ask: what produced the income? Work? Property? A contract? A business? Intellectual property? The source test follows the character of the income.

6. B. s 6C

For dividends, the course refers to Esquire Nominees Ltd v FCT and to s 44(1) ITAA36. For royalties, s 6C ITAA36 can deem Australian source in defined circumstances. The student should therefore ask: what produced the income? Work? Property? A contract? A business? Intellectual property? The source test follows the character of the income.

7. D. ss 6-5(2) and 6-5(4)

Even after residence, source and character are resolved, timing remains. Sections 6-5(2) and 6-5(4) are central for ordinary income. The law asks when income is “derived”, and the answer can depend on the taxpayer's activities and accounting method.

8. B. s 6-5(4)

Even after residence, source and character are resolved, timing remains. Sections 6-5(2) and 6-5(4) are central for ordinary income. The law asks when income is “derived”, and the answer can depend on the taxpayer's activities and accounting method.

9. A. Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.

This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.

10. C. Lysaght v IRC [1928] AC 234 and Levene v IRC [1928] AC 217

Foundational authorities on residence under ordinary concepts and the weight given to the quality, continuity and pattern of a person's presence.

11. C. Applegate v FCT 79 ATC 4307

"Permanent" in permanent place of abode does not mean everlasting; it contrasts with temporary or transitory living arrangements.

12. A. FCT v Jenkins 82 ATC 4098

A fixed overseas period can still be sufficiently permanent for the domicile test; early return does not necessarily destroy the original character of the overseas abode.

13. D. Nathan v FCT (1918) 25 CLR 183

Source is a practical, hard matter of fact.

14. D. FCT v French (1957) 98 CLR 398

The place where services are performed is a strong source factor for employment income.

15. A. Residency

Residency: Status that determines the breadth of Australia’s income-tax jurisdiction.

16. B. Resides

Resides: Ordinary-concepts limb in the individual residence definition.

17. C. Domicile

Domicile: Statutory residence test linked to permanent place of abode.

18. A. Abode

Abode: Place considered under the domicile and 183-day exceptions.

19. D. Source

Source: Practical factual connection locating where income is produced.

20. A. Derivation

Derivation: Timing concept identifying when income belongs to an income year.

20-CLUE CROSSWORD

Crossword - Chapter 2: Jurisdiction, Residency, Source and Derivation

Launch Chapter 2 Active Crossword to type directly into the grid and check your answers.



Across

1. Practical factual connection locating where income is produced.
2. Classic authority stating source is a practical hard matter of fact.
3. Scope generally applying to Australian residents.
4. Ordinary-concepts limb in the individual residence definition.
5. Statutory residence test linked to permanent place of abode.
6. Authority on prepaid receipts and unperformed obligations.
7. Authority warning against an inflexible place-of-services rule.
8. Residence status that can modify worldwide taxation consequences.
9. Status generally limiting ordinary income to Australian-source amounts.

Down

1. Central management concept relevant to company residence.
2. Authority emphasising place of performance for employment income.
3. Receipt concept where income is dealt with on the taxpayer’s behalf.
4. Residence authority concerning permanent place of abode.
5. Timing concept identifying when income belongs to an income year.
6. Status that determines the breadth of Australia’s income-tax jurisdiction.
7. Authority relevant to earnings/accruals derivation.
8. Case associated with permanent place of abode outside Australia.
9. Australian-source or Australian-resident connection.
10. Authority on the method giving a substantially correct reflex of income.
11. Place considered under the domicile and 183-day exceptions.

CROSSWORD ANSWERS

Crossword Answers - Chapter 2

2 Across - SOURCE	3 Across - NATHAN
6 Across - WORLDWIDE	8 Across - RESIDES
9 Across - DOMICILE	10 Across - ARTHURMURRAY
14 Across - MITCHUM	17 Across - TEMPORARY
19 Across - FOREIGN	1 Down - CONTROL
4 Down - FRENCH	5 Down - CONSTRUCTIVE
7 Down - JENKINS	9 Down - DERIVATION
11 Down - RESIDENCY	12 Down - HENDERSON
13 Down - APPLEGATE	15 Down - DOMESTIC
16 Down - CARDEN	18 Down - ABODE

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Changing residence during a secondment

Problem

Maya is domiciled overseas and comes to Sydney for a four-month secondment, staying in serviced apartments while maintaining her home, partner and investments overseas. After three months she accepts an 11-month extension, rents an apartment, moves personal belongings to Australia and joins local professional organisations. Her employer directs part of her June salary to pay her Australian rent at Maya’s request and defers another $5,000 to July. Advise on residence, source and derivation for the relevant income years.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Changing residence during a secondment

Issue and sub-issues. Maya must be tested separately for residence, source and derivation in each income year, including whether her status changes when the secondment is extended.

Rule / Law. Individual residence is determined by ITAA36 s 6(1): ordinary concepts, domicile/permanent place of abode, the 183-day test and the Commonwealth superannuation test. TR 2023/1, *Levene* and *Lysaght* inform ordinary residence; *Applegate* and *Jenkins* inform the permanent-place-of-abode exception. Residents are generally taxed on worldwide ordinary income under ITAA97 s 6-5(2); foreign residents under s 6-5(3) are generally taxed on Australian-source ordinary income. *Nathan*, *French* and *Mitchum* are relevant to source. Section 6-5(4) addresses constructive receipt.

Application. During the initial four-month assignment, serviced accommodation, the maintained overseas home, partner and investments, and the planned short stay point strongly away from ordinary residence. After Maya accepts an 11-month extension, rents an apartment, moves belongings and develops local ties, the quality and continuity of her presence change. Residence from that point becomes strongly arguable under ordinary concepts; the 183-day test must be applied separately to each income year. Because Maya is domiciled overseas, the domicile limb is less likely to be decisive unless the legal domicile facts indicate otherwise. Salary for services physically performed in Australia has a strong Australian-source connection under *French*, subject to the broader factual approach in *Mitchum*. The salary directed to the landlord at Maya's request is constructively received under s 6-5(4). The $5,000 deferred into July must be tested by asking whether Maya had already become entitled to it or had it dealt with at her direction; a mere timing request cannot necessarily move already-derived income into a later year.

Conclusion. Maya is likely non-resident at the beginning but may become resident when the extended, settled Australian living arrangements commence. Australian work salary is in any event likely Australian-source while she is non-resident. The rent-directed salary remains derived by Maya; the June/July $5,000 requires the precise entitlement/payment facts.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Company residence and source

Problem

Harbour Analytics Ltd is incorporated in Singapore but sells services to Australian clients. Its board formally meets in Singapore, while its founder in Brisbane makes the strategic pricing, financing and expansion decisions and directors routinely approve them. Advise whether Australian company residence is arguable and identify the source and derivation questions that must be separated from residence.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Company residence and source

Issue. Harbour Analytics is incorporated outside Australia, so the question is whether it nevertheless satisfies the Australian company-residence test; source and derivation remain separate questions.

Rule / Law. Under ITAA36 s 6(1), a company incorporated outside Australia can be resident if it carries on business in Australia and has its central management and control here, or if the relevant Australian voting-power test is satisfied. *Bywater Investments* and TR 2018/5 focus on where high-level strategic decisions are actually made rather than where formal board paperwork is completed.

Application. Formal board meetings in Singapore are evidence but are not conclusive if the directors merely rubber-stamp decisions already made by the Brisbane founder. Strategic pricing, financing and expansion decisions are classic central-management-and-control functions. If the founder genuinely makes those decisions in Brisbane and the board routinely approves them without independent deliberation, Australian residence is strongly arguable. Separately, the source of service income depends on the real income-producing activities, contracts and where services are performed; it is not automatically fixed by company residence. Derivation asks when income is earned/receivable under the appropriate method.

Conclusion. Australian company residence is a serious possibility on these facts despite Singapore incorporation and formal meetings. The source and derivation of each receipt must then be analysed independently.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 3. INCOME FROM PERSONAL EXERTION, EMPLOYMENT, GIFTS, PRIZES AND BENEFITS

personal exertion • employment income • gifts • prizes • non-cash benefits • valuation • restrictive covenants

Employment and service receipts are not taxable merely because an employee received them. The legal task is to identify the connection between the receipt and the income-earning activity, then check the statutory employment-benefit rules and exclusions.

LEARNING OUTCOMES

- Apply the ordinary-income nexus to salary, commissions, tips, gifts, prizes and third-party payments.
- Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.
- Value non-cash benefits using the correct rule.
- Recognise the interaction between income tax and fringe benefits tax.
- Distinguish income rewards from capital payments for surrendering rights.
- Use Jackson's competition prize, client gift and restraint payment as worked applications.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: why personal exertion receipts are not all taxed in the same way

Employment and personal-services problems often appear simple because the taxpayer receives money or a benefit connected with work. The legal task is more

precise. Ask whether the receipt is ordinary income under s 6-5, statutory income under s 15-2 or another provision, a fringe benefit dealt with under the FBT regime, a genuine personal gift, a prize or windfall, or a capital receipt. The same factual connection to employment may support different statutory consequences depending on who provides the benefit and why.

Voluntary receipts and gifts

Scott shows that voluntariness does not automatically prevent a receipt from being income; the quality of the receipt in the taxpayer's hands remains decisive. A genuine personal gift motivated by affection or gratitude can be outside income, but where the payment is a product or incident of employment or professional services the connection can support assessability. The student should explain the motive of the payer, the relationship between the parties, recurrence, the taxpayer's activities and whether the receipt substitutes for remuneration.

Prizes and rewards

Kelly demonstrates that a prize can be income where it is sufficiently connected with the taxpayer's income-producing activity. The correct question is not simply "Was it a prize?" but "Why did this taxpayer receive it?" A lottery win is different from a performance award earned because of professional skill or employment activity.

Non-cash benefits and valuation

Cooke & Sherden and *Payne* are central to the ordinary-income non-convertibility principle. But a conclusion under ordinary concepts is not the end of the analysis: s 21, s 21A, s 15-2 and the FBT rules may alter the result. Section 21 is a valuation rule, not an independent charging provision. Students must first identify the provision that brings the benefit into the tax base and then value it using the applicable rule.

> **In plain English**
> Ask why the taxpayer received the amount. If employment or services are the real reason, ordinary income or s 15-2 may apply. If the payment is truly personal, gratuitous or capital in character, the result may be different.

Key language

personal exertion | nexus | employment | services | gift | prize | allowance | gratuity | benefit | bonus | premium | convertibility | realisable value | value to taxpayer | fringe benefit | s 15-2 | third-party payment | capital payment | restraint | reward

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

3.1 Personal exertion income: find the connection with the earning activity

Amounts received because of employment, services or other personal effort are a central category of ordinary income. Under ITAA97 s 6-5(1), the question is whether the receipt has a sufficient connection with an income-earning activity so that it is properly characterised as a product or incident of employment or services rendered.

The word “connection” is important. The payer does not have to be the employer; the payment need not be made at the same time as the services; and a single act of service can be enough. The legal task is to identify the real cause of the payment.

Student question
Ask: “Why did this taxpayer receive this amount?” If the convincing answer is “because they performed employment duties or services”, ordinary income is strongly indicated. If the convincing answer is “because of a personal relationship, generosity or some independent capital transaction”, income is less likely.

3.2 The personal-exertion nexus through the cases

Brent v FCT demonstrates that an isolated act of service can produce ordinary income. The taxpayer need not be carrying on a business or regularly performing the service. *Kelly v FCT* shows that a payment or prize made by a third party can still be income where the taxpayer's employment or income-earning activity is the substantial reason for the award. *FCT v Dixon* illustrates how a payment replacing or supplementing employment income can take an income character even though it comes from a third party and is described as voluntary.

Scott v FCT provides the contrast. A payment associated with a professional relationship can nevertheless be a genuine personal gift where the circumstances show personal gratitude, friendship or generosity rather than remuneration for services. This is why the mere fact that the donor was once a client does not end the analysis.

Hochstrasser v Mayes assists with the proposition that the timing of the services is not decisive; a payment can relate to past or future employment. *Calvert v Wainwright* and the other authorities in this chapter help students see that gratuities and tips may be income where they arise as an incident of the taxpayer's services.

3.3 A practical causation spectrum

This chapter usefully presents the nexus as a spectrum. At one end, employment or services are the sole or motivating cause of the payment: income is highly likely. Next, employment is an important cause: income remains likely. Further along, employment is merely one of several causes: the answer becomes fact-sensitive. At the far end, the fact that the recipient is an employee is coincidental and the true cause is personal generosity: the receipt may be a gift.

This spectrum is not legislation and should not be cited as if it were a statutory test. It is a reasoning tool. The legal conclusion still comes from s 6-5 and the authorities.

3.4 Section 15-2: allowances, gratuities, compensation, benefits, bonuses and premiums

Section 15-2 ITAA97 is a statutory inclusion provision dealing with specified benefits provided in respect of employment or services. This chapter identifies four key questions:

1. Is there an allowance, gratuity, compensation, benefit, bonus or premium?
2. Has it been “provided” to the taxpayer? Section 995-1(1) contains an inclusive definition relevant to providing an economic benefit.

3. Is it provided “in respect of”, “for” or “in relation directly or indirectly to” employment or services?
4. Is it excluded because another provision already deals with it, including where it is already ordinary income under s 6-5?

Section 15-2 is not simply a duplicate of s 6-5. Its statutory language can capture benefits associated with employment or services even where ordinary-income concepts would otherwise create difficulty. But the section contains express exclusions, so the student must read the whole provision, including subsections (2) and (3), rather than stop at the opening words.

3.5 Valuing a benefit: “value to you”

Where s 15-2 applies to a non-cash benefit, valuation becomes important. This chapter uses *Donaldson v FCT* for the “value to the taxpayer” idea: what would a prudent person in the taxpayer's position be willing to give rather than fail to obtain the benefit? This is not necessarily the retail price, cost to the provider or market value in every case. The correct valuation rule depends on the provision being applied.

That distinction matters in the Week 4 worked problem because Jackson receives both a television and a non-convertible holiday package. The facts deliberately provide retail value, secondary-market value and a prudent-person value so that students must choose the legally relevant measure rather than simply select the biggest number.

3.6 Fringe benefits: employee income tax and employer FBT must be separated

Not every employment-related non-cash benefit is included directly in the employee's assessable income. The relevant rules include ITAA36 s 23L and the fringe-benefits-tax regime. A proper answer asks whether the benefit is a fringe benefit and, if so, whether s 23L makes it non-assessable to the employee while the employer bears a separate FBT liability.

This is an important tax-law habit: identify who the relevant taxpayer is. A benefit may have a tax consequence without being assessable income of the person who receives it.

3.7 Convertibility and non-cash rewards

FCT v Cooke & Sherden is a central convertibility authority. Non-cash holiday benefits provided to soft-drink retailers were not ordinary income because the benefits were not convertible into money on the facts. *Payne v FCT* similarly shows

the difficulty of treating personal frequent-flyer rewards as ordinary income where the necessary character and convertibility were absent.

Today, however, an answer must not stop with the cases. Section 21A ITAA36 can apply to certain non-cash business benefits. Section 15-2 can apply in the employment/services context. The correct exam technique is therefore:

1. test ordinary income under s 6-5;
2. if ordinary income fails, identify any statutory inclusion such as s 15-2 or s 21A;
3. apply the correct valuation rule;
4. check exclusions and overlap provisions.

3.8 Gifts, gratuities and “thank you” payments

The label “gift” is never decisive. Ask why the payment was made. A $1,000 payment from a client can be income if it is substantially a reward for services, but it can be non-income if the evidence establishes a genuine personal gift. Factors include the relationship between the parties, whether the taxpayer expected payment, whether the payer had already paid full commercial fees, the language used, the taxpayer's employment role and whether similar payments are a regular incident of the occupation.

Scott v FCT should be used as an analytical comparator, not as a magic phrase that makes all client gifts tax-free. A strong student writes: “The facts are closer to / distinguishable from *Scott* because …”.

3.9 Restraint payments and capital character

The worked problem introduces a different personal-exertion issue: a one-off payment for agreeing not to perform promotional activities for competing airlines. The starting point is whether the payment is ordinary income under s 6-5 or statutory income under s 15-2. *Higgs (Inspector of Taxes) v Olivier* is relevant to payments for restrictions on future professional activity. The legal character may be capital where the taxpayer gives up or sterilises a valuable right or part of an income-earning structure, rather than merely receiving remuneration for services.

The key is to identify what the payment is for. Is Jackson being paid for past sales performance? For continuing employment? For providing a service? Or for surrendering freedom to exploit a separate promotional opportunity? The answer determines the statutory route and timing.

3.10 Case and provision teaching map

Authority / provision	Proposition	Use in an answer
ITAA97 s 6-5	Ordinary-income inclusion.	Start with the employment/services nexus.
ITAA97 s 15-2(1)–(3)	Statutory inclusion for specified employment/service benefits, subject to exclusions.	Use after or alongside s 6-5.
Brent v FCT	An isolated act of service may produce income.	One-off service or media-related payment.
Kelly v FCT	Third-party prize sufficiently connected with employment can be income.	Awards and performance prizes.
Scott v FCT	Genuine personal gift can be non-income despite professional relationship.	Client gifts and gratitude payments.
FCT v Dixon	Voluntary third-party payments may be income where they substitute or supplement earnings.	Employment-related support payments.
Donaldson v FCT	Assists with “value to taxpayer”.	Valuation under relevant statutory benefit rule.
Cooke & Sherden; *Payne*	Convertibility and character of non-cash rewards.	Then check modern statutory provisions.
Higgs v Olivier	Restraint payment can have capital character.	Payment for giving up future activity/right.

3.11 Application masterclass — Jackson

Jackson receives salary and commissions, a cash competition bonus, a television, a non-convertible holiday, a client cash payment and champagne, rent from an investment property, a dividend, and a restraint payment. The worked problem is teaching you to resist the temptation to classify all of those receipts in one paragraph.

Salary and commissions

These are straightforward ordinary income under s 6-5. The employment nexus is direct.

KAL competition prize

The cash bonus has a strong income character because the competition rewards sales performance. *Kelly* is the obvious comparator. For the television and holiday, separately address ordinary income, convertibility and s 15-2. Do not use retail value automatically. Explain the valuation rule selected.

Jill's $1,000 and champagne

The payment follows a successfully arranged holiday, which points toward remuneration, but the social friendship and language of personal gratitude point toward a gift. Apply *Scott* and explain which facts carry the greatest weight. The cash and champagne may require separate valuation/characterisation analysis.

Rent and dividend timing

Rent is ordinarily a return from property and is usually ordinary income. Where rent straddles 30 June, ask when it is derived rather than mechanically allocating it by days unless the applicable derivation principles require that. For the dividend, the relevant rules include s 44(1) ITAA36 and the definition of “paid” in s 6(1); the date of payment/crediting/distribution matters.

$24,000 restraint

Identify precisely what Jackson has surrendered. Apply s 6-5, s 15-2 and *Higgs v Olivier* . The fact that FWL is not party to the agreement and the restriction operates in Jackson's personal capacity matters to the connection with employment.

3.12 HD IRAC model method

I — Issue

For each receipt, identify whether it is ordinary income, statutory income, excluded/non-assessable, or capital, and determine the amount and income year of inclusion.

R — Rule

Use s 6-5 first, then s 15-2 and any relevant fringe-benefit or valuation provisions. State the causal/nexus proposition from the closest case rather than listing every authority.

A — Application

Explain the true cause of each payment. For non-cash benefits, separate character from value. For gifts, compare the facts with *Scott*. For the competition, compare with *Kelly*. For restraint money, explain what right is surrendered and why that points toward income or capital.

C — Conclusion

Give an item-by-item conclusion and a total only after every item has been legally characterised.

3.13 Plain-English summary

Personal exertion income is about causation. Ask why the taxpayer received the benefit. Employment, services and performance point toward income; personal generosity can point toward a gift; surrender of a valuable right may point toward capital. Non-cash form does not end the analysis. Work through ordinary income, statutory income, valuation and exclusions in that order.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Personal exertion income: find the nexus, not merely the payer

Salary, wages, commissions, bonuses and many rewards are ordinary income because they are products of employment or personal services. The difficult cases

are payments from third parties, prizes, gifts, benefits and one-off amounts. The legal question is whether the receipt is sufficiently connected with the taxpayer's income-producing services, or instead arises from personal generosity, chance, capital surrender or another source.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Start with ITAA97 s 6-5. Then consider s 15-2 where a benefit or allowance is provided in respect of employment or services and is not otherwise ordinary income. Coordinate with FBT/exemption rules such as ITAA36 s 23L where the employer-side fringe benefits regime applies.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Kelly shows a third-party sporting prize can be income where it is sufficiently connected with professional activities. Scott is the contrast for a genuine personal gift. Dixon demonstrates income character for a payment substituting employment income. Hochstrasser warns that a mere "but for employment" connection can be insufficient.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot who paid, why they paid, whether the taxpayer was performing services, whether similar receipts recur, whether personal friendship/gratitude dominates, and whether the taxpayer gave up a capital right.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Classify each item separately before valuing it. The Jackson worked problem is deliberately designed to force separate analysis of salary, commission, cash prize, property prize, holiday, client gift, rent/dividend and restrictive covenant.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Non-cash benefits: inclusion and valuation are two different questions

A non-cash item does not escape tax merely because it is not money, but valuation provisions do not themselves make an item income. The correct sequence is first to identify a charging/inclusion provision, then determine the money value under the relevant valuation rule. Restrictions on convertibility and the value to the particular taxpayer can matter depending on the governing provision.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

ITAA36 s 21 provides a money-value rule for non-cash consideration. ITAA36 s 21A modifies treatment of non-cash business benefits. Section 15-2 and the FBT interface may apply in employment/service contexts.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Cooke & Sherden is important because a non-transferable holiday benefit was not ordinary income under the law considered; the legislative response in s 21A matters for business benefits. Payne and Donaldson are used here to teach valuation and the need to distinguish market/realisable/value-to-taxpayer concepts.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

When a problem gives retail price, resale value and personal value, do not automatically choose the largest number. State the inclusion provision first, then the statutory valuation approach.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Create a valuation table: item; inclusion provision; cash/non-cash; restrictions; valuation measure; assessable amount; authority.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Capital payments and restrictive covenants

Payments for agreeing not to compete, surrendering a right, ending a contract or altering the profit-yielding structure can be capital even though they arise in a work context. Character depends on what the taxpayer gives up or what the payment replaces, not simply on the identity of the payer.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Check ordinary income under s 6-5, any specific statutory income rule, and then the CGT regime for the creation, surrender or ending of rights. A capital conclusion at ordinary income does not mean “tax free”.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Higgs v Olivier is the classic course example of a payment for a restrictive covenant having capital character in its context. Later CGT provisions may capture similar payments under modern law.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot words such as restraint, covenant, surrender, cancellation, termination, release, exclusive rights and compensation for giving up future earning capacity.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Analyse the legal right as an asset. Identify capital proceeds and cost base where relevant, then test overlap rules so the amount is not taxed twice.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance

rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Jackson — receipt-by-receipt assessable-income schedule

Step / item	Tax-law treatment	Number / working
Salary	$75,000	ordinary employment income under s 6-5
Commission	$25,000	ordinary reward for employment/sales
KAL cash prize	$15,000	analyse as reward/ product of income-producing sales activity; Kelly
OLED TV	Retail $5,500; immediate resale $4,200	first establish inclusion; then apply correct non-cash valuation rule
Holiday	Public price $25,000; value to Jackson $20,000; non-convertible	Cooke & Sherden/ modern statutory rule: inclusion and valuation must be separated
Jill cash/ champagne	$1,000 + $75	compare Scott personal gift with service nexus
May rent	$3,200 received 19 May for 20 May–19 Jun	rent derivation/timing

June rent	$3,200 received 19 Jun for 20 Jun–19 Jul	test derivation in 2025–26 despite service period straddling year end
Unfranked dividend	$1,000 paid 30 Jun, received 2 Jul	apply dividend derivation/statutory rule
Restrictive covenant	$24,000	test s 6-5, s 15-2 and capital/CGT treatment; Higgs

Do not total first. Each row requires its own charging provision, authority and timing conclusion. The exercise deliberately gives multiple valuation numbers so students must identify the legal valuation measure.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally
Jackson is employed as a travel agent for Flight World Ltd (“FWL”), which operates travel agencies across Australia. Jackson’s annual salary is $75,000, and he received $25,000 in sales commissions during the 2025-26 income year.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

In mid-July 2025, Koala Airlines Ltd (“KAL”) launched a new daily service between Syndey and Las Vegas. To encourage sales, on 15 July 2025 KAL sends a memo to all travel agencies across Australia announcing that the travel agent who sold the most number of return, business-class tickets on the new daily service before 24 December 2025 would win a valuable prize (as set out below).	This is an asset trigger. Determine revenue versus capital character, identify any CGT event or Div 40/43 treatment, and construct the relevant cost base/adjustable value.
Jakson is the lucky winner, and on 24 January 2026 he received the prize from KAL which consisted of:	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
a $15,000 cash bonus;	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
a 75-inch OLED TV that retails for $5,500. If Jackson chose not to keep the TV, he could reasonably expect to sell it immediately on the secondary market in an “as new” condition for $4,200; and	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

a 10-day holiday package to Las Vegas for Jackson and a companion, which consisted of flights and accommodation. The holiday package was not convertible into cash. An equivalent holiday package could be purchased by a member of the public for $25,000. A prudent person in Jackson's position would be willing to pay $20,000 for the package rather than failing to obtain it.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
As an employee of FWL, Jackson had organised a holiday for one of his regular and wealthy clients, Jill. The holiday included a return cruise from Santiago to Antarctica for Jill (and her husband Bill). Jackson had developed a friendship with Jill over several years, and they sometimes met socially. While catching up with Jill and some other friends at the local pub on a Friday night in February 2026, Jill handed $1,000 in cash and a bottle of French champagne (which retails for $75) to Jackson saying:	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
In April 2026, Jackson purchased a residential investment property in Brisbane. Jackson manages the property himself and he began renting it out to a tenant on 20 May 2026. On 19 May 2026, Jackson received $3,200 in rent from the tenant for the period 20 May 2026 to 19 June 2026. On 19 June 2026, Jackson received a further $3,200 in rent from the tenant for the period 20 June 2026 to 19 July 2026.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Jackson owns shares in Alpha Pty Ltd (“APL”). On 30 June 2026, APL paid Jackson an unfranked dividend of $1,000. Jackson received the dividend on 2 July 2026.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Advise Jackson of the amount included in his assessable income for the income year ending 30 June 2026. Support your answer with relevant legislative references and case law principles. Provide a reason for any exclusions.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Assume the following additional facts:	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
KAL became concerned that competitor airlines might seek to recruit Jackson for their promotional campaigns, at least for the foreseeable future. To mitigate this risk, KAL offered Jackson a one-off $24,000 payment.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Jackson accepted, and the written agreement implementing the terms was executed on 27 February 2026. Jackson received the $24,000 from KAL on 1 March 2026.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Advise Jackson whether the $24,000 would be included in his assessable income pursuant to s 6-5 or s 15-2 ITAA97, and if so, when it is included. In doing so, consider Higgs (Inspector of Taxes) v Olivier (1951) 1 Ch 899.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: An amount is ordinary income under section 6-5(1) ITAA97 if there is a sufficient nexus (or connection) with an earning activity. In the context of personal exertion, the nexus test will be satisfied if an amount is characterized as a product or incident of employment or a reward for services rendered.

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: 1. Section 15-2 ITAA97

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: From 1 July 2006, section 26(e) ITAA36 has been repealed, and new section 15-2 of the ITAA 97 has become operative.

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 15-2 of the ITAA 97 provides:

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: an amount that is assessable as ordinary income under section 6-5;

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: an employee share scheme interest to which Subdivision 83A-B (s 83A-20) or Subdivision 83A-C (s 83A-105) applies.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note: Section 23L of the Income Tax Assessment Act 1936 provides that fringe benefits are nonassessable nonexempt income. [emphasis added]

Fringe-benefit exclusion

Where the FBT regime applies to the employee benefit, use the statutory exclusion so the employee is not also assessed on the fringe benefit as ordinary income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: 4 requirements to trigger s 15-2:

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 995-1(1) ITAA97 defines to "provide" an economic benefit as including: to allow, confer, give, grant or perform the benefit.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What is one of the key differences between former s 26(e) and s 15-2?

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Can s 15-2 apply to benefits that are not convertible into money?

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If section 15-2 is triggered, the amount to include in assessable income is the “value to you” meaning the ‘value to the taxpayer’. This was the equivalent valuation rule in former s 26(e) ITAA36.

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Contrast this with the valuation rule under s 6-5 ITAA97. The valuation rule under s 6-5 is the ‘realisable value’ of the relevant benefit: Donaldson v FCT 74 ATC 4192. Presumably this means the amount that a willing but not anxious purchaser would be prepared to pay for the relevant benefit (akin to the market value?). Also consider s 21 ITAA36 and the “money value” of the consideration provided.

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: From 1 July 2006, would s 15-2 apply in the following cases?

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Valuation issues in former s 26(e): an impetus for reform - Fringe Benefits Tax (see below)

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: 2. Section 15-3 ITAA97

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 15-3 ITAA97 includes in a taxpayer's assessable income:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: FBT is a tax imposed on employers on the value of 'fringe benefits' (as defined in s 136(1) Fringe Benefits Tax Assessment Act 1986 (Cth) (FBT Act)) provided to employees or to associates of employees in respect of their employment for the FBT year (1 April to 31 March).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Elements of the definition of 'fringe benefit' in s 136(1) of the FBT Act:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: That is not covered by the exclusions in the s 136(1) 'fringe benefit' definition

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In relation to the last point above, examples of exclusions from the section 136(1) definition of fringe benefit are:

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Paragraph (f) - ie payments of ‘salary or wages’ (See the section 136(1) definition of ‘salary or wages’ and the cross-reference within that definition to Schedule 1 of the Taxation Administration Act 1953 (Cth). In particular, note the type of payments covered by section 12-35 in Schedule 1 to the Tax Admin Act).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Question: Therefore, what are regarded as ‘salary or wages’ that will be excluded from the definition of ‘fringe benefit’ in section 136(1)?

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Once you are satisfied that your benefit satisfies the definition of ‘fringe benefit’ in s 136(1), you need to then ask: what type of fringe benefit have I got? This is because the FBT Act contains specific valuation rules depending on the classification of your ‘fringe benefit’.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: minor benefits with a notional taxable value of less than $300 (see s 58P FBT Act).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: the provision of certain eligible work-related items like portable electronic devices, computer software, protective clothing, briefcases, and tools of trade provided they are used primarily in the employee’s employment (see s 58X FBT Act - subject to some exceptions).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: subscriptions to trade or professional journals (s 58Y FBT Act)

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: certain taxi travel (s 58Z FBT Act).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Consider the relationship between sections 6-5, 6-25 and 15-2 ITAA97.

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note the exclusions from the definition of ‘fringe benefit’ in the s 136(1) FBT Act definition. Importantly, note paragraphs (f) and (g) of the definition of ‘fringe benefit’ in section 136(1). What does this mean? What are ‘salary or wages’?

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and

consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: To prevent fringe benefits from being subject to further tax, s 23L(1) ITAA36 makes ‘fringe benefits’ non-assessable, non-exempt income in the hands of employees. Note the distinction between subsections (1) and (1A) in section 23L(1). When does each sub-section in section 23L apply? What is the practical difference between exempt income and non-assessable non-exempt income (refer to s 6-23 and Division 36 ITAA97)?

NANE income

Identify the provision making the amount non-assessable non-exempt; do not treat it as a deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If an amount is assessable as ordinary income under s 6-5, it can not be included in assessable income under section 15-2 ITAA97. Note the initial phrase “[u]nless the contrary intention appears” in section 6-25(2) ITAA 97. Does s 15-2 ITAA97 express a contrary intention? What is the practical effect of this?

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What valuation rule does s 6-5 impose compared to s 15-2 ITAA97?

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Consider how s 15-2 ITAA97 or the FBT Act might apply, if at all, to any of these cases.

Employment/service benefits

Use for allowances, gratuities, compensation, benefits or bonuses provided in respect of employment/services where the statutory conditions are met and ordinary income does not already resolve the item.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Advise Jackson whether the $24,000 would be included in his assessable income pursuant to s 6-5 or s 15-2 ITAA97, and if so, when it is included. In doing so, consider Higgs (Inspector of Taxes) v Olivier (1951) 1 Ch 899.

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: The nexus test may still be satisfied even if an amount is consideration for past or future services (Hochstrasser v Mayes [1960] AC 376); is paid by a 3rd party (Kelly v FCT 85 ATC 4283, Dean & Anor v FCT 97 ATC 4762) ; or is the product of an isolated act of service (Brent v FCT 71 ATC 4195).
a third-party prize can be ordinary income where it is a normal incident or product of the taxpayer’s professional income-producing activity

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Brent v FCT 71 ATC 4195

personal services income and derivation depend on what the taxpayer did to earn the amount and when it was derived; useful for timing and redirected salary facts

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Scott v FCT (1966) 117 CLR 514
a genuine personal gift motivated by personal relationship can be non-income; compare objective connection with services

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Kelly v FCT 85 ATC 4283
a third-party prize can be ordinary income where it is a normal incident or product of the taxpayer's professional income-producing activity

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Calvert (Inspector of taxes) v Wainwright (1947) 27 TC 475
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Dixon (1952) 86 CLR 540
a payment substituting for employment earnings can retain income character even if paid by another source or under a special arrangement

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The meaning given to the phrase 'value to the taxpayer' by Bowen CJ in Donaldson v FCT 74 ATC 4192 is 'what a prudent person in [the taxpayer's] position would be willing to give for [the item] rather than fail to obtain [it].'

non-cash benefit valuation/characterisation requires attention to the actual statutory measure rather than assuming retail price

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Contrast this with the valuation rule under s 6-5 ITAA97. The valuation rule under s 6-5 is the 'realisable value' of the relevant benefit: Donaldson v FCT 74 ATC 4192. Presumably this means the amount that a willing but not anxious purchaser would be prepared to pay for the relevant benefit (akin to the market value?). Also consider s 21 ITAA36 and the "money value" of the consideration provided.
non-cash benefit valuation/characterisation requires attention to the actual statutory measure rather than assuming retail price

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Cooke and Sherden 80 ATC 4140
non-convertible non-cash benefits illustrate why inclusion and valuation are separate questions; modern s 21A must then be considered for business benefits

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Smith v FCT (1987) 164 CLR 513; 87 ATC 4883; [1987] HCA 48
Smith concerned an employer's payment under an encouragement-to-study scheme. The High Court held the payment assessable under former s 26(e): the required connection is not satisfied by employment as a mere background fact, but the benefit may be caught where it is a product or incident of the employment and the employment is a substantial reason for its provision. Use the case when analysing the employment/services nexus now reflected in s 15-2 ITAA97.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Payne v FCT 96 ATC 4407
travel between separate income-producing activities requires careful statutory/nexus analysis; ordinary commuting principles remain distinct

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Kelly v FCT 85 ATC 4283
a third-party prize can be ordinary income where it is a normal incident or product of the taxpayer's professional income-producing activity

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Case Z9 92 ATC 144; AAT Case 7752 (1992) 23 ATR 1057
Case Z9 concerned a lump-sum payment associated with employees giving up rostered-day-off rights. The Tribunal treated the receipt as capable of being brought within former s 26(e) even though the payment was capital in character for ordinary-income purposes. It is therefore useful for the distinction between ordinary income under s 6-5 and employment-related statutory income under current s 15-2.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Higgs v Olivier [1951] Ch 899
a payment for a restrictive covenant can be capital because the taxpayer gives up a capital right/earning structure; modern CGT must then be checked

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Advise Jackson whether the $24,000 would be included in his assessable income pursuant to s 6-5 or s 15-2 ITAA97, and if so, when it is included. In doing so, consider Higgs (Inspector of Taxes) v Olivier (1951) 1 Ch 899.
a payment for a restrictive covenant can be capital because the taxpayer gives up a capital right/earning structure; modern CGT must then be checked

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.

- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. PTL [6.00]–[6.250]; [7.000]–[7.100]; [7.310]–[7.350]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) ("PTL"). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Personal exertion income asks why the taxpayer received the amount. Salary and wages are obvious, but the harder university problems involve prizes, gifts, allowances, third-party payments, non-cash benefits, compensation and restraints. The correct method is to identify the earning activity, ask whether the receipt is a product or incident of that activity, and then consider statutory additions and exclusions.

The cases form a spectrum. At one end are amounts clearly earned for services. At the other are private gifts or capital payments where the employment or service relationship merely provides the occasion for the receipt. Between them are awards, tips, gratuities and benefits where the facts must be compared with the authorities. A good answer explains the causal connection rather than relying on labels such as "gift" or "bonus".

Non-cash benefits require two separate questions: is the benefit income or brought in by a statutory provision, and if so how is it valued? This chapter contrasts ordinary-income realisable value with the "value to the taxpayer" language used in s 15-2 and with the FBT regime.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 s 6-5	Ordinary income from personal exertion depends on a sufficient nexus with employment, services or another income-earning capacity.	Use first for salary, commissions, prizes connected with work, tips and third-party rewards.

ITAA97 s 15-2	Specifically brings in allowances, gratuities, compensation, benefits, bonuses and premiums provided in respect of employment or services, subject to its interaction with ordinary income and other regimes.	Use after s 6-5 where the receipt is employment/ service related but ordinary-income character is uncertain.
ITAA97 s 6-25	Coordinates overlapping income provisions and prevents inappropriate double inclusion.	Use when the same receipt appears capable of falling under both s 6-5 and s 15-2.
ITAA36 ss 21 and 21A	Section 21 provides a general money-value concept; s 21A deals with certain non-cash business benefits and is particularly relevant in later business-income analysis.	Do not assume the face retail price is automatically the assessable value.
FBTAA 1986 s 136(1)	Defines fringe benefit and contains important exclusions, including salary/wages and other payments dealt with elsewhere.	Classify the benefit before applying FBT valuation/ exemption rules.
FBTAA ss 58P, 58X, 58Y and 58Z	The relevant rules identify examples of FBT exemptions, including minor benefits and specified work-related benefits.	Use only after establishing that the benefit is within the FBT regime.
ITAA36 s 23L	Prevents ordinary fringe benefits being taxed again in the employee's assessable income, with attention drawn to the distinction between subsections (1) and (1A).	Use to explain why the employer can have an FBT liability while the employee does not include the same fringe benefit as ordinary assessable income.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it

Brent v FCT 71 ATC 4195	An isolated act of service can generate ordinary income; repeated employment is not essential.	Use where a taxpayer performs a one-off service or provides information/assistance for payment.
Scott v FCT (1966) 117 CLR 514	A payment described as a gift may remain non-income where the personal relationship and donative character dominate rather than the professional services.	Use for gifts/gratuities from clients and compare facts carefully.
Kelly v FCT 85 ATC 4283	A third-party prize can be ordinary income where it is a product or incident of the taxpayer's income-earning activities.	Use for competition prizes connected with employment or professional performance.
FCT v Dixon (1952) 86 CLR 540	Periodic payments replacing employment income can take income character because of their connection with the taxpayer's employment circumstances.	Use for substitutes for salary and income-maintenance payments.
Hochstrasser v Mayes [1960] AC 376	A payment linked in time to employment can nevertheless be compensation for a personal/capital detriment rather than remuneration for services.	Use to show that "because of employment" is not the same as "income from employment".
Donaldson v FCT 74 ATC 4192	This book uses the case for valuation concepts, including what a prudent person in the taxpayer's position would pay rather than go without the benefit.	Use when a non-cash benefit has no simple cash amount.
Cooke & Sherden; Payne	Demonstrate convertibility and realisable-value issues for non-cash ordinary income.	Use before moving to statutory provisions that may now alter the historical outcome.

Higgs v Olivier [1951] Ch 899	Classic authority for a payment for a restrictive covenant being capital rather than ordinary remuneration.	Use where an employee is paid not to work or compete.

Worked application — fact-by-fact reasoning map

Salary and commissions
Straightforward ordinary income under s 6-5. State the amount and move on efficiently.

Airline competition cash prize
The prize is strongly connected with Jackson's work selling the airline's tickets; Kelly supplies the analogy. Explain the employment nexus.

OLED television
Characterise first, then value. Compare retail price with realisable value and the statutory valuation rules relevant to the provision used.

Non-convertible Las Vegas holiday
This is the difficult item. Work through convertibility under ordinary income, possible s 15-2 treatment, and the relevant valuation measure rather than assuming retail price.

Client cash and champagne
Apply Scott and the gift/gratuity cases. Ask whether the payment is really a reward for services or a personal gift arising from friendship.

Rent and dividend timing
These receipts belong to other income categories, but the worked problem tests timing. Apply the derivation/payment rules for the current income year.

Restrictive covenant
Analyse the payment as consideration for surrender/restriction of a capital right or earning capacity, with Higgs v Olivier as the principal comparison; then consider CGT consequences if within syllabus scope.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 3 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. In FCT v Dixon, a voluntary payment made to a former employee to supplement his reduced wartime service pay was held:

1. Not income because it was voluntary
2. Income because it was paid to make up for a reduction in his employment-related income
3. A capital gift from a third party
4. Exempt military income

Q2. In Scott v FCT, a substantial monetary gift from a grateful client to his solicitor was held not to be ordinary income primarily because:

1. The amount was too small
2. It arose from a personal relationship of gratitude rather than being a reward for professional services
3. Solicitors cannot receive gifts
4. It was paid in a lump sum

Q3. The key distinguishing question between Dixon and Scott is:

1. Whether the payer was an employer or a client
2. Whether the payment substitutes for/rewards income-earning activity, or instead arises from personal generosity unconnected to it
3. The size of the payment
4. Whether the payment was made in one lump sum or instalments

Q4. A prize or windfall gain will be assessable as ordinary income where:

1. It is sufficiently connected to the taxpayer's employment or income-producing activity
2. It exceeds $1,000
3. It was awarded by a public authority
4. The taxpayer expected to win

Q5. Section 15-2 ITAA97 (the statutory income provision covering allowances and benefits) applies where a benefit:

1. Is provided in connection with, or as a reward for, services rendered
2. Is any payment made by an employer for any reason
3. Is only relevant to non-cash benefits
4. Only applies to company directors

Q6. The gambling/hobby distinction (illustrated by cases such as Case K25) turns on whether the activity shows:

1. A system, organisation and commercial character consistent with carrying on a business
2. Regular attendance at a venue
3. Winning more than losing over time
4. Registration with a gambling authority

Q7. FCT v Cooke and Sherden is relevant in this chapter because it shows that a non-cash benefit is less likely to be ordinary income where:

1. It was provided by a related party
2. It cannot be converted into money
3. It was provided overseas
4. It was provided only once

Q8. Payne v FCT is relevant to personal-exertion income because it illustrates that a benefit connected to work-related travel is not automatically assessable unless:

1. It is redeemed within 12 months
2. There is a sufficient nexus between the benefit and the taxpayer's own income-producing activity, rather than merely the employer's expenditure
3. It is provided in a foreign currency
4. The taxpayer is a frequent traveller

Q9. A payment made under a genuinely personal or family relationship, with no connection to services rendered, is generally:

1. Statutory income under s 15-2
2. Not assessable, because it lacks the character of a reward for services or business activity
3. Always exempt income under s 6-20
4. Assessable if it is a lump sum

Q10. When answering an IRAC problem about a prize, gift, or one-off benefit, the first legal question to ask is:

1. How much is it worth?
2. What produced the receipt — is there a real connection to an income-earning activity, or does it arise from personal relationship, luck, or mere generosity?
3. Was GST charged?
4. Is the payer a company or an individual?

Chapter 3 Mastery Quiz — Answers and Explanations

A1. Answer: B

The payment in Dixon replaced/supplemented his reduced employment income, giving it an income character.

A2. Answer: B

Scott's gift arose from the client's personal gratitude, not as a reward for professional services, so it lacked the character of income.

A3. Answer: B

The distinguishing question is whether the payment substitutes for or rewards income-earning activity, versus arising from a personal relationship unconnected to it.

A4. Answer: A

A prize is assessable as ordinary income where it is sufficiently connected to employment or an income-producing activity.

A5. Answer: A

Section 15-2 applies to allowances, gratuities, benefits and compensation provided in connection with, or as a reward for, services.

A6. Answer: A

The gambling/hobby distinction turns on system, organisation and commercial character.

A7. Answer: B

Cooke and Sherden shows that non-convertibility into money weighs against a benefit being ordinary income.

A8. Answer: B

Payne shows the benefit must have a sufficient nexus with the taxpayer's own income-producing activity, not just the employer's spending.

A9. Answer: B

A payment from personal relationship or generosity, unconnected to services, is generally not assessable.

A10. Answer: B

The first question is always what produced the receipt and whether it has a real connection to income-earning activity.

Chapter 3 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Contrast FCT v Dixon and Scott v FCT and explain the legal principle that reconciles their different outcomes.

SA2. Explain why a lottery win is not ordinary income, but a professional gambler's winnings might be.

SA3. Explain how s 15-2 extends the reach of assessable income beyond ordinary income for employment-related benefits.

SA4. Using Cooke and Sherden, explain why convertibility into money matters when characterising a non-cash benefit.

SA5. A taxpayer receives a $5,000 "thank you" gift from a long-standing client after a project. Identify the issue(s), state the rule(s), and explain how you would apply Scott v FCT to reach a conclusion.

Chapter 3 Short-Answer Questions — Model Answers

Model Answer SA1

In Dixon, the payment substituted for reduced employment income and was therefore income. In Scott, the gift arose from the client's personal gratitude and was unconnected to a reward for services, so it was not income. The reconciling principle is that the character of a receipt depends on whether it replaces or rewards income-earning activity, not merely on who paid it or how generous the payer felt.

Model Answer SA2

A private individual's lottery win is a pure windfall from chance, with no system, organisation or commercial character, so it lacks the character of ordinary income. A professional gambler who operates with system, record-keeping, and a business-like approach may be found to be carrying on a business of gambling, in which case winnings from that activity can be assessable (and losses potentially deductible), because the activity itself has taken on a commercial character.

Model Answer SA3

Section 15-2 extends assessable income to allowances, gratuities, compensation and other benefits provided in connection with, or as a reward for, services rendered — capturing benefits that might not satisfy the strict "ordinary income" test but are still clearly connected to employment or services.

Model Answer SA4

Convertibility into money matters because ordinary income traditionally requires the character of money or something readily convertible into money. In Cooke and Sherden, the non-transferable holiday package could not be sold or exchanged for cash, which was a significant factor in the finding that it lacked the essential character needed to be ordinary income.

Model Answer SA5

Issue: whether the $5,000 gift is assessable income. Rule: s 6-5 ordinary income; Scott v FCT (personal gratitude vs reward for services). Application: if the gift arose purely from the client's personal appreciation, unconnected to any ongoing service obligation or expectation of future work, it is analogous to Scott and likely not assessable; if it was effectively a bonus for completing the project (i.e. connected to the services rendered), it is more analogous to a reward for services and likely assessable, potentially under s 15-2. Conclusion: the answer turns on the closeness of the connection between the gift and the services performed — state the better view on the given facts and note the alternative characterisation.

Chapter 3 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Are Christmas bonuses from an employer assessable?

Q: Is a lottery or casino win taxable in Australia?

Q: If a benefit is provided in kind (e.g. a car or holiday) rather than cash, is it still taxable?

Q: Does it matter who pays me, as long as I did the work?

Q: Is compensation for unfair dismissal taxable?

Chapter 3 — Frequently Asked Questions: Suggested Answers

FAQ 1

Yes — a bonus paid by an employer to an employee is almost always sufficiently connected to the employment relationship to be ordinary income (or statutory income under s 15-2), even if described as a "gift".

FAQ 2

Generally no for a private individual, because the activity ordinarily lacks the systematic, organised, commercial character needed to be "carrying on a business" of gambling — a pure windfall from luck is not ordinary income.

FAQ 3

It can be, but the analysis is more complex — see Cooke and Sherden, where non-convertibility into money was a significant factor in finding the benefit was not ordinary income. Fringe benefits tax may also be relevant instead of income tax where an employer provides the benefit.

FAQ 4

Yes it can — the source of the payment and the reason for it both matter. A payment from a third party (not your direct employer) can still be assessable if it is a reward for, or substitute for, your income-earning activity (as in Dixon), but a personal gift from a client is analysed differently (as in Scott).

FAQ 5

It depends on what the payment replaces — this overlaps with the "substitution principle" covered in Chapter 5's compensation-receipts topic, and often also engages the employment termination payment (ETP) rules.

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does Salary mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Wages mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Bonus mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does Commission mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does Prize mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does GIFT mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does Gratuity mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Nexus mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does Salary mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Ordinary remuneration for employment. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

2. What does Wages mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Employment earnings ordinarily assessable as ordinary income. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

3. What does Bonus mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Additional employment reward requiring nexus analysis. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

4. What does Commission mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Performance-linked remuneration. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

5. What does Prize mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Award requiring inquiry into its connection with income-producing activity. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

6. What does GIFT mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Receipt that may be personal or income depending on its true nexus. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

7. What does Gratuity mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Voluntary payment potentially connected with services. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

8. What does Nexus mean, why does it matter in Chapter 3, and how should a student use it in a problem question?

Connection between receipt and employment or services. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define Salary and explain why it matters to the Chapter 3 analysis.
2. Define Wages and explain why it matters to the Chapter 3 analysis.

3. Define Bonus and explain why it matters to the Chapter 3 analysis.
4. Define Commission and explain why it matters to the Chapter 3 analysis.
5. Define Prize and explain why it matters to the Chapter 3 analysis.
6. Define GIFT and explain why it matters to the Chapter 3 analysis.
7. What role does s 15-2 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does s 21 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does s 21A play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does s 6-5(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 995-1(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 23L play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Brent v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does Kelly v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does Scott v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does FCT v Dixon illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Donaldson v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Jackson receives salary and commission from an airline. The airline gives him a television for exceeding sales targets and a non-transferable holiday as employee of the year. A long-term client gives him a $2,000 wedding gift. Jackson also receives $40,000…
20. What should a strong Chapter 3 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

Ordinary remuneration for employment. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

2. Answer

Employment earnings ordinarily assessable as ordinary income. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

3. Answer

Additional employment reward requiring nexus analysis. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

4. Answer

Performance-linked remuneration. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

5. Answer

Award requiring inquiry into its connection with income-producing activity. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

6. Answer

Receipt that may be personal or income depending on its true nexus. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

7. Answer

Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.

8. Answer

Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.

9. Answer

Cooke & Sherden and Payne are central to the ordinary-income non-convertibility principle. But a conclusion under ordinary concepts is not the end of the analysis: s 21, s 21A, s 15-2 and the FBT rules may alter the result. Section 21 is a valuation rule, not an independent charging provision. Students must first identify the provision that brings the benefit into the tax base and then value it using the applicable rule.

10. Answer

Cooke & Sherden and Payne are central to the ordinary-income non-convertibility principle. But a conclusion under ordinary concepts is not the end of the analysis: s 21, s 21A, s 15-2 and the FBT rules may alter the result. Section 21 is a valuation rule, not an independent charging provision. Students must first identify the provision that brings the benefit into the tax base and then value it using the applicable rule.

11. Answer

Amounts received because of employment, services or other personal effort are a central category of ordinary income. Under ITAA97 s 6-5(1), the question is whether the receipt has a sufficient connection with an income-earning activity so that it is properly characterised as a product or incident of employment or services rendered.

12. Answer

Has it been “provided” to the taxpayer? Section 995-1(1) contains an inclusive definition relevant to providing an economic benefit.

13. Answer

Not every employment-related non-cash benefit is included directly in the employee's assessable income. The course directs attention to ITAA36 s 23L and the fringe-benefits-tax regime. A proper answer asks whether the benefit is a fringe benefit and, if so, whether s 23L makes it non-assessable to the employee while the employer bears a separate FBT liability.

14. Answer

An isolated act of service may produce income.

15. Answer

Third-party prize sufficiently connected with employment can be income.

16. Answer

Genuine personal gift can be non-income despite professional relationship.

17. Answer

Voluntary third-party payments may be income where they substitute or supplement earnings.

18. Answer

Assists with “value to taxpayer”.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 15-2 in this chapter?

1. s 21A
2. s 15-2
3. s 6-5
4. s 21

2. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 6-5
2. s 15-2
3. s 21
4. s 21A

3. Which provision is the relevant statutory reference for the rule or method associated with s 21 in this chapter?

1. s 6-5
2. s 21
3. s 15-2
4. s 21A

4. Which provision is the relevant statutory reference for the rule or method associated with s 21A in this chapter?

1. s 15-2
2. s 6-5
3. s 21
4. s 21A

5. Which provision is the relevant statutory reference for the rule or method associated with s 6-5(1) in this chapter?

1. s 6-5
2. s 21
3. s 6-5(1)
4. s 15-2

6. Which provision is the relevant statutory reference for the rule or method associated with s 995-1(1) in this chapter?

1. s 995-1(1)
2. s 21
3. s 6-5
4. s 15-2

7. Which provision is the relevant statutory reference for the rule or method associated with s 23L in this chapter?

1. s 15-2
2. s 23L
3. s 6-5
4. s 21

8. Which provision is the relevant statutory reference for the rule or method associated with s 15-2(1) in this chapter?

1. s 15-2(1)
2. s 15-2
3. s 21
4. s 6-5

9. Which authority is connected with this proposition: An isolated act of service may produce income.

1. Brent v FCT
2. FCT v Dixon
3. Kelly v FCT
4. Scott v FCT

10. Which authority is connected with this proposition: Third-party prize sufficiently connected with employment can be income.

1. FCT v Dixon
2. Kelly v FCT
3. Scott v FCT
4. Brent v FCT

11. Which authority is connected with this proposition: Genuine personal gift can be non-income despite professional relationship.

1. Kelly v FCT
2. Brent v FCT
3. Scott v FCT
4. FCT v Dixon

12. Which authority is connected with this proposition: Voluntary third-party payments may be income where they substitute or supplement earnings.

1. FCT v Dixon
2. Scott v FCT
3. Kelly v FCT
4. Brent v FCT

13. Which authority is connected with this proposition: Assists with “value to taxpayer”.

1. Kelly v FCT
2. Brent v FCT
3. Scott v FCT
4. Donaldson v FCT

14. Which authority is connected with this proposition: Restraint payment can have capital character.

1. Higgs v Olivier
2. Scott v FCT
3. Kelly v FCT
4. Brent v FCT

15. Which taxation-law term or authority best matches this description: Ordinary remuneration for employment.

1. Bonus
2. Salary
3. Commission
4. Wages

16. Which taxation-law term or authority best matches this description: Employment earnings ordinarily assessable as ordinary income.

1. Wages
2. Bonus
3. Commission
4. Prize

17. Which taxation-law term or authority best matches this description: Additional employment reward requiring nexus analysis.

1. Bonus
2. Commission
3. GIFT
4. Prize

18. Which taxation-law term or authority best matches this description: Performance-linked remuneration.

1. Prize
2. Gratuity
3. GIFT
4. Commission

19. Which taxation-law term or authority best matches this description: Award requiring inquiry into its connection with income-producing activity.

1. Prize
2. GIFT
3. Nexus
4. Gratuity

20. Which taxation-law term or authority best matches this description: Receipt that may be personal or income depending on its true nexus.

1. GIFT
2. Brent
3. Gratuity
4. Nexus

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. B. s 15-2

Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.

2. A. s 6-5

Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.

3. B. s 21

Cooke & Sherden and Payne are central to the ordinary-income non-convertibility principle. But a conclusion under ordinary concepts is not the end of the analysis: s 21, s 21A, s 15-2 and the FBT rules may alter the result. Section 21 is a valuation rule, not an independent charging provision. Students must first identify the provision that brings…

4. D. s 21A

Cooke & Sherden and Payne are central to the ordinary-income non-convertibility principle. But a conclusion under ordinary concepts is not the end of the analysis: s 21, s 21A, s 15-2 and the FBT rules may alter the result. Section 21 is a valuation rule, not an independent charging provision. Students must first identify the provision that brings…

5. C. s 6-5(1)

Amounts received because of employment, services or other personal effort are a central category of ordinary income. Under ITAA97 s 6-5(1), the question is whether the receipt has a sufficient connection with an income-earning activity so that it is properly characterised as a product or incident of employment or services rendered.

6. A. s 995-1(1)

Has it been “provided” to the taxpayer? Section 995-1(1) contains an inclusive definition relevant to providing an economic benefit.

7. B. s 23L

Not every employment-related non-cash benefit is included directly in the employee's assessable income. The course directs attention to ITAA36 s 23L and the fringe-benefits-tax regime. A proper answer asks whether the benefit is a fringe benefit and, if so, whether s 23L makes it non-assessable to the employee while the employer bears a separate…

8. A. s 15-2(1)

s 15-2(1) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

9. A. Brent v FCT

An isolated act of service may produce income.

10. B. Kelly v FCT

Third-party prize sufficiently connected with employment can be income.

11. C. Scott v FCT

Genuine personal gift can be non-income despite professional relationship.

12. A. FCT v Dixon

Voluntary third-party payments may be income where they substitute or supplement earnings.

13. D. Donaldson v FCT

Assists with “value to taxpayer”.

14. A. Higgs v Olivier

Restraint payment can have capital character.

15. B. Salary

Salary: Ordinary remuneration for employment.

16. A. Wages

Wages: Employment earnings ordinarily assessable as ordinary income.

17. A. Bonus

Bonus: Additional employment reward requiring nexus analysis.

18. D. Commission

Commission: Performance-linked remuneration.

19. A. Prize

Prize: Award requiring inquiry into its connection with income-producing activity.

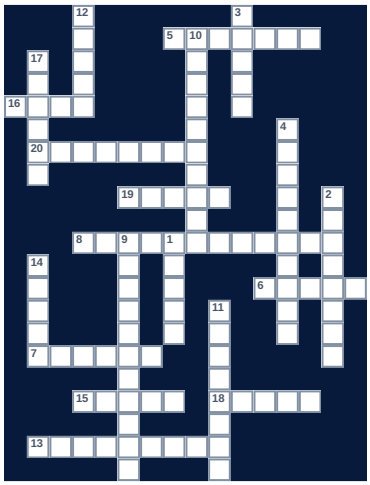
20. A. GIFT

GIFT: Receipt that may be personal or income depending on its true nexus.

20-CLUE CROSSWORD

Crossword - Chapter 3: Income from Personal Exertion, Employment, Gifts, Prizes and Benefits

Launch Chapter 3 Active Crossword to type directly into the grid and check your answers.



Across

1. Non-cash or other advantage potentially within statutory income.
2. Authority illustrating employment-related payments replacing income.
3. Ordinary remuneration for employment.
4. Authority concerning employment compensation and character.
5. Authority relevant to valuation and employment benefits.
6. Award requiring inquiry into its connection with income-producing activity.
7. Receipt that may be personal or income depending on its true nexus.
8. Connection between receipt and employment or services.
9. Employment earnings ordinarily assessable as ordinary income.
10. Voluntary payment potentially connected with services.

Down

1. Authority distinguishing personal gifts from income receipts.
2. Exertion category involving labour or services.
3. Authority on prizes connected with professional activity.
4. Performance-linked remuneration.
5. Characteristic relevant to ordinary income treatment of non-cash benefits.
6. Relationship generating salary, wages and many statutory benefits.
7. Restrictive payment may have capital character unless statute applies.
8. Authority on payments connected with services or personal exertion.
9. Additional employment reward requiring nexus analysis.
10. Employer-provided benefit potentially dealt with under FBT rather than employee assessable income.

CROSSWORD ANSWERS

Crossword Answers - Chapter 3

5 Across - BENEFIT	6 Across - DIXON
7 Across - SALARY	8 Across - HOCHSTRASSER
13 Across - DONALDSON	15 Across - PRIZE
16 Across - GIFT	18 Across - NEXUS
19 Across - WAGES	20 Across - GRATUITY
1 Down - SCOTT	2 Down - PERSONAL
3 Down - KELLY	4 Down - COMMISSION
9 Down - CONVERTIBLE	10 Down - EMPLOYMENT
11 Down - COVENANT	12 Down - BRENT
14 Down - BONUS	17 Down - FRINGE

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Employment rewards, gifts and prizes

Problem

Jackson receives salary and commission from an airline. The airline gives him a television for exceeding sales targets and a non-transferable holiday as employee of the year. A long-term client gives him a $2,000 wedding gift. Jackson also receives $40,000 for agreeing not to work for a competitor for 12 months after leaving. Characterise each receipt under ordinary and statutory income principles.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Employment rewards, gifts and prizes

Issue. Each receipt must be characterised by the reason it was received and, for non-cash benefits, by the employment/FBT and valuation rules.

Rule / Law. Salary and rewards for services are ordinary income under ITAA97 s 6-5 and may also engage s 15-2 for employment-related benefits. ITAA36 ss 21/21A address non-cash value; fringe benefits are generally excluded from the employee's assessable income by s 23L. *Dixon* supports income treatment where a payment substitutes for employment income; *Scott* supports non-income treatment for a genuine personal gift. *Cooke and Sherden* is relevant to non-convertible benefits. A payment for a restrictive covenant is ordinarily capital in character and can trigger CGT event D1 under ITAA97 s 104-35.

Application. Salary and commission are ordinary income. The television is earned for exceeding sales targets and is closely connected with employment; if provided as a fringe benefit it falls into the FBT regime rather than being taxed again to Jackson, otherwise the income/non-cash benefit provisions must be considered. The non-transferable holiday likewise requires the FBT rules to be checked; its non-convertibility is relevant under *Cooke and Sherden* but does not override a specific FBT treatment. The $2,000 wedding gift from a long-term client is most likely a personal gift if motivated by friendship/gratitude rather than services; *Scott* is the key analogy. The $40,000 non-compete payment is for surrendering/restricting a capital right rather than current services and is prima facie capital, with CGT event D1 needing consideration.

Conclusion. Salary/commission are assessable; the employer benefits require FBT/non-cash treatment; the genuine wedding gift is likely not assessable; and the restrictive-covenant payment is likely capital with CGT consequences rather than ordinary employment income.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Athlete awards and sponsorship

Problem

Riley is an elite amateur cyclist who trains intensively, receives appearance fees, a sponsor’s bicycle, prize money for race wins and a one-off community award unrelated to results. Determine which receipts are assessable and explain the relevance of professional activity, services, convertibility and personal-gift principles.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Athlete awards and sponsorship

Issue. Riley's receipts must be tested for whether the sporting activity has become an income-producing/professional activity and whether each receipt is connected to services, competition success or a personal windfall.

Rule / Law. Ordinary income under s 6-5 includes rewards from business/ professional activities. *Stone v FCT* shows that elite sporting activity can become an income-producing business where sponsorship, prizes and commercial exploitation are integrated. Non-cash benefits may be valued under ITAA36 ss 21/21A. Personal gifts or awards not connected with services may fall outside ordinary income.

Application. Appearance fees are directly paid for services and are ordinary income. A sponsor's bicycle supplied as part of the sponsorship arrangement is a non-cash business/employment-like benefit and its money value is assessable under the applicable non-cash rules. Race prize money is strongly connected to Riley's organised elite activity and, once that activity has the commercial character described in *Stone*, is ordinary income. The one-off community award is different: if it is conferred for community recognition rather than race results, services or sponsorship obligations, it has the stronger character of a personal windfall.

Conclusion. Appearance fees, sponsorship bicycle value and race winnings are likely assessable; the unrelated community award is likely outside ordinary income unless the facts reveal a commercial or service connection.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 4. BUSINESS INCOME, NON-CASH BENEFITS AND ISOLATED PROFIT-MAKING TRANSACTIONS

business indicators • ordinary income • non-cash business benefits • isolated profit-making transactions • grants

The phrase 'business income' hides two separate questions: is the taxpayer carrying on a business, and is the particular receipt income of that business? A one-off transaction can also be ordinary income if it is a commercial profit-making venture.

LEARNING OUTCOMES

- Apply the indicators of business in a balanced, fact-sensitive way.
- Identify ordinary-course and incidental business receipts.
- Deal with non-cash business benefits under s 21A ITAA36.
- Analyse bounties and subsidies where relevant.
- Apply Myer, Whitfords Beach, Westfield and related isolated-transaction authorities.
- Use Amira's coffee and rowing activities to distinguish business, hobby and private activity.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: the business question is one of character, not registration

An ABN, business name or subjective statement of intention does not by itself prove that an activity is a business. The question is objective and holistic. The indicators in TR 97/11 and the cases — including repetition, regularity, scale, organisation,

commercial manner, records, profit purpose and similarity to ordinary trade — are weighed together. *Martin*, *Ferguson*, *Walker* and *Stone* illustrate that small scale or a secondary occupation does not necessarily prevent business character where the activities display commercial substance.

Business income and non-cash benefits

Once an activity is a business, receipts generated in the ordinary course commonly fall within s 6-5. Non-cash business benefits require separate attention to s 21A ITAA36. The student should identify whether the benefit arises in relation to a business relationship, determine whether it is non-cash, apply the statutory valuation mechanism and explain any exclusions.

Isolated profit-making transactions

Myer Emporium is the central authority for one-off commercial profit-making transactions. *Westfield*, *Whitfords Beach*, *Californian Copper* and *Rutledge* help identify whether the profit was contemplated through a commercial transaction or instead represents a mere realisation of a capital asset. Do not reduce the rule to "intention to profit." The transaction must be considered in its whole commercial context.

Accounting bridge

Where a business problem provides revenue, grants, land sales and expenses, prepare a tax classification schedule before doing arithmetic. Mark each item as ordinary income, statutory income, capital/CGT, exempt/NANE or non-assessable. The P&L result is only the starting point; taxable income depends on legal classification and tax timing.

> **In plain English**
> Business status is a picture built from many facts. No ABN or business plan is fatal by itself, and having an ABN does not magically create a business. Look at repetition, organisation, scale, commerciality and profit purpose together.

Key language

business | hobby | system and organisation | scale | frequency | profit motive | commercial character | trading stock | non-cash business benefit | s 21A | bounty | subsidy | isolated transaction | profit-making purpose | principle | ordinary course | grant | prize | accrual income | cash income

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

4.1 Business income begins with a threshold question: is there a business?

Section 6-5 ITAA97 includes ordinary income, and profits from carrying on a business are a classic form of ordinary income. But before taxing “business receipts”, you must establish that the taxpayer is actually carrying on a business. This is especially important for hobbies, side projects, sporting activities, online selling and activities that grow gradually over time.

No single indicator proves the existence of a business. The authorities and TR 97/11 require a practical evaluation of the whole activity: commercial purpose, profit intention, repetition and regularity, scale, system and organisation, record keeping, business-like conduct, capital employed and the way comparable businesses operate.

4.2 The business indicators through the cases

Martin v FCT and Case K25 show that regularity and organisation matter when distinguishing a business from private or recreational activity. *Ferguson v FCT* is particularly useful because a relatively small activity can still be a business when it is systematic, commercial and undertaken with a genuine profit-making purpose. Scale

is relevant but not decisive. *FCT v Walker* reinforces that a modest operation can amount to business where the taxpayer's conduct has the required commercial character.

Stone v FCT is important where sporting or personal activity develops commercial features. The question is not simply whether the taxpayer enjoys the activity or originally began it as a hobby. The legal character can change as sponsorship, prizes, commercial arrangements and systematic exploitation develop.

> **Exam technique**
> Do not list eight business indicators and say “therefore business”. Take the strongest facts on both sides. Explain *when* the activity crossed the line, because tax consequences can differ before and after that date.

4.3 Once a business exists, identify receipts in the ordinary course

Receipts from transactions forming part of the ordinary operations of a business are ordinarily income under s 6-5. Sale proceeds from trading stock, service fees and ordinary business charges are straightforward examples. Section 70-10 ITAA97 defines trading stock and the trading-stock regime can affect timing and calculation, but the basic character of proceeds from normal sales remains revenue.

The phrase “ordinary course” should be understood functionally. A receipt can be income if it is a normal incident of business even if the precise transaction is not repeated every day. The key question is whether it arises from the process by which the business earns its profits rather than from the disposal or sterilisation of its profit-yielding structure.

4.4 Non-cash business benefits and s 21A ITAA36

The common-law convertibility issue in *FCT v Cooke & Sherden* and *Payne v FCT* created difficulty where a taxpayer received a valuable business-related benefit that could not be turned into cash. Section 21A ITAA36 addresses defined non-cash business benefits by treating them according to statutory valuation rules. The section does not mean every gift to a businessperson is automatically income. You must first determine whether the statutory conditions apply.

This chapter highlights the arm's-length value rule and the reductions in ss 21A(3) and 21A(4). Where a business receives an item that is then used privately, the tax consequences can differ from a case where the item becomes trading stock or is used in the business. Separate receipt character, valuation and any deduction consequences.

4.5 Government grants and s 15-10

Government assistance can be ordinary income under s 6-5 where it is received as part of the business's revenue operations. If it is not ordinary income, s 15-10 may include certain bounties or subsidies received in relation to carrying on a business. TR 2006/3 is a significant interpretative source for government payments to industry.

The critical distinction is between a payment supporting day-to-day operations and a payment directed to establishing, acquiring or substantially expanding the business's capital structure. The statutory wording and cases must be applied to the particular grant conditions. Do not assume “government grant = assessable”. Identify the legal pathway.

4.6 Isolated profit-making transactions: business is not essential

A taxpayer who is not carrying on a relevant business can still derive ordinary income from an isolated commercial transaction. This is one of the most examined distinctions in Australian tax law.

The classic authorities trace a progression. *Californian Copper Syndicate v Harris* distinguishes mere realisation of an investment from a profit made through a business operation or commercial dealing. *Rutledge v IRC* illustrates a transaction with a strong profit-making character. *FCT v Whitfords Beach Pty Ltd* demonstrates how the development and commercial exploitation of an asset can transform what might otherwise look like realisation.

The High Court's decision in *FCT v Myer Emporium Ltd* is central. A profit from an isolated transaction can be ordinary income where the taxpayer entered the transaction with the purpose of making a profit and the transaction was commercial or business-like. The principle does not mean that every asset sold at a profit is income. The taxpayer's purpose and the objective commercial character of the transaction must be established.

Westfield Ltd v FCT is an important limiting authority. A profit-making purpose that merely accompanies a transaction may be insufficient if the transaction is not one of the kind contemplated by the *Myer* principle. TR 92/3 and TR 92/4 provide ATO guidance on isolated transactions and profits/losses.

4.7 Ordinary income or CGT? Analyse both, then apply the overlap rules

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT

event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent inappropriate double taxation. Never choose “income” or “CGT” by intuition alone.

The correct method is: first determine whether the profit is ordinary income because it arises from business or an isolated profit-making scheme. Second identify the CGT event and calculate the capital outcome. Third apply the anti-overlap provisions. This sequencing demonstrates legal control.

4.8 Hobby, recreation and social-media activity

Winning prizes or receiving products while pursuing a hobby is not automatically business income. The rower in the worked problem has regular participation and a public Instagram account, but the facts also show recreation, personal achievement and expenses exceeding prizes. The question is whether the overall activity has crossed into commercial exploitation. *Stone* is especially useful for comparing an elite sporting activity with commercial sponsorship to a recreational activity that remains personal.

4.9 Core statutory and authority map

Source	Teaching proposition	Problem trigger
ITAA97 s 6-5	Ordinary business receipts and commercial profits may be assessable.	Sales, service fees, business awards, isolated profits.
TR 97/11; *Martin*; *Ferguson*; *Walker*; *Stone*	Multi-factor business test.	Hobby/side activity becoming business.
ITAA36 s 21A	Statutory treatment/valuation of non-cash business benefits.	Prize, reward or benefit received in business.
ITAA97 s 15-10; TR 2006/3	Business-related bounty/ subsidy may be statutory income.	Government grants.
Myer Emporium; TR 92/3	Isolated commercial profit may be ordinary income.	One-off purchase/sale entered with profit purpose.

Westfield	Limits overly broad use of the isolated-transaction principle.	Purpose not sufficiently connected to the transaction undertaken.
ITAA97 ss 102-20, 104-10	CGT event framework still needs consideration.	Asset disposal even where ordinary income is argued.

4.10 Application masterclass — Amira's coffee operation

Amira's facts are deliberately staged across time. In early 2024 she roasts coffee at home, sells irregularly to friends and colleagues, has no ABN, bank account, business plan, insurance or advertising and makes little revenue. By early 2025 she has an ABN, business name, separate account, margin tracking and repeat customers, but remains employed full time and sometimes refuses orders. From July 2025 she leaves legal practice, leases commercial premises, buys industrial equipment, establishes regular café supply arrangements, launches an online store, advertises, registers for GST, obtains insurance, hires a bookkeeper and engages staff.

A strong answer should not announce one date without analysis. Apply the business indicators to each phase. The July 2025 transformation provides very strong objective evidence of business. The January–June 2025 phase is contestable and requires a balanced conclusion. The early 2024 phase looks much more like a hobby or embryonic activity.

Revenue received and outstanding invoices

Once the business exists, the $180,000 sales are ordinary income. Timing of the $15,000 outstanding invoices requires the derivation principles from the prior chapter. A business operating on an earnings basis may derive income when a recoverable debt arises, not only when cash is received.

Espresso-machine award

The award is made because of Amira's sales growth and is publicised by the manufacturer. That gives it a strong business connection. Test s 6-5 and then s 21A. The facts give retail, wholesale and production values because valuation matters. The private use of the machine does not necessarily prevent the receipt itself from being business-related; it may instead affect deductions or other consequences.

Queensland operating-support grant

The grant is available because of the roasting activity and is used for rent and wages. That points strongly to a revenue/operating character. Analyse s 6-5 and, if

necessary, s 15-10 and TR 2006/3. Contrast that with a grant tied specifically to construction of a new capital facility, which may require a different analysis.

Sale of the original roasting machine

Do not automatically treat the $3,000 sale price as ordinary income. The machine is a depreciating/capital asset rather than trading stock on the stated facts. The capital-allowance and CGT coordination rules will be studied in detail later. This is an example of why a business can receive both revenue and capital amounts.

Rowing prizes and products

Apply *Stone* and the business indicators. The modest prizes, absence of sponsorship obligations, recreational purpose and excess expenses point away from a business, although the public social-media activity is a relevant fact. Explain the balance instead of assuming that prizes are always income or always windfalls.

4.11 HD IRAC structure

I — Issues

When did the coffee activity become a business? Which receipts are ordinary income? Does s 21A apply to the machine? Is the grant ordinary or statutory income? Is rowing a business?

R — Rule

State s 6-5, the business indicators from TR 97/11 and the cases, s 21A, s 15-10/TR 2006/3, and the isolated-transaction principles only where relevant.

A — Application

Apply indicators chronologically. Tie each receipt to the activity that produced it. For the grant and machine, explain both ordinary-income and statutory alternatives. For rowing, apply the commerciality factors rather than merely noting prizes.

C — Conclusion

Give a date/range for business commencement and an itemised conclusion for the receipts, identifying any issue reserved for the CGT/capital-allowance chapters.

4.12 Plain-English summary

Business income is not just “money from a business”. First prove there is a business. Then ask whether the receipt belongs to ordinary business operations, is a non-cash

benefit, is a grant, or is a capital receipt. A person outside business can still make ordinary income from a one-off commercial profit-making transaction. Always keep the CGT regime in view when an asset is sold.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

When does an activity become a business?

Business status is determined from the whole pattern of activity. No single factor such as an ABN, profit in one year or large scale is conclusive. The inquiry looks at commercial purpose, repetition, system and organisation, scale, record keeping, expertise, intention to profit and whether the activity is carried on in a businesslike manner.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Ordinary business income is generally assessable under s 6-5. The statutory definition of business and specific provisions may assist, but the case law emphasises judicial indicators rather than a single statutory checklist.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Martin is used as a hobby/business contrast in gambling. Ferguson shows that even an activity with limited scale can be a business when organised commercially. Walker and Stone illustrate how professional/sporting activities can cross the business

threshold. TR 97/11 provides the ATO's indicator framework in the agricultural/ business context.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot changes over time. Ask when the taxpayer moved from hobby/preparatory conduct to commercial operations. The commencement date affects income, deductions, stock and asset treatment.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

For Amira, prepare a chronology: casual roasting → regular sales → marketing/ records/ABN → equipment → prizes/grants. Determine the first income year in which the indicators collectively support business status.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that

genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Business receipts: sales, grants, prizes and non-cash benefits

Once an activity is a business, each receipt still needs characterisation. Sales and service fees are ordinarily revenue. Government grants may be ordinary income depending on their connection with operations, or statutory income under s 15-10 where the provision applies. Non-cash business benefits can be brought to account through s 21A. Capital grants require particular care because purpose and statutory treatment matter.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use ss 6-5, 15-10 and ITAA36 s 21A in the order supported by the facts. Check s 6-25/anti-overlap principles where more than one provision could apply.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Memorex and GP International Pipecoaters-type grant authorities help distinguish operational subsidies from capital-purpose receipts. Cooke & Sherden explains why the s 21A legislative regime matters for non-cash business benefits.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot conditions attached to the grant, what expenditure it funds, whether it supplements ordinary trading income, and whether the recipient is carrying on a business when it is received.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

In the P&L/tax bridge, separately identify trading revenue, grant income, non-cash benefits and proceeds from capital assets. Do not leave them in one “other income” line.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Isolated profit-making transactions and asset realisations

A taxpayer can derive ordinary income from a single transaction if the profit was contemplated and the transaction was entered into in a business or commercial manner for profit. Conversely, a mere realisation of a capital asset, even advantageously, is generally capital. The hard work is characterising the transaction at acquisition and through its implementation.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Section 6-5 can include profits under ordinary concepts. CGT operates in parallel for capital disposals, subject to anti-overlap. TR 92/3 summarises the ATO approach to isolated profit-making transactions.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Myer Emporium is the leading modern authority on isolated commercial profits. Californian Copper and Rutledge sit toward profit-making acquisition/dealing; Whitfords Beach shows transformation/development can become revenue; Westfield is important where the necessary profit-making purpose at acquisition is not established.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot purpose at acquisition, changes in purpose, development/subdivision, business organisation, borrowing, marketing and whether the taxpayer went beyond a mere realisation.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact

provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

For a land sale, calculate both candidate outcomes: ordinary profit if revenue account, and CGT gain if capital account. Then explain the anti-overlap consequence rather than adding both.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Amira — accounting P&L and tax-classification bridge

Step / item	Tax-law treatment	Number / working
Accounting sales revenue	$180,000	$165,000 cash + $15,000 invoices outstanding; determine business derivation method

Raw beans	$50,000	trading/business cost; exact stock/deduction treatment depends on the relevant regime
Other expenses	$70,000	test under s 8-1/ specific rules
Accounting net profit	$60,000	$180,000 − $50,000 − $70,000
Espresso machine award	Retail $9,000 / wholesale $5,000 / cost $3,200	business prize/non-cash benefit: identify inclusion and s 21A valuation before choosing number
Old roaster sale	$3,000 proceeds; cost $2,000; written-down value $1,200	although worked problem says do not apply Div 40, recognise why tax asset treatment differs from accounting profit
Qld operating grant	$15,000	test ordinary income and s 15-10; operating-expense purpose is significant
Rowing prizes	$3,500	separate hobby/ recreation from business/professional sporting activity
Sports apparel	$1,500	non-cash benefit; no agreement/further promotion obligation; assess nexus before valuation

The accounting profit of $60,000 is not automatically taxable income. Add separately any assessable non-cash award/grant and apply the tax rules to asset sales and deductions. Rowing is a separate activity and must not be folded into the coffee business.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally
In early 2024, while still employed full-time, Amira began roasting specialty coffee beans at home using the name, “Artisan Coffee Collective”. She described it as a “side project”, and had no: ABN, separate bank account, business plan, insurance or advertising. Amira sold the coffee irregularly to friends and colleagues. Prices were informal, records were incomplete, and sales from the activity for the 2023-24 income year were about $3,800 with no overall profit.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
By early 2025, demand had increased through word of mouth and social media. Amira obtained an ABN, registered the business name, opened a separate bank account, began tracking margins, and contacted local cafés, but she was still working as a lawyer and roasting beans outside work hours. Sales remained uneven and she sometimes declined orders due to limited capacity. Between January and June 2025, Amira made $18,000 in sales, mostly through repeat orders.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

developed and implemented a business plan aimed at considerable growth	This fact bears on whether an activity is a business and/or how the business tax rules apply. Treat formal registrations as evidence, not conclusive proof of business character.
In the 2025-26 income year:	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
Amira made regular weekly sales of roasted beans to café owners and the public, generating $180,000 in total revenue for the year from selling roasted beans. Of the sales revenue, $165,000 was received directly from customers into Amira's bank account during the year, with the remaining $15,000 generated from invoices issued during the year to local businesses that remained outstanding at 30 June 2026.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Amira incurred $50,000 in raw coffee bean purchases and other expenses of $70,000 (so her net profit for financial accounting purposes was $60,000).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

A coffee equipment manufacturer informed Amira that Artisan Coffee Collective was the “fastest growing independent roaster” in the region and awarded Amira an espresso machine (that was made in Italy) due to her sales growth. The award had been mentioned in the manufacturer’s advertising. The machine had a retail value of $9,000, wholesale value of $5,000 (to cafés and roasters), and production cost of $3,200. Amira did not pay to enter, had no promotional obligations, and used the machine only at home for private purposes. If relevant, Amira is not entitled to any deductions for the espresso machine.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Amira sold her original domestic roasting machine for $3,000. She had bought it for $2,000 in early 2024 for the initial home-roasting activity and later used it occasionally as a backup after moving to commercial premises. If relevant, the machine’s written down value on the date of sale was $1,200.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Amira received a $15,000 operating support grant from the Queensland government, which was available to her due to her roasting activities during the year to assist with operating expenses. Amira used the grant to pay commercial rent and her casual assistant’s wages.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

During the 2025-26 income year, Amira wins prize money of $3,500 across 3 events, and receives sports apparel worth $1,500 from a local sports store after tagging the store in several posts. There was no agreement with the store, no obligation to post further content, and no request that she promote its products.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Amira enters events for recreation and personal achievement, and her annual rowing expenses, including travel, entry fees and equipment, exceed the value of the prizes and products received.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
Advise Amira if, and from when, she is carrying on a business (or businesses) for income tax purposes, and	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Advise Amira whether the above receipts or profits are assessable income to her as ordinary income only for the 2025-26 income year.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Assume all amounts are GST exclusive.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
You are not required to apply capital allowance provisions in Div 40 ITAA97 to this scenario.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: You only make a capital gain or loss if a CGT Event happens (see s 102-20 ITAA97)

CGT-event gateway

A capital gain/loss arises only because a CGT event happens. Identify the event before doing arithmetic.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Most common CGT Event is CGT Event A1 - disposal of a CGT asset (see s 104-10 ITAA97)

CGT event A1 disposal

Identify change of ownership and the statutory event time, then calculate proceeds and cost base for that asset.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Assessable income includes net capital gains (s 102-5 ITAA97)

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Capital losses can only be utilised against capital gains (ie quarantining rule for capital losses). There is no deduction for net capital losses. Net

capital losses can only be carried forward and offset against future capital gains (sections 102-10 and 102-15).

Net capital loss

Calculate capital loss under the CGT rules; do not deduct it from ordinary income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Consider the definition of trading stock in s 70-10 ITAA97. Does the sale of trading stock generate any ordinary income? Why?

Trading stock

Determine whether property is trading stock because it is held for sale/exchange/ manufacture in the ordinary course of business and apply the trading-stock regime rather than CGT alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 21A ITAA36:

Non-cash business benefits

First identify the benefit as connected with business; then apply the statutory valuation/inclusion machinery. Do not use valuation to create income where no inclusion rule exists.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Reductions under s 21A(3) and s 21A(4)

Non-cash business benefits

First identify the benefit as connected with business; then apply the statutory valuation/inclusion machinery. Do not use valuation to create income where no inclusion rule exists.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If the facts of the above cases occurred today, how might section 21A ITAA36 apply, if at all, to these cases? Refer to the discussion in Chapter 2.

Non-cash business benefits

First identify the benefit as connected with business; then apply the statutory valuation/inclusion machinery. Do not use valuation to create income where no inclusion rule exists.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Consider the effect of section 23L(2) ITAA36 -exemption for certain benefits in the nature of income. Would this section change your answer in the above example (eg if you removed a “zero” from each of the relevant prices)?

Fringe-benefit exclusion

Where the FBT regime applies to the employee benefit, use the statutory exclusion so the employee is not also assessed on the fringe benefit as ordinary income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: *FCT v Cooke & Sherden 80 ATC 4140 and s 21A ITAA36.

Non-cash business benefits

First identify the benefit as connected with business; then apply the statutory valuation/inclusion machinery. Do not use valuation to create income where no inclusion rule exists.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 15-10 ITAA97 - Bounties and Subsidies. When does this section apply? You could also refer to Taxation Ruling TR 2006/3.

Bounties/subsidies

For a government or other subsidy, determine whether the taxpayer receives it in relation to carrying on a business and whether the statutory conditions are satisfied.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: "A loss from an isolated transaction is generally deductible under subsection 51(1) [now s 8-1 ITAA97] if:

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates "to the extent" of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: You are not required to apply capital allowance provisions in Div 40 ITAA97 to this scenario.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: Martin v FCT (1953) 90 CLR 470
business versus hobby/gambling character depends on organisation, system, scale and commerciality, not merely profit

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Case K25 78 ATC 243

This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Ferguson v FCT 79 ATC 4261
a business can exist despite modest scale where activities are systematic, commercial and directed to profit

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Walker 85 ATC 4179
business indicators must be assessed together; formal organisation and commercial operation matter

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Stone v FCT 2005 ATC 4234
professional/sporting activities and associated exploitation can amount to business/income where the activities become commercially organised

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Also, see Taxation Ruling TR 97/11 at paragraph 13 for a helpful summary.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Cooke & Sherden 80 ATC 4140

non-convertible non-cash benefits illustrate why inclusion and valuation are separate questions; modern s 21A must then be considered for business benefits

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Payne v FCT 96 ATC 4407
travel between separate income-producing activities requires careful statutory/nexus analysis; ordinary commuting principles remain distinct

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Federal Coke Company Pty Ltd v FCT 77 ATC 4255
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Cooke & Sherden 80 ATC 4140 and s 21A ITAA36.
non-convertible non-cash benefits illustrate why inclusion and valuation are separate questions; modern s 21A must then be considered for business benefits

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *The Squatting Investments Co Ltd v FCT (1954) 88 CLR 413 (Privy Council)
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Section 15-10 ITAA97 - Bounties and Subsidies. When does this section apply? You could also refer to Taxation Ruling TR 2006/3.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Example: *Memorex Pty Ltd v FCT 87 ATC 5034
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Californian Copper Syndicate Ltd v Harris (Surveyor of Taxes) (1904) 5 TC 159
profit from acquisition with resale/profit-making purpose can be revenue rather than mere realisation

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Rutledge v IRC (1929) 14 TC 490
a single transaction can produce income where undertaken as a profit-making venture

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Whitfords Beach Pty Ltd 82 ATC 4031
development/reorganisation can transform a capital holding into a revenue profit-making operation

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Myer Emporium Ltd 87 ATC 4363
a profit from an isolated commercial transaction can be ordinary income where the transaction is entered into with a profit-making purpose in a business/commercial context; also supports analysing what a compensation/profit amount replaces

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Taxation Ruling TR 92/3
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Taxation Ruling TR 92/4
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Westfield v FCT 91 ATC 4234
without the necessary profit-making purpose or commercial scheme, a profitable disposal may remain a capital realisation

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Myer Emporium Ltd 87 ATC 4363
a profit from an isolated commercial transaction can be ordinary income where the transaction is entered into with a profit-making purpose in a business/commercial context; also supports analysing what a compensation/profit amount replaces

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The Commissioner's views on the application of the decision in Myer are contained in Taxation Ruling 1992/3. The extract below is a summary of the Commissioner's view as set out in paragraphs 15 and 16 of the Ruling.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: In relation to the situation where a taxpayer makes a loss on an isolated transaction, the Commissioner outlines his view in Taxation Ruling 1992/4 as follows:
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: According to paragraphs 12 and 13 of TR 92/3, the ATO considers that "[f]or a transaction to be characterised as a business operation or a commercial transaction, it is sufficient if the transaction is business or commercial in character.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following examples are extracted from Taxation Ruling TR 92/3 and Taxation Ruling TR 92/4.

This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The profit made on the sale of the shares is not income. The transaction was merely an investment, not a business operation or commercial transaction.” [See Example 1 from TR 92/3.]
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Mr Leary's profit is not income because the acquisition and sale of the residential property was not a business operation or commercial transaction. It was the acquisition and sale of an investment, even if a significant purpose of Leary in acquiring the property was profit-making.” [See Example 2 from TR 92/3.]
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The profit of $10,000 is income and assessable under s [6-5]. It can be inferred from the objective circumstances (especially the quick sale following a rise in price and the fact that the asset had no immediate use other than as an object of trade) that profit-making was a significant purpose of Goldfinger in acquiring the gold bars. Furthermore, the substantial amounts of money involved and the nature of the asset traded lead to the conclusion that the transaction was commercial in nature.” [See Example 4 from TR 92/3.]
deduction for interest depends on real income-producing nexus and purpose; disproportionate tax-driven arrangements require close analysis

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: What if the gold bars had been sold for $85,000? Consider TR 92/4.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. PTL [8.00]–[8.280]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) (“PTL”). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Business-income analysis has two levels. First, determine whether the taxpayer is carrying on a business. Secondly, once a business exists, characterise each receipt: ordinary trading receipt, incidental receipt, non-cash business benefit, bounty/subsidy, isolated profit-making transaction, capital receipt or CGT amount. Skipping the threshold business question can lead to the wrong statutory regime.

No single business indicator is decisive. Organisation, scale, repetition, commerciality, profit purpose and the nature of the property/activity are weighed

together. The cases show that small or part-time activity can still be a business, while a large investment can remain passive. A university answer should compare the facts to the indicators instead of counting them mechanically.

The income/capital distinction remains important because CGT and ordinary income use different loss, timing and concession rules. Myer and the ATO rulings on isolated transactions show that a taxpayer who is not generally in business can nevertheless derive ordinary income from a commercial profit-making venture entered into with a profit purpose.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 s 6-5	Ordinary business receipts are included as ordinary income. The scope extends to receipts in the ordinary course and some incidental/commercial gains.	Use after determining that the activity is a business or a commercial profit-making operation.
ITAA97 s 70-10	Defines trading stock and helps distinguish revenue assets held for sale from passive investments/ capital assets.	Use where goods are acquired for sale in the business.
ITAA36 s 21A	Brings certain non-cash business benefits into assessable income and contains reduction rules in subsections (3) and (4).	Use where a business taxpayer receives goods, services or another benefit rather than money.
ITAA97 s 15-10	Deals with bounties and subsidies received in relation to carrying on a business, subject to the statutory requirements.	Use for government grants after checking whether the amount is already ordinary income.
ITAA97 ss 102-5, 102-10, 102-15, 102-20 and 104-10	Provide the CGT framework that may apply where a profit is capital rather than ordinary income.	Analyse ordinary income and CGT separately, then apply the anti-overlap rules.

ITAA97 s 8-1	Can permit losses from a business or qualifying isolated commercial transaction where the statutory nexus exists and no negative limb applies.	Use with TR 92/4 for isolated-transaction losses.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Martin v FCT (1953) 90 CLR 470	Used to distinguish recreation/hobby activity from a business.	Use where activity is small-scale, irregular or recreational.
Ferguson v FCT 79 ATC 4261	Demonstrates that a business can exist despite modest scale where activities are systematic, commercial and directed to profit.	Use to counter the argument that small scale automatically means hobby.
FCT v Walker 85 ATC 4179	Supports a fact-sensitive business analysis involving organisation and commercial character.	Use with the broader indicator framework.
Stone v FCT 2005 ATC 4234	Shows how professional/sporting activities and related receipts can collectively acquire business character.	Use for elite sport, sponsorship/prize income and organised income-producing activity.
Cooke & Sherden	Historical non-cash benefit authority; modern business facts require consideration of s 21A.	Use to explain why Parliament enacted statutory non-cash benefit rules.
Federal Coke Co Pty Ltd v FCT 77 ATC 4255	Illustrates that a receipt can be capital even if connected with business circumstances; character depends on what the receipt is for.	Use when a business receives an unusual lump sum.

FCT v Myer Emporium Ltd 87 ATC 4363	A profit from an isolated transaction can be ordinary income where the transaction is entered into with a profit-making purpose in a business/ commercial operation.	Use as the principal authority for isolated commercial profits.
Westfield Ltd v FCT 91 ATC 4234	Emphasises the importance of the taxpayer's purpose at acquisition and the commercial context; a later sale at profit does not automatically make the gain ordinary income.	Use where profit purpose is alleged but the asset was originally acquired for another commercial purpose.
Whitfords Beach; Californian Copper; Rutledge	Supply contrasting authorities on commercial realisation, development and isolated dealing.	Use to demonstrate the continuum between mere realisation of an investment and a profit-making scheme.
TR 92/3 and TR 92/4	ATO guidance on profits and losses from isolated transactions.	Use as administrative guidance after stating the cases/statute; rulings do not replace the judicial test.

Worked application — fact-by-fact reasoning map

> **When Amira's coffee activity becomes a business**
> Identify the point at which organisation, repetition, commercial equipment, customers and profit purpose move the activity beyond hobby. Explain that the commencement date can affect which receipts/outgoings belong to the business period.

> **Cash sales and other ordinary receipts**
> Once the business exists, sales revenue is ordinary income. Apply the correct derivation method to unpaid invoices if relevant.

Espresso-machine prize/non-cash benefit
Ask whether the prize is connected with carrying on the business, then apply s 21A and its valuation/reduction rules where applicable.

Queensland government grant
Test ordinary income first, then s 15-10. The purpose of the grant and its connection to carrying on the business matter.

Sale of original roasting machine
Characterise the asset: trading stock, depreciating asset or capital asset. Do not automatically treat sale proceeds as ordinary business income merely because the taxpayer runs a business.

Rowing prizes/apparel
Analyse the rowing activity separately from the coffee business. Apply business indicators and personal-exertion/prize cases to determine whether the receipts are income or private/hobby windfalls.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 4 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. FCT v Whitfords Beach Pty Ltd expanded the scope of assessable profits from isolated transactions by holding that:

1. Only registered property developers can be taxed on land sale profits
2. A profit from a land subdivision and sale scheme can be ordinary income even though it was not the taxpayer's original core business
3. Land is always a capital asset
4. Shareholders cannot change a company's business purpose

Q2. The key indicators used to determine whether an activity is "carrying on a business" (illustrated by Martin, Ferguson, Walker) include:

1. System, organisation, commercial manner, record-keeping, scale, and profit purpose, weighed together
2. Only the size of the activity
3. Whether the taxpayer has a second job
4. Only the taxpayer's stated intention

Q3. Small scale or a secondary/part-time occupation:

1. Automatically prevents a finding that a business is being carried on
2. Does not necessarily prevent business character where the activity displays sufficient commercial substance
3. Is irrelevant to the business/hobby distinction
4. Only matters for primary production

Q4. The mere realisation of a capital asset (e.g. selling an investment that has simply appreciated in value) is distinguished from a profit-making scheme because:

1. Capital assets can never be sold
2. A mere realisation lacks the profit-making purpose and commercial character required for the proceeds to be ordinary income
3. Capital assets are always held for less than 12 months
4. Only companies can realise capital assets

Q5. Once an activity is properly characterised as a business, non-cash benefits received in the ordinary course of that business are:

1. Never assessable
2. Generally assessable as ordinary business income if they have a money value and are convertible or otherwise sufficiently connected to trading activities
3. Only assessable if sold within the same income year
4. Assessable only under Div 40

Q6. Case K25 (a Board of Review decision) is used in this chapter to illustrate:

1. The constitutional definition of tax
2. The distinction between a hobby/gambling activity and a business
3. The CGT small business concessions
4. Constructive receipt

Q7. Rutledge v IRC**, involving the purchase and on-sale of a large quantity of toilet paper for a quick profit, is a classic illustration that:**

1. A single, isolated transaction can amount to "an adventure in the nature of trade" where entered into for profit in a commercial manner
2. Only registered traders can carry on a business
3. Toilet paper is always trading stock
4. The transaction must be repeated to be a business

Q8. Westfield Ltd v FCT **concerns:**

1. Whether a profit made from a transaction outside the taxpayer's ordinary business activities, absent a genuine profit-making purpose at acquisition, is ordinary income
2. The CGT main residence exemption
3. Fringe benefits tax on shopping centre staff
4. Constitutional limits on state land tax

Q9. The Squatting Investments Co Ltd v FCT **line of cases concerns:**

1. Profits from the realisation of investments held by insurance and investment companies
2. Employee share schemes
3. Superannuation contributions
4. GST input tax credits

Q10. When analysing whether an isolated transaction produces ordinary income, the central legal question is:

1. Whether the taxpayer is a company
2. Whether the taxpayer entered the transaction with a profit-making purpose and the transaction has the character of a commercial or business dealing
3. Whether GST was charged on the sale
4. Whether the asset was held for more than 12 months

Chapter 4 Mastery Quiz — Answers and Explanations

A1. Answer: B

Whitfords Beach held that a change in the company's purpose (from passive holding to a profit-making land development scheme) meant the sale proceeds were ordinary income.

A2. Answer: A

System, organisation, commercial manner, record-keeping, scale and profit purpose are weighed together, not decided by any single factor.

A3. Answer: B

Small scale or a secondary occupation does not automatically defeat business character where genuine commercial substance is present.

A4. Answer: B

A mere realisation lacks the profit-making purpose and commercial character needed for ordinary income treatment.

A5. Answer: B

Non-cash benefits received in the ordinary course of a business are generally assessable business income where they have money value and sufficient connection to trading activities.

A6. Answer: B

Case K25 illustrates the hobby/gambling versus business distinction.

A7. Answer: A

Rutledge v IRC shows a single isolated transaction can be "an adventure in the nature of trade" where entered into for profit commercially.

A8. Answer: A

Westfield concerns whether a profit from a transaction outside ordinary business activities is ordinary income, requiring a genuine profit-making purpose at acquisition.

A9. Answer: A

The Squatting Investments line concerns realisation of investments by insurance/investment companies.

A10. Answer: B

The central question is whether the taxpayer had a profit-making purpose and the transaction has a commercial/business character.

Chapter 4 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Using Whitfords Beach, explain how a company's original passive purpose in holding an asset can change, resulting in profits from its eventual sale becoming ordinary income.

SA2. List and explain three indicators courts use to distinguish a business from a hobby.

SA3. Explain the difference between the "mere realisation" of a capital asset and a "profit-making scheme", with reference to Myer Emporium and Whitfords Beach.

SA4. Using Rutledge v IRC, explain how a single, one-off transaction can still amount to an adventure in the nature of trade.

SA5. A taxpayer buys a residential property, renovates it over six months using a systematic plan and finance, then sells it for a profit. Identify the issue, state the relevant test, and explain what facts would support finding this is a profit-making scheme rather than a mere realisation.

Chapter 4 Short-Answer Questions — Model Answers

Model Answer SA1

In Whitfords Beach, the taxpayer company originally held land passively so shareholders (fishermen) could access the beach. When new shareholders took control with the specific purpose of subdividing and developing the land for profit, the High Court held that this change in purpose meant the eventual sale proceeds bore the character of a profit-making scheme, not a mere realisation, and were therefore ordinary income — even though the company had not previously been in the business of property development.

Model Answer SA2

Three indicators: (1) System and organisation — record-keeping, a business plan, and repeated, structured activity suggest a business; (2) Commercial manner — dealing with customers/suppliers on arm's-length commercial terms, advertising, and pricing for profit; (3) Scale and profit purpose — the size of the operation and a genuine intention to make a profit (as opposed to pursuing a hobby for enjoyment) both point toward business character.

Model Answer SA3

A mere realisation occurs where an asset is simply sold in the most advantageous way, without a scheme designed to produce a profit beyond ordinary appreciation — such proceeds are capital. A profit-making scheme (Myer Emporium, Whitfords Beach) involves the taxpayer entering into or restructuring an arrangement with the specific purpose of making a profit through a commercial dealing — such profits are ordinary income, even from an asset not originally acquired for resale.

Model Answer SA4

In Rutledge, the taxpayer purchased a very large one-off quantity of toilet paper with the specific intention of reselling it quickly for a profit. Despite this being a single transaction with no ongoing business, the court held it was "an adventure in the nature of trade" because it was entered into for profit and conducted in a commercial manner analogous to trading — showing that repetition is not required for a transaction to produce business-character income.

Model Answer SA5

Issue: whether the profit from the renovation and sale is ordinary income (profit-making scheme) or a capital gain (mere realisation). Rule: Myer Emporium principle; Whitfords Beach. Application: a systematic renovation plan, external finance specifically obtained for the project, and a short timeframe between purchase and sale all point toward a profit-making purpose and commercial character, rather than passive capital appreciation. Conclusion: on these facts, the profit is more likely ordinary income under the Myer Emporium principle than a mere capital gain, though the taxpayer's genuine purpose at acquisition remains the key fact to establish.

Chapter 4 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: If I sell my family home at a large profit, is that ordinary income?

Q: Do I need to be registered as a business to be "carrying on a business" for tax purposes?

Q: Can one single transaction ever be taxed as business income?

Q: What's the difference between a capital gain and business income from selling an asset?

Q: Does it matter how long I hold an asset before selling it?

Chapter 4 — Frequently Asked Questions: Suggested Answers

FAQ 1

Generally no — provided it is a mere realisation of a capital asset (your home), not part of a profit-making scheme, and it will usually also be covered by the CGT main residence exemption rather than being ordinary income at all.

FAQ 2

No — carrying on a business is a question of fact based on the indicators (system, organisation, commercial manner, scale, profit purpose), not formal registration. An unregistered but sufficiently organised activity can still be a business.

FAQ 3

Yes — Rutledge v IRC and the Myer Emporium principle both confirm that an isolated transaction entered into with a profit-making purpose, and having a commercial character, can produce ordinary income even without an ongoing business.

FAQ 4

If the asset is held as a capital investment and its sale is a mere realisation, any profit is a capital gain under the CGT provisions. If the asset was acquired as part of a profit-making scheme or business activity (such as trading stock), the profit is ordinary income instead, and the CGT provisions generally do not apply to that gain.

FAQ 5

Holding period is relevant evidence (a very short holding period can suggest a trading or profit-making purpose) but it is not decisive on its own — the overall character of the transaction and the taxpayer's purpose at acquisition matter more.

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does Business mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does System mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Scale mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does profit motive mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does Commercial mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does trading stock mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does non-cash business benefit mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does s 21A ITAA36 mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does Business mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Commercial activity assessed using multiple factual indicators. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

2. What does System mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Organisation and repetition are indicators of business. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

3. What does Scale mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Magnitude of activities relevant to business character. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

4. What does profit motive mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Intention to profit may support a business conclusion. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

5. What does Commercial mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Character of transactions supporting business status. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

6. What does trading stock mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Property held for sale in the ordinary course of business. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

7. What does non-cash business benefit mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Benefit received in a form other than money. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

8. What does s 21A ITAA36 mean, why does it matter in Chapter 4, and how should a student use it in a problem question?

Statutory rule valuing certain non-cash business benefits. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define Business and explain why it matters to the Chapter 4 analysis.

2. Define System and explain why it matters to the Chapter 4 analysis.
3. Define Scale and explain why it matters to the Chapter 4 analysis.
4. Define profit motive and explain why it matters to the Chapter 4 analysis.
5. Define Commercial and explain why it matters to the Chapter 4 analysis.
6. Define trading stock and explain why it matters to the Chapter 4 analysis.
7. What role does s 21A play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does s 70-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does ss 21A(3) and 21A(4) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does s 15-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 102-20 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 104-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does TR 97/11; Martin ; Ferguson ; Walker ; Stone illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does Martin v FCT (1953) 90 CLR 470 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does Ferguson v FCT 79 ATC 4261 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does FCT v Walker 85 ATC 4179 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Stone v FCT 2005 ATC 4234 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Amira roasts coffee at home for friends. Over two years she registers a business name, advertises online, acquires commercial equipment, keeps records, enters supply contracts and sells weekly at markets. She wins a non-cash industry prize and receives a…
20. What should a strong Chapter 4 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

Commercial activity assessed using multiple factual indicators. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

2. Answer

Organisation and repetition are indicators of business. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

3. Answer

Magnitude of activities relevant to business character. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

4. Answer

Intention to profit may support a business conclusion. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

5. Answer

Character of transactions supporting business status. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

6. Answer

Property held for sale in the ordinary course of business. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

7. Answer

Deal with non-cash business benefits under s 21A ITAA36.

8. Answer

Once an activity is a business, receipts generated in the ordinary course commonly fall within s 6-5. Non-cash business benefits require separate attention to s 21A ITAA36. The student should identify whether the benefit arises in relation to a business relationship, determine whether it is non-cash, apply the statutory valuation mechanism and explain any exclusions.

9. Answer

Receipts from transactions forming part of the ordinary operations of a business are ordinarily income under s 6-5. Sale proceeds from trading stock, service fees and ordinary business charges are straightforward examples. Section 70-10 ITAA97 defines trading stock and the trading-stock regime can affect timing and calculation, but the basic character of proceeds from normal sales remains revenue.

10. Answer

The Forum highlights the arm's-length value rule and the reductions in ss 21A(3) and 21A(4). Where a business receives an item that is then used privately, the tax consequences can differ from a case where the item becomes trading stock or is used in the business. Separate receipt character, valuation and any deduction consequences.

11. Answer

Government assistance can be ordinary income under s 6-5 where it is received as part of the business's revenue operations. If it is not ordinary income, s 15-10 may include certain bounties or subsidies received in relation to carrying on a business. TR 2006/3 is a significant interpretative source for government payments to industry.

12. Answer

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent inappropriate double taxation. Never choose “income” or “CGT” by intuition alone.

13. Answer

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent inappropriate double taxation. Never choose “income” or “CGT” by intuition alone.

14. Answer

Multi-factor business test.

15. Answer

Used to distinguish recreation/hobby activity from a business.

16. Answer

Demonstrates that a business can exist despite modest scale where activities are systematic, commercial and directed to profit.

17. Answer

Supports a fact-sensitive business analysis involving organisation and commercial character.

18. Answer

Shows how professional/sporting activities and related receipts can collectively acquire business character.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 21A in this chapter?

1. s 21A
2. s 6-5
3. ss 21A(3) and 21A(4)
4. s 70-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 70-10
2. s 21A
3. s 6-5
4. ss 21A(3) and 21A(4)

3. Which provision is the relevant statutory reference for the rule or method associated with s 70-10 in this chapter?

1. s 6-5
2. s 21A
3. s 70-10
4. ss 21A(3) and 21A(4)

4. Which provision is the relevant statutory reference for the rule or method associated with ss 21A(3) and 21A(4) in this chapter?

1. ss 21A(3) and 21A(4)
2. s 70-10
3. s 6-5
4. s 21A

5. Which provision is the relevant statutory reference for the rule or method associated with s 15-10 in this chapter?

1. s 6-5
2. s 70-10
3. s 21A
4. s 15-10

6. Which provision is the relevant statutory reference for the rule or method associated with s 102-20 in this chapter?

1. s 6-5
2. s 21A
3. s 70-10
4. s 102-20

7. Which provision is the relevant statutory reference for the rule or method associated with s 104-10 in this chapter?

1. s 104-10
2. s 6-5
3. s 21A
4. s 70-10

8. Which provision is the relevant statutory reference for the rule or method associated with ss 102-20, 104-10 in this chapter?

1. s 70-10
2. s 6-5
3. s 21A
4. ss 102-20, 104-10

9. Which authority is connected with this proposition: Multi-factor business test.

1. Martin v FCT (1953) 90 CLR 470
2. TR 97/11; Martin ; Ferguson ; Walker ; Stone
3. Ferguson v FCT 79 ATC 4261
4. FCT v Walker 85 ATC 4179

10. Which authority is connected with this proposition: Used to distinguish recreation/hobby activity from a business.

1. Ferguson v FCT 79 ATC 4261
2. TR 97/11; Martin ; Ferguson ; Walker ; Stone
3. FCT v Walker 85 ATC 4179
4. Martin v FCT (1953) 90 CLR 470

11. Which authority is connected with this proposition: Demonstrates that a business can exist despite modest scale where activities are systematic, commercial and directed to profit.

1. Ferguson v FCT 79 ATC 4261
2. FCT v Walker 85 ATC 4179
3. Martin v FCT (1953) 90 CLR 470
4. TR 97/11; Martin ; Ferguson ; Walker ; Stone

12. Which authority is connected with this proposition: Supports a fact-sensitive business analysis involving organisation and commercial character.

1. Martin v FCT (1953) 90 CLR 470
2. TR 97/11; Martin ; Ferguson ; Walker ; Stone
3. Ferguson v FCT 79 ATC 4261
4. FCT v Walker 85 ATC 4179

13. Which authority is connected with this proposition: Shows how professional/sporting activities and related receipts can collectively acquire business character.

1. Stone v FCT 2005 ATC 4234
2. TR 97/11; Martin ; Ferguson ; Walker ; Stone
3. Martin v FCT (1953) 90 CLR 470
4. Ferguson v FCT 79 ATC 4261

14. Which authority is connected with this proposition: Illustrates that a receipt can be capital even if connected with business circumstances; character depends on what the receipt is for.

1. TR 97/11; Martin ; Ferguson ; Walker ; Stone
2. Martin v FCT (1953) 90 CLR 470
3. Federal Coke Co Pty Ltd v FCT 77 ATC 4255
4. Ferguson v FCT 79 ATC 4261

15. Which taxation-law term or authority best matches this description: Commercial activity assessed using multiple factual indicators.

1. Business
2. System
3. profit motive
4. Scale

16. Which taxation-law term or authority best matches this description: Organisation and repetition are indicators of business.

1. profit motive
2. Commercial
3. System
4. Scale

17. Which taxation-law term or authority best matches this description: Magnitude of activities relevant to business character.

1. Scale
2. trading stock
3. profit motive
4. Commercial

18. Which taxation-law term or authority best matches this description: Intention to profit may support a business conclusion.

1. trading stock
2. profit motive
3. non-cash business benefit
4. Commercial

19. Which taxation-law term or authority best matches this description: Character of transactions supporting business status.

1. Commercial
2. trading stock
3. non-cash business benefit
4. s 21A ITAA36

20. Which taxation-law term or authority best matches this description: Property held for sale in the ordinary course of business.

1. trading stock
2. non-cash business benefit
3. s 21A ITAA36
4. Martin

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. A. s 21A

Deal with non-cash business benefits under s 21A ITAA36.

2. C. s 6-5

Once an activity is a business, receipts generated in the ordinary course commonly fall within s 6-5. Non-cash business benefits require separate attention to s 21A ITAA36. The student should identify whether the benefit arises in relation to a business relationship, determine whether it is non-cash, apply the statutory valuation mechanism and…

3. C. s 70-10

Receipts from transactions forming part of the ordinary operations of a business are ordinarily income under s 6-5. Sale proceeds from trading stock, service fees and ordinary business charges are straightforward examples. Section 70-10 ITAA97 defines trading stock and the trading-stock regime can affect timing and calculation, but the basic…

4. A. ss 21A(3) and 21A(4)

The Forum highlights the arm's-length value rule and the reductions in ss 21A(3) and 21A(4). Where a business receives an item that is then used privately, the tax consequences can differ from a case where the item becomes trading stock or is used in the business. Separate receipt character, valuation and any deduction consequences.

5. D. s 15-10

Government assistance can be ordinary income under s 6-5 where it is received as part of the business's revenue operations. If it is not ordinary income, s 15-10 may include certain bounties or subsidies received in relation to carrying on a business. TR 2006/3 is a significant interpretative source for government payments to industry.

6. D. s 102-20

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent…

7. A. s 104-10

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent…

8. D. ss 102-20, 104-10

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent…

9. B. TR 97/11; Martin ; Ferguson ; Walker ; Stone

Multi-factor business test.

10. D. Martin v FCT (1953) 90 CLR 470

Used to distinguish recreation/hobby activity from a business.

11. A. Ferguson v FCT 79 ATC 4261

Demonstrates that a business can exist despite modest scale where activities are systematic, commercial and directed to profit.

12. D. FCT v Walker 85 ATC 4179

Supports a fact-sensitive business analysis involving organisation and commercial character.

13. A. Stone v FCT 2005 ATC 4234

Shows how professional/sporting activities and related receipts can collectively acquire business character.

14. C. Federal Coke Co Pty Ltd v FCT 77 ATC 4255

Illustrates that a receipt can be capital even if connected with business circumstances; character depends on what the receipt is for.

15. A. Business

Business: Commercial activity assessed using multiple factual indicators.

16. C. System

System: Organisation and repetition are indicators of business.

17. A. Scale

Scale: Magnitude of activities relevant to business character.

18. B. profit motive

profit motive: Intention to profit may support a business conclusion.

19. A. Commercial

Commercial: Character of transactions supporting business status.

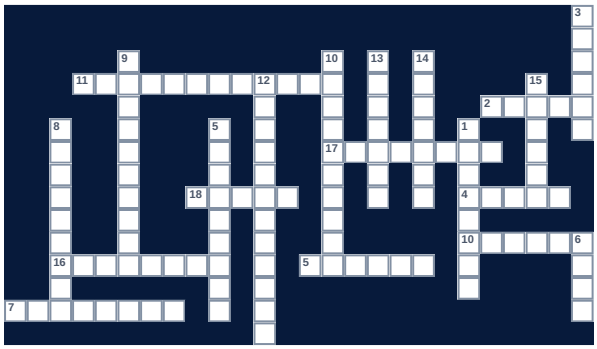
20. A. trading stock

trading stock: Property held for sale in the ordinary course of business.

20-CLUE CROSSWORD

Crossword - Chapter 4: Business Income, Non-Cash Benefits and Isolated Profit-Making Transactions

Launch Chapter 4 Active Crossword to type directly into the grid and check your answers.



Across

1. Magnitude of activities relevant to business character.
2. Government payment requiring statutory and ordinary-income analysis.
3. Authority relevant to scale and business character.
4. Commercial activity assessed using multiple factual indicators.
5. Organisation and repetition are indicators of business.
6. Intention to profit may support a business conclusion.
7. Authority on isolated commercial transactions.
8. One-off transaction that can still produce ordinary income.
9. High Court authority on sporting receipts and business.

Down

1. Authority on indicators of carrying on a business.
2. Californian Copper authority concerning profit-making sale of property.
3. Authority refining isolated transaction profit principles.
4. Authority on isolated commercial profit-making transactions.
5. Authority on land development and profit-making business character.
6. Character of transactions supporting business status.
7. Statutory rule valuing certain non-cash business benefits.
8. Property held for sale in the ordinary course of business.
9. Profit-making purpose assessed at acquisition or transaction formation.
10. Benefit received in a form other than money.
11. Authority contrasting hobby or gambling activity with business.

CROSSWORD ANSWERS

Crossword Answers - Chapter 4

2 Across - SCALE	4 Across - GRANT
5 Across - WALKER	7 Across - BUSINESS
10 Across - SYSTEM	11 Across - PROFITMOTIVE
16 Across - RUTLEDGE	17 Across - ISOLATED
18 Across - STONE	1 Down - FERGUSON
3 Down - COPPER	5 Down - WESTFIELD
6 Down - MYER	8 Down - WHITFORDS
9 Down - COMMERCIAL	10 Down - SECTION21A
12 Down - TRADINGSTOCK	13 Down - PURPOSE
14 Down - NONCASH	15 Down - MARTIN

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Hobby becomes business

Problem

Amira roasts coffee at home for friends. Over two years she registers a business name, advertises online, acquires commercial equipment, keeps records, enters supply contracts and sells weekly at markets. She wins a non-cash industry prize and receives a Queensland grant to expand production. Explain when the activity becomes a business and the treatment of sales, the prize and the grant.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Hobby becomes business

Issue. The threshold issue is when Amira's activity changes from a hobby to a business; the tax treatment of sales, the industry prize and the expansion grant follows from that characterisation.

Rule / Law. Section 6-5 includes ordinary business income. Business indicators developed in cases such as *Ferguson*, *Martin*, *Walker* and *Stone* include repetition, scale, commercial purpose, organisation, records, systems and a profit-making intention. ITAA97 s 15-10 includes certain bounties or subsidies received in relation to carrying on a business. Non-cash business benefits may require valuation under ITAA36 s 21A.

Application. Casual roasting for friends is consistent with a hobby. Registration, advertising, commercial equipment, record keeping, supply contracts and weekly market sales collectively mark a transition to a commercially organised business. Receipts from sales after that point are ordinary income under s 6-5. The industry prize is connected with the business; if non-cash, its money value and the applicable business-benefit rule must be considered. The Queensland expansion grant is received to expand the business and is strongly within s 15-10 unless another specific exemption applies.

Conclusion. Amira becomes a business when the organised commercial features coalesce; sales thereafter are assessable, and the prize/grant are likely assessable under the business/non-cash and bounty/subsidy rules respectively.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Isolated property profit

Problem

Luca buys a parcel of land after identifying a rezoning opportunity, obtains approvals, subdivides it and sells the lots within 18 months for a substantial profit. Luca says he is not a property developer and has never done this before. Analyse ordinary income, isolated profit-making transaction principles and any CGT interaction.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Isolated property profit

Issue. Luca argues capital mere realisation, but the facts raise ordinary income from an isolated profit-making scheme as well as CGT.

Rule / Law. Under s 6-5 and *FCT v Myer Emporium*, an isolated transaction can produce ordinary income where it is entered into with a profit-making purpose and carried out as a commercial operation. *Whitfords Beach* illustrates the significance of development activities going beyond mere realisation. CGT event A1 under s 104-10 can also arise, but s 118-20 generally prevents double taxation by reducing a capital gain to the extent an amount is otherwise included in assessable income.

Application. Luca identified rezoning potential before acquisition, bought with a profit-making plan, obtained approvals, subdivided and sold within 18 months. Those steps are active development, not a passive sale of a long-held investment. The fact this is Luca's first property development does not prevent ordinary-income treatment; *Myer* specifically addresses isolated transactions. A1 still occurs on disposal, but any capital gain is reduced to the extent the profit is included as ordinary income.

Conclusion. The stronger view is that the profit is ordinary income from an isolated commercial profit-making scheme, with CGT operating only residually after s 118-20.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 5. RETURNS FROM PROPERTY, COMPENSATION RECEIPTS AND PERIODICITY

interest • dividends • rent • royalties • annuities • compensation receipts • periodicity

Property and compensation questions are classification problems. Interest, dividends, rent, royalties and annuities may look straightforward, but lease premiums, compensation, cancellation payments and assigned income rights require careful identification of what the receipt replaces or represents.

LEARNING OUTCOMES

- Classify common returns from property.
- Distinguish rent from lease premiums and identify when CGT must also be considered.
- Apply the compensation-receipts principle.
- Separate cancellation of ordinary business contracts from structural agreements.
- Use periodicity as an indicator rather than a conclusive test.
- Apply these principles to Mark's practice, settlements, assigned income stream and property transactions.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: returns from property require classification before calculation

Interest, rent, dividends, royalties, annuities, lease-related receipts and compensation can all arise from property or investment relationships, but they do not

all share the same statutory source. Start with the nature of the legal right that produced the receipt. Then identify whether ordinary income applies, whether a specific statutory provision governs, when the amount is derived and whether any withholding, imputation or CGT consequence must also be considered.

Compensation receipts

The guiding method is substitution: ask what the payment replaces. *McLaurin*, *Allsop*, *Phillips*, *Heavy Minerals* and *Van Den Berghs* illustrate why compensation can take an income or capital character depending on the underlying asset, profit stream or right that has been impaired. A lump sum is not automatically capital and a periodic payment is not automatically income.

Interest and dividends

Interest is commonly ordinary income and usually derived when received or credited for ordinary investors, although business and financial-institution contexts can differ. Dividends require attention to the ITAA36 dividend provisions and the meaning of “paid”, including crediting or distribution. If franking credits are present, the gross-up and offset mechanism must be shown separately from the cash dividend.

In plain English
For compensation, ask 'what was this payment replacing?' If it replaces income, it usually takes an income character. If it replaces part of the profit-making structure, it is more likely capital.

Key language

interest | dividend | rent | lease premium | royalty | annuity | compensation | replacement principle | cancellation payment | structural agreement | agency | periodicity | assignment | income stream | capital receipt | insurance | indemnity | lost profits | fixed asset | settlement

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state

	the case/ruling proposition that interprets the rule.
A — Apply Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.	**C — Conclude** Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/ refund, or procedural right. State any qualification or alternative view.

5.1 Returns from property: income can arise because the taxpayer owns or allows the use of an asset

Not all ordinary income is a reward for labour or business activity. A major category is income from property: interest, dividends, rent, royalties and annuities. The common idea is that the taxpayer receives a return from capital or property while retaining, using or allowing access to the underlying asset or right.

The ordinary-income question remains governed by s 6-5 ITAA97, but several statutory provisions also modify, supplement or coordinate the common-law treatment. Students should therefore identify both the ordinary character and the specific provision.

5.2 Interest

Interest is commonly described as compensation or reward for being kept out of the use of money. Interest on a loan or bank deposit is ordinarily income under s 6-5. The important student questions are: who owns the principal, what is the legal source of the interest entitlement, and when is the interest derived?

Timing can depend on the taxpayer's circumstances and method of accounting. For many individuals, receipt or crediting is significant. For financial institutions and some businesses, accrual principles may apply. Keep the derivation principles from Chapter 2 in mind.

5.3 Dividends

Dividends are ordinarily income in general concepts, but the ITAA36 contains the specific statutory framework. Section 6(1) defines “dividend” broadly to include distributions of money or property and amounts credited by a company to

shareholders in their capacity as shareholders, subject to exclusions. Sections 44–47 govern important aspects of assessability. ITAA97 s 6-25 is relevant to the interaction between ordinary and statutory income rules.

In a problem, do not simply say “dividend = income”. Identify whether the amount is a dividend within s 6(1), whether s 44 applies, when it is paid/credited, and whether imputation/franking consequences are relevant to the facts.

5.4 Rent and lease premiums

Rent paid for the use of property is ordinarily income under s 6-5. Substance prevails over the label chosen by the parties. A regular payment called “licence fee” may still be rent in substance; conversely, a one-off amount labelled “rent” may have a different character.

A lease premium is different. It is commonly paid to induce a lessor to grant or assign a lease. Because it secures access to the lease rather than paying for periodic use, it is often capital: Case C2 71 ATC 8 is the authority. But character can change where receiving lease premiums is itself part of the taxpayer's business, as in *Kosciuszko Thredbo Pty Ltd v FCT* , or where a premium is really disguised additional rent, as illustrated by Case E34 73 ATC 282.

Even where the premium is capital rather than ordinary income, CGT events F1–F5 may need consideration. That is a recurring tax-law lesson: “not ordinary income” rarely means “stop analysing”.

5.5 Royalties

McCauley v FCT assists in identifying a royalty by reference to payments calculated according to the quantity or value of a substance taken or the use of intellectual-property rights. *Stanton v FCT* provides an important contrast. Section 15-20 ITAA97 can include certain royalties that are not ordinary income under s 6-5.

In an exam, identify the legal right being exploited, the basis on which the payment is calculated and whether the statutory provision applies. Do not assume every payment relating to intellectual property is a royalty.

5.6 Annuities and periodic receipts

An annuity is a stream of regular payments over a defined period or for life. *Egerton-Warburton v DFCT* illustrates the ordinary-income character of recurring annuity payments. Section 27H ITAA36 can modify the treatment by excluding a return-of-capital component in relevant annuities.

Periodicity is an indicator of ordinary income, but not an inflexible test. A lump sum can be income and a recurring amount can contain capital. Always identify what the payment represents.

5.7 Compensation receipts: the replacement principle

A powerful characterisation rule is that compensation generally takes the character of the thing it replaces. If damages or compensation replace lost ordinary income, the receipt is ordinarily income under s 6-5. If the payment replaces a capital asset, structural advantage or capital right, the receipt is generally capital, subject to statutory rules such as CGT.

This is not a mechanical rule based on the settlement deed's label. Ask: what legal or economic loss is the payment calculated to compensate?

Section 15-30 ITAA97 can also include certain insurance or indemnity amounts. Students should test the common-law character and then any specific statutory inclusion.

Compensation for lost trading stock - s 70-115 ITAA97

Where an amount is received by way of insurance or indemnity for a loss of trading stock and it is not already assessable as ordinary income under s 6-5, s 70-115 ITAA97 includes the amount in assessable income. This is a specific trading-stock rule and must be kept separate from s 115-25, which deals with the CGT discount holding-period requirement.

5.8 Compensation in personal exertion

C of T (Vic) v Phillips and *FCT v Smith* illustrate compensation connected with personal exertion. If a payment substitutes for salary, wages or an income-producing entitlement, income character is strongly indicated. By contrast, an amount for personal injury, distress or the loss of a capital right may require a different analysis.

5.9 Compensation in business: ordinary contracts versus business structure

Heavy Minerals Pty Ltd v FCT is central where compensation is received for cancellation of an ordinary business contract. If the cancelled contract is part of the normal process by which the business earns revenue, compensation replacing those expected receipts is likely revenue.

Van den Berghs Ltd v Clark provides the structural contrast. Compensation for cancellation of arrangements forming part of the enduring framework or profit-yielding structure of the business is capital. The distinction is therefore between the profit-making process and the profit-making structure.

Californian Oil Products and related agency/management authorities help apply this distinction to termination payments. The length, importance and structural role of the contract are relevant; no single label is decisive.

5.10 Undissected damages and apportionment

McLaurin v FCT is an important warning about undissected lump-sum settlements. Where a single amount settles multiple unliquidated claims and there is no reliable basis for allocation, the court may decline to dissect the amount into income and capital components. A settlement deed that carefully allocates amounts can be evidentially important, although labels remain subject to the true legal character.

5.11 Assignment of income streams and lump sums

This chapter connects compensation and substituted receipts with *FCT v Myer Emporium Ltd*. A taxpayer cannot necessarily turn future income into capital simply by assigning the right to receive it for a lump sum. Where the lump sum is economically the present value of future income and the transaction is commercial, ordinary-income principles may apply.

This becomes important in the Mark problem, where a physiotherapist assigns to a financier the right to receive future monthly service payments while retaining the underlying service contract and performance obligations. Ask what has really been disposed of: an income stream or the entire profit-yielding asset?

5.12 Core case and provision map

Source	Rule / teaching point	Use
ITAA97 s 6-5	Interest, rent and many property returns are ordinary income.	Start with ordinary character.
ITAA36 ss 6(1), 44–47	Dividend definition and statutory treatment.	Company distributions.
Case C2; *Kosciuszko Thredbo*; Case E34	Lease premiums may be capital, business income or disguised rent depending on facts.	Upfront lease payments.

McCauley; *Stanton*; s 15-20	Royalty character and statutory inclusion.	Resource/IP payments.
Egerton-Warburton; s 27H	Annuity income and return-of-capital modification.	Regular annuity receipts.
Heavy Minerals	Cancellation of ordinary business contract can produce income compensation.	Lost revenue contracts.
Van den Berghs	Compensation affecting business structure can be capital.	Structural agreements.
McLaurin	Difficulty apportioning undissected lump-sum damages.	Multi-head settlements.
Myer Emporium	Lump sum for assignment/realisation of future income stream may be ordinary income.	Monetising future receipts.

5.13 Application masterclass — Mark

Mark receives salary, physiotherapy business receipts, outstanding service invoices, compensation for cancellation of a club contract, a settlement for lost salary and distress, a lump sum for assigning future service fees, and gains from property and sneaker transactions. The teaching challenge is to identify what each receipt replaces or represents.

Business service receipts and invoices

Cash fees from clients are ordinary business income. Outstanding invoices require the derivation analysis from Chapter 2: for a business using an earnings method, a recoverable debt may be derived before cash is received.

$56,000 cancellation compensation

The rugby-club contract appears to be an ordinary service contract within Mark's physiotherapy business. The settlement amount mirrors the monthly fees that would have been received. That makes *Heavy Minerals* highly relevant and supports income treatment. The fact that the instalments are paid on the original schedule further reinforces the replacement of revenue.

$38,000 lost salary and $7,000 distress component

Analyse the heads separately. The lost-salary amount directly replaces employment income and strongly points to ordinary income. The distress/inconvenience

component has a different purpose and requires separate characterisation. Do not allow the presence of one income component to determine the whole settlement.

$42,000 assignment of future fees

Mark retains the service contract and remains obliged to perform, but assigns the right to receive future monthly payments. This closely raises the *Myer* income-stream principle. The lump sum is economically substituted for future revenue rather than payment for the sale of the whole business or underlying structure.

Southport property and sneakers

These facts return to isolated profit-making principles. Mark's dominant purpose at acquisition, subsequent conduct and objective commerciality must be analysed. A mere possibility of later sale at a profit is not the same as acquiring for a profit-making scheme. By contrast, acquiring scarce sneakers after reading about resale potential may present a stronger isolated-profit case depending on the detailed facts.

5.14 HD IRAC method for compensation

I — Issue

What did the compensation or lump sum replace? Was it revenue, salary, future income, a capital asset or a structural right?

R — Rule

State s 6-5 and the replacement principle. Use *Heavy Minerals* for ordinary business contracts, *Van den Berghs* for structural agreements, *McLaurin* for undissected damages and *Myer* for monetised income streams.

A — Application

Focus on the legal rights lost and the way the amount was calculated. The settlement label is relevant evidence but not conclusive.

C — Conclusion

Characterise each component separately and then identify any CGT or specific statutory consequences for amounts that are capital.

5.15 Plain-English summary

Returns from property are usually income because the taxpayer is earning a return from money, land, shares or rights. Compensation is different: follow the money back to what was lost. If it replaces income, it is usually income. If it replaces the profit-

making structure or a capital asset, it is usually capital. A lump sum is not automatically capital.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Returns from property: identify the legal source of the return

Interest, rent, dividends, royalties and annuities can all look like periodic cash flows, but they arise from different legal relationships and statutory regimes. The first teaching question is therefore: what asset, right or obligation produces the payment? The answer determines the governing provision, timing rule, deductions and possible withholding consequences.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Ordinary income under s 6-5 remains important for rent and interest. Dividends are governed by ITAA36 ss 44–47 and related imputation rules. Royalties, lease premiums and annuities engage specific provisions identified in this chapter, including s 15-20 and s 27H where applicable.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

McCauley and Stanton help explain royalty character. Egerton-Warburton is used in annuity/property arrangements. The dividend provisions demonstrate why statutory income must be checked even where the receipt also looks income-like under ordinary concepts.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot the underlying property/right, payer relationship, periodicity, whether capital was lent or property made available, and whether the amount is a premium, ordinary rent or compensation.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Use a property-return schedule: asset/right; receipt; gross amount; statutory/ordinary provision; timing; direct deductions; net tax treatment.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Compensation receipts: ask what the payment replaces

Compensation is not characterised by the label “damages”. The central principle is replacement: a payment replacing lost revenue tends to take revenue character; a payment replacing, sterilising or destroying a capital asset or profit-making structure tends to be capital. A lump sum may contain multiple components, and an undissected settlement creates evidentiary difficulty.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Start with s 6-5 and any specific provision. If capital, identify the relevant CGT event involving the underlying asset or right, including ending/cancellation of rights. Consider cost-base/incidental-cost rules and anti-overlap.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Heavy Minerals illustrates compensation replacing revenue/business receipts. Van Den Berghs and Californian Oil illustrate compensation affecting the profit-yielding structure. McLaurin is critical where a lump sum cannot be dissected into income/capital components. This book uses the replacement principle across these authorities.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot what legal claim was settled, how the amount was calculated, whether it replaces future profits, a contract/right, plant/property or structural advantage, and whether the settlement deed allocates components.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Prepare a “replacement statement”: heads of loss claimed → what each head replaces → likely revenue/capital character → taxing provision/CGT event → amount.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Periodicity is evidence, not a complete test

Regular recurrence can indicate ordinary income, but one-off receipts can also be income and recurring receipts can sometimes be capital instalments. Students should use periodicity as one characteristic within the broader inquiry into the source and character of the receipt.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Section 6-5 applies according to ordinary concepts; specific statutory provisions override or supplement that inquiry where Parliament has expressly included the amount.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The property-return and compensation cases show why no single hallmark is decisive. This chapter contrasts regular rent/interest with lump-sum compensation and isolated profits.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Do not conclude “income because recurring” or “capital because lump sum”. Always identify the legal source and what the amount represents.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

When preparing a tax P&L, recurring cash flow helps organise the accounts but the tax reconciliation must follow legal character, not accounting presentation.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Mark — property/compensation receipt analysis

Step / item	Tax-law treatment	Number / working
Hospital salary	$18,000	ordinary employment income
Physio cash receipts	$60,000	business ordinary income
Unpaid invoices	$5,000 at 30 June	apply business derivation method: cash versus earnings/ accrual based on Carden/Henderson line of authority

Falcons contract	$8,000 monthly; five payments = $40,000 before cancellation	characterise service receipts and any cancellation compensation by what it replaces
Compensation / settlement items	Separate each head of payment	use Heavy Minerals / Van Den Berghs / McLaurin replacement analysis
Assigned future income	Identify whether taxpayer assigned income or the underlying income-producing property/right	apply assignment/ derivation principles before calculating
Property/ asset transactions	Separate revenue asset, capital asset, personal-use/collectable possibilities	ordinary income and CGT can require parallel analysis
Prior net capital loss	$7,000 from 2024–25	quarantined to capital gains; cannot be deducted from salary/ business ordinary income

The teaching goal is to prevent a single “total receipts” calculation. Build separate ordinary-income, statutory-income and CGT schedules, then combine only at the statutory taxable-income stage.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally
If relevant, Mark has a $7,000 net capital loss from the 2024-25 income year.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

During the 2025-26 income year:	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
Mark derived salary of $18,000 from the hospital (reflecting a short period of employment - see below).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Mark received $60,000 in cash from clients of ProMotion Physio (excluding amounts received from the Gold Coast Falcons Rugby Club and the Tweed Heads Soccer club - see below).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
At 30 June 2026, Mark had issued $5,000 in invoices for services performed in his business but not yet paid by clients.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

On 1 August 2025, Mark entered into a 12-month contract with the Gold Coast Falcons Rugby Club to provide physiotherapy services through his business at $8,000 per month (payable on the 5th day of every month regardless of usage). However, after about 5 months (and after Mark had received a total of $40,000 in monthly payments - 5 months x $8,000 per month), the club lost its major sponsor and terminated the agreement. The parties settled the dispute, and Mark received $56,000, described in the settlement deed as: “compensation for cancellation of the services agreement”. The $56,000 was payable in monthly instalments of $8,000 payable at the same time as if the contract had not been terminated. This meant that the final $8,000 was paid (and received) by Mark on 5 July 2026.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
On 1 October 2025, Mark’s employment with Beach View Private Hospital was terminated following a roster and pay dispute. Mark brought a claim alleging wrongful termination and underpayment of salary. The matter settled. Under the settlement deed, Mark received $38,000 for lost salary, and $7,000 for distress, inconvenience and hurt feelings. These amounts were received by Mark on 1 June 2026.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

On 1 February 2026, Mark entered into a 12-month contract with the Tweed Heads Soccer Club to provide physiotherapy services at $5,000 per month (payable regardless of actual usage).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
After 2 months, and seeking immediate funds, on 1 April 2026 Mark assigned to an unrelated financier his right to receive the remaining 10 monthly payments. Mark did not assign the contract itself, transfer any business assets, or relieve himself of his obligation to perform the services. Mark had already received the February and March 2026 monthly fees totalling $10,000 before the assignment.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
On 1 April 2026, Mark received $42,000 in a lump sum from the financier, representing the present value of the future payments under the contract less a discount (to ensure the arrangement was sufficiently profitable to the financier). The soccer club thereafter paid the monthly fees to the financier, which retained recourse against Mark if he failed to perform the services.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
A few years ago, Mark had wished to enrol Alice into a selective High School in Southport. However, he lived outside the school’s catchment area. To gain eligibility, Mark decided to purchase a property to live in within the designated area.	This is an asset trigger. Determine revenue versus capital character, identify any CGT event or Div 40/43 treatment, and construct the relevant cost base/adjustable value.

On 1 July 2023, Mark purchased a run-down property in Southport for $650,000, intending to renovate it and eventually use it as Alice's and his main residence (so that Alice would qualify for enrolment in the selective school). Mark had in the back of his mind when he bought the property the possibility of selling the property at a substantial profit if circumstances changed, although that was not his preferred course of action by any measure.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Mark undertook substantial renovations, largely himself, at a cost of $200,000, funded through borrowings secured against his existing home. On 1 February 2025, after the renovations had been completed, Mark and Alice moved into the Southport property as their main residence.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Mark sold the Southport property on 31 March 2026 for $1,400,000. He said his intention at the time of sale was to maximise the sale price.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
While travelling to Tokyo on holiday later in March 2026, Mark decided to "make the trip pay for itself". He purchased 200 pairs at $150 each (totalling $30,000), partly funded by a personal loan from a friend. He selected a range of sizes to maximise resale value.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

By 15 June 2026, Mark had sold all 200 pairs at an average price of $400 each, generating $80,000 in revenue and a net profit of $42,000 after expenses.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Advise Mark whether the above receipts or profits are assessable income to him as ordinary income only for the 2025-26 income year. At this stage of the analysis, do not consider statutory income.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Support your answer with relevant case law principles and legislative references, and provide reasons for any exclusions. Assume all amounts are GST exclusive.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: Section 6(1) ITAA36 defines a dividend as including:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: However, sections 44-47 ITAA36 mainly govern the tax treatment of dividends. What is the role of section 6-25 ITAA97 in this context?

Interaction / no double inclusion

Use where the same amount could be ordinary and statutory income; identify which rule has priority and avoid double counting.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 15-20 ITAA97 can apply to royalties that are not ordinary income under s 6-5.

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Certain annuities are now subject to s 27H ITAA36, which makes the return of capital component in an annuity tax-free.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: At common law, a compensation receipt generally takes the character of that which it replaces so if it replaces ordinary income it is normally income under s 6-5.

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The compensation receipts principle is also relevant to s 15-30 ITAA97 - assessable income includes certain insurance or indemnity amounts.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 115-25 ITAA97.

CGT discount

Confirm entity eligibility, 12-month holding period and statutory ordering. Companies do not receive the general individual/trust discount.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note the application of Division 52 of the 1997 Act - certain pensions, benefits and allowances are exempt (or partly so) from income tax.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: A lease premium is usually characterized as capital because it is a payment to secure access rather than use of a premises: Case C2 71 ATC 8.

However, the application of the CGT provisions needs to be considered in this context (eg CGT Events F1 to F5).
deduction for interest depends on real income-producing nexus and purpose; disproportionate tax-driven arrangements require close analysis

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: the taxpayer is in the business of receiving lease premiums: Kosciusko Thredbo Pty Ltd v FCT 84 ATC 4043; or
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: the lease premium is a disguised payment of additional rent: Case E34 73 ATC 282.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: McCauley v FCT (1944) 69 CLR 235: a royalty payment is a payment that is calculated based on the quantity/value of a substance taken or the usage of intellectual property rights.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The McCauley case is often contrasted with the decision in Stanton v FCT (1955) 92 CLR 630.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Egerton-Warburton & Ors v DFCT (1934) 51 CLR 568: the full amount of the regular annuity payments were treated as ordinary income.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: McLaurin v FCT (1961) 104 CLR 381 - whole sum treated as capital. Where a payment is received for unliquidated damages, courts are reluctant to apportion the sum into income and capital components.
an undissected lump-sum settlement cannot simply be apportioned into income components without a proper evidentiary/statutory basis

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *C of T (Vic) v Phillips (1936) 55 CLR 144
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Smith (1981) 147 CLR 578; 81 ATC 4114; [1981] HCA 10
FCT v Smith supports the deductibility of premiums paid for insurance against loss of earnings where the policy protects the taxpayer's income-producing capacity: the required nexus is with the gaining or producing of assessable income, and the premiums were not capital, private or domestic in character. The case should not be confused with Smith v FCT (1987) 164 CLR 513, which concerned an employer study-payment under former s 26(e).

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Heavy Minerals v FCT (1966) 115 CLR 512
compensation replacing trading/revenue receipts can take revenue character

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Van Den Berghs Ltd v Clark [1935] AC 431
compensation for sterilising or surrendering part of the profit-yielding structure can be capital

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Californian Oil Products Ltd v FCT (1934) 52 CLR 28
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Wade (1951) 84 CLR 105
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning,

compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v The Myer Emporium Ltd 87 ATC 4363 - 2nd strand: compensation for the interest that would have been received was income.
a profit from an isolated commercial transaction can be ordinary income where the transaction is entered into with a profit-making purpose in a business/commercial context; also supports analysing what a compensation/profit amount replaces

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: C of T (Vic) v Phillips (1936) 55 CLR 144
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Dixon (1952) 86 CLR 540
a payment substituting for employment earnings can retain income character even if paid by another source or under a special arrangement

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Keily v FCT 83 ATC 4248
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. PTL [9.00]–[9.210]; [10.000]–[10.120]; [10.150]–[10.290]; [5.130]; [5.90]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) (“PTL”). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Returns from property are often easier to identify than business or personal-exertion receipts, but the chapter becomes difficult when a lump sum, compensation payment or assignment is substituted for a recurring return. The guiding question is: what is the payment really replacing or rewarding? Character follows the underlying source or right rather than the label chosen by the payer.

Interest, rent, royalties and dividends are classic returns from property, but each may have statutory timing or inclusion rules. Compensation then requires a replacement analysis. If damages replace lost income, they usually inherit income character. If they compensate for destruction or sterilisation of a capital asset or the profit-yielding structure, capital treatment may be appropriate.

Periodicity is evidence, not a complete rule. Regular recurring payments often look like income, yet a capital amount can be paid by instalments and an income amount can be paid as a single lump sum. The legal character is determined by the underlying entitlement.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 s 6-5	Interest, rent and many royalties are ordinary income because they are returns from the use of property or money.	Use as the primary rule for recurring property returns unless a specific statutory provision applies.
ITAA36 ss 44–47	Contain the statutory regime for dividends and related company distributions.	Use for shareholder distributions rather than relying only on ordinary-income concepts.
ITAA97 s 6-25	Coordinates overlapping income provisions.	Use to prevent double inclusion where a specific statutory income rule also applies.
ITAA97 s 15-20	Relevant to specified royalty-type receipts in the legal materials.	Check statutory income where a payment for intellectual/ property rights is not fully dealt with by ordinary income.
ITAA97 s 27H	Provides statutory treatment for annuities and superannuation income-stream components within its scope.	Use where a periodic receipt is an annuity rather than ordinary rent/interest.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it

McLaurin v FCT (1961) 104 CLR 381	An undissected lump-sum settlement cannot simply be apportioned by the Commissioner where the settlement itself does not identify components with sufficient certainty.	Use where damages cover several possible heads and the settlement is a single undissected amount.
FCT v Phillips	Used in the compensation context to identify what a receipt replaces and therefore its character.	Use as part of the replacement-principle analysis.
Heavy Minerals Pty Ltd v FCT	Compensation connected with loss/ cancellation of ordinary business trading arrangements may be income where it replaces revenue profits.	Use for cancellation of ordinary contracts.
Van Den Berghs Ltd v Clark	Compensation for cancellation/ destruction of agreements forming part of the enduring business structure can be capital.	Use where the contract is part of the profit-yielding apparatus rather than an ordinary trading contract.
Californian Oil Products Ltd v FCT	Supports capital treatment where compensation relates to the sterilisation or loss of a structural asset/right.	Use alongside Van Den Berghs when the contract/right is foundational to the business structure.
GP International Pipecoaters Pty Ltd v FCT	Illustrates characterisation of receipts by reference to the business activity and what the payment is for.	Use for unusual business receipts and compensation/grants where the source must be identified.

Worked application — fact-by-fact reasoning map

> **Physiotherapy business cash receipts and invoices**
> Determine the appropriate derivation method for Mark's business and distinguish amounts received from recoverable debts outstanding at year end.

$56,000 cancellation compensation
Identify the cancelled service agreement. If it is an ordinary revenue contract, the compensation is likely to replace trading income; if it affected the business structure, argue the capital alternative.

Employment settlement
Split components where the agreement genuinely identifies amounts for lost salary, distress or other heads. Do not assume all settlement money has one character.

$42,000 assignment of future fees
Ask whether Mark has assigned an underlying income-producing asset/right or merely converted future income into a lump sum. The distinction is central to ordinary-income character.

Property transaction
Analyse whether the property receipt is ordinary income, an isolated profit-making gain or CGT; do not let the compensation topic obscure the separate asset analysis.

Sneakers/collectables/personal assets
Where the problem includes personal property, move to the CGT personal-use/collectable rules rather than forcing the item into ordinary income.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 5 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. In McCauley v FCT, a payment for timber calculated per unit of timber actually cut and removed was held to be:

1. A capital gain
2. A royalty, assessable as ordinary income, because payment was tied to use/extraction of the property right
3. Exempt agricultural income
4. A loan repayment

Q2. Stanton v FCT is contrasted with McCauley because the timber there was sold for:

1. A lump sum unrelated to the quantity ultimately removed, pointing to a capital disposal rather than a royalty
2. The same royalty structure as McCauley
3. An amount fixed by the ATO
4. Nothing — it was a gift

Q3. The "substitution principle" for compensation receipts (McLaurin, Heavy Minerals, Van Den Berghs) asks:

1. Whether the payer is a government body
2. What the payment actually replaces — an income stream, a capital asset, or an underlying profit-making structure
3. Whether tax was withheld at source
4. Whether the payment was insured

Q4. Californian Oil Products Ltd v FCT **illustrates that a payment for cancelling an agency or management agreement is capital where:**

1. It compensates for the loss of the taxpayer's profit-yielding structure, not merely a single transaction in the ordinary course of business
2. The agreement was for less than 12 months
3. The agency was informal
4. Any cancellation payment is automatically capital

Q5. Van Den Berghs Ltd v Clark **held that a lump sum received for cancelling long-term profit-sharing and market-regulation agreements between competitors was:**

1. Ordinary trading income
2. A capital receipt, because the agreements were part of the profit-making structure, not ordinary trading transactions
3. Exempt foreign income
4. A dividend

Q6. A lump sum payment received for both loss of income and loss of a capital asset (undissected damages) is:

1. Always entirely capital
2. Not automatically apportioned between capital and income components unless the components can genuinely be dissected — otherwise the whole sum may take a single character
3. Always entirely income
4. Always split 50/50

Q7. Interest income is generally:

1. A capital receipt
2. Ordinary income, commonly derived when received
3. Only statutory income
4. Exempt if under $500

Q8. GP International Pipecoaters Pty Ltd v FCT is authority for the principle that:

1. The character of a receipt/expenditure is determined by what it is calculated to effect from a practical and business point of view, not by the labels the parties use
2. All government grants are exempt
3. Pipe coating businesses receive special tax treatment
4. Receipts must be characterised by the recipient's accounting entries

Q9. Keily v FCT concerns:

1. The definition of a permanent place of abode
2. The characterisation of a specific type of compensation or property-related receipt considered as part of the compensation-receipts topic
3. Corporate residency
4. GST on property sales

Q10. When analysing a compensation receipt in an IRAC answer, the first step should be to:

1. Assume it is always a capital gain
2. Identify precisely what the payment replaces before characterising it as income or capital
3. Check whether the payer is registered for GST
4. Apply the CGT discount immediately

Chapter 5 Mastery Quiz — Answers and Explanations

A1. Answer: B

McCauley's per-unit payment tied to actual timber cut was a royalty and ordinary income.

A2. Answer: A

Stanton's lump sum, unrelated to quantity removed, pointed to a capital disposal rather than a royalty.

A3. Answer: B

The substitution principle asks what the payment replaces — income, a capital asset, or the profit-making structure.

A4. Answer: A

Californian Oil Products treats a cancellation payment as capital where it compensates for loss of the profit-yielding structure itself.

A5. Answer: B

Van Den Berghs held the payment was capital because the cancelled agreements were part of the profit-making structure, not ordinary trading transactions.

A6. Answer: B

Undissected lump sums are not automatically apportioned unless the components can genuinely be separated.

A7. Answer: B

Interest is ordinary income, commonly derived when received.

A8. Answer: A

GP International Pipecoaters confirms character is determined by practical business effect, not labels.

A9. Answer: B

Keily concerns characterisation of a compensation/property-related receipt within this topic.

A10. Answer: B

Always identify what the payment replaces before characterising it.

Chapter 5 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Explain the difference between McCauley and Stanton and why the payment structure (per-unit vs lump sum) affected the outcome.

SA2. Explain the "substitution principle" for compensation receipts and apply it to a payment received for cancellation of a five-year exclusive supply contract that was central to the taxpayer's business.

SA3. Using Van Den Berghs Ltd v Clark, explain why cancelling a structural, long-term business arrangement produces a capital receipt rather than income.

SA4. Explain the problem of "undissected" lump sum damages and how a court or the Commissioner approaches characterising them.

SA5. Using GP International Pipecoaters, explain why the label the parties give a payment (e.g. calling it a "loan" or a "grant") is not decisive of its tax character.

Chapter 5 Short-Answer Questions — Model Answers

Model Answer SA1

In McCauley, the payment was calculated per unit of timber actually cut and removed — a payment for the use of a property right, giving it the character of a royalty and ordinary income. In Stanton, the taxpayer instead sold the timber for a fixed lump sum unrelated to the quantity ultimately removed by the purchaser, which was treated as a disposal of a capital asset (the standing timber) rather than a royalty, because payment did not depend on continued use or extraction.

Model Answer SA2

The substitution principle requires asking what the compensation payment actually replaces. Applied to a payment for cancelling a five-year exclusive supply contract central to the taxpayer's business: if the contract was simply one of many ordinary trading arrangements, compensation for its loss would likely be income (replacing lost trading profit). But if the contract was so fundamental that its loss affected the taxpayer's whole profit-making structure (as in Van Den Berghs), the compensation is more likely capital, because it replaces the underlying structural asset rather than day-to-day trading receipts.

Model Answer SA3

In Van Den Berghs, the cancelled agreements were not ordinary trading contracts for the sale of goods — they were long-term arrangements that regulated the competitive and profit-sharing relationship between the two companies, effectively part of the fixed framework within which the business operated. Cancelling them affected the profit-making structure itself, not merely a single trading transaction, so the payment received was held to be a capital receipt.

Model Answer SA4

Where a lump sum compensates for both income loss and capital loss without separately identifying each component, the payment is "undissected". McLaurin establishes that such a lump sum is not automatically split — if no reasonable basis exists to apportion it between capital and income elements, the whole amount may need to be characterised according to its dominant or overall purpose, which will often mean the entire sum takes a single (commonly capital) character rather than being partly taxed as income.

Model Answer SA5

GP International Pipecoaters establishes that the tax character of a receipt or payment is determined by what it is calculated to effect from a practical and business point of view — not by what the parties choose to call it. A payment labelled a "loan" that is never intended to be repaid, or a "grant" that is really consideration for services, will be characterised according to its true substance and purpose, not its label, ensuring that parties cannot avoid the correct tax treatment simply through contractual wording.

Chapter 5 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Is a royalty always ordinary income?

Q: If I receive compensation for a cancelled contract, is it always tax-free?

Q: What happens if a compensation payment covers both income loss and capital loss in one lump sum?

Q: Is interest on a bank savings account taxed differently from interest on a business loan I've made?

Q: Does the identity of the payer (government vs private company) change how a receipt is taxed?

Chapter 5 — Frequently Asked Questions: Suggested Answers

FAQ 1

Royalties calculated by reference to use or extraction of a right (as in McCauley) are typically ordinary income, but this depends on the payment structure — a lump sum disposal of the underlying right itself (as in Stanton) is more likely to be treated as a capital disposal.

FAQ 2

No — it depends entirely on what the payment replaces. Compensation for lost trading profits or income is generally ordinary income; compensation for the loss of a structural or capital asset (such as your entire profit-making apparatus) is generally capital.

FAQ 3

If the components can be genuinely identified and separated (dissected), each portion is taxed according to its own character. If they cannot be meaningfully dissected, the whole payment may need to be characterised as a single amount, often as capital, following principles from cases like McLaurin.

FAQ 4

Both are generally ordinary income, usually derived when received (on a cash basis) for individuals, though the specific facts and whether the lending is part of a business can affect timing and characterisation.

FAQ 5

Not by itself — GP International Pipecoaters confirms that the character of a receipt is determined by its practical, business character and purpose, not by the label applied to it or the identity of the payer alone.

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income included by a specific provision under s 6-10. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

An amount subtracted from assessable income under a deduction-conferral provision. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define TAX and explain why it matters to the Chapter 1 analysis.
2. Define Equity and explain why it matters to the Chapter 1 analysis.

3. Define Progressive and explain why it matters to the Chapter 1 analysis.
4. Define taxable income and explain why it matters to the Chapter 1 analysis.
5. Define assessable income and explain why it matters to the Chapter 1 analysis.
6. Define ordinary income and explain why it matters to the Chapter 1 analysis.
7. What role does s 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 4-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does ss 4-1, 4-5, 4-10 and 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does ss 6-5, 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does ss 4-1, 4-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Matthews v Chicory Marketing Board illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does MacCormick v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does FCT v Myer Emporium Ltd illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does Zobory v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Federal Coke Co Pty Ltd v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Emma earns $92,000 salary with $20,000 PAYG withheld. She receives a $600 birthday voucher from her employer, $12,000 of Uber receipts (stated exclusive of GST), $24,000 rent, $1,200 bank interest and a $10,000 lottery prize. Her deductible Uber costs are…
20. What should a strong Chapter 1 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. Answer

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. Answer

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. Answer

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. Answer

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. Answer

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

8. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

9. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

10. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

11. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

12. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

13. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

14. Answer

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

15. Answer

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

16. Answer

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

17. Answer

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

18. Answer

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 4-15 in this chapter?

1. s 4-15
2. ss 4-1, 4-5, 4-10 and 4-15
3. ss 6-5, 6-10
4. s 4-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 4-10 in this chapter?

1. s 4-10
2. ss 6-5, 6-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-15

3. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5, 4-10 and 4-15 in this chapter?

1. ss 4-1, 4-5, 4-10 and 4-15
2. ss 6-5, 6-10
3. s 4-10
4. s 4-15

4. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5, 6-10 in this chapter?

1. s 4-15
2. ss 6-5, 6-10
3. s 4-10
4. ss 4-1, 4-5, 4-10 and 4-15

5. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5 in this chapter?

1. s 4-15
2. s 4-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. ss 4-1, 4-5

6. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 4-15
2. s 6-5
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-10 in this chapter?

1. s 4-10
2. s 4-15
3. s 6-10
4. ss 4-1, 4-5, 4-10 and 4-15

8. Which provision is the relevant statutory reference for the rule or method associated with ss 6-15, 6-20, 6-23 in this chapter?

1. ss 6-15, 6-20, 6-23
2. ss 4-1, 4-5, 4-10 and 4-15
3. s 4-10
4. s 4-15

9. Which authority is connected with this proposition: Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

1. MacCormick v FCT
2. FCT v Myer Emporium Ltd
3. Zobory v FCT
4. Matthews v Chicory Marketing Board

10. Which authority is connected with this proposition: Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

1. Zobory v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. MacCormick v FCT

11. Which authority is connected with this proposition: A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

1. FCT v Myer Emporium Ltd
2. Matthews v Chicory Marketing Board
3. MacCormick v FCT
4. Zobory v FCT

12. Which authority is connected with this proposition: Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

1. MacCormick v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. Zobory v FCT

13. Which authority is connected with this proposition: Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

1. Matthews v Chicory Marketing Board
2. MacCormick v FCT
3. Federal Coke Co Pty Ltd v FCT
4. FCT v Myer Emporium Ltd

14. Which authority is connected with this proposition: Non-cash benefits not convertible into money were not ordinary income on the facts.

1. MacCormick v FCT
2. FCT v Cooke & Sherden
3. Matthews v Chicory Marketing Board
4. FCT v Myer Emporium Ltd

15. Which taxation-law term or authority best matches this description: A compulsory exaction by public authority for public purposes.

1. taxable income
2. TAX
3. Equity
4. Progressive

16. Which taxation-law term or authority best matches this description: Tax-system criterion concerned with fairness.

1. Equity
2. Progressive
3. taxable income
4. assessable income

17. Which taxation-law term or authority best matches this description: Rate structure in which the average rate rises as income rises.

1. assessable income
2. Progressive
3. taxable income
4. ordinary income

18. Which taxation-law term or authority best matches this description: Assessable income less deductions under s 4-15.

1. assessable income
2. ordinary income
3. statutory income
4. taxable income

19. Which taxation-law term or authority best matches this description: Income brought into the statutory tax base.

1. statutory income
2. Deduction
3. assessable income
4. ordinary income

20. Which taxation-law term or authority best matches this description: Income according to ordinary concepts under s 6-5.

1. ordinary income
2. tax loss
3. Deduction
4. statutory income

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. A. s 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

2. A. s 4-10

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

3. A. ss 4-1, 4-5, 4-10 and 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

4. B. ss 6-5, 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

5. D. ss 4-1, 4-5

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

6. B. s 6-5

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

7. C. s 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

8. A. ss 6-15, 6-20, 6-23

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

9. D. Matthews v Chicory Marketing Board

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

10. D. MacCormick v FCT

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

11. A. FCT v Myer Emporium Ltd

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

12. D. Zobory v FCT

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

13. C. Federal Coke Co Pty Ltd v FCT

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

14. B. FCT v Cooke & Sherden

Non-cash benefits not convertible into money were not ordinary income on the facts.

15. B. TAX

TAX: A compulsory exaction by public authority for public purposes.

16. A. Equity

Equity: Tax-system criterion concerned with fairness.

17. B. Progressive

Progressive: Rate structure in which the average rate rises as income rises.

18. D. taxable income

taxable income: Assessable income less deductions under s 4-15.

19. C. assessable income

assessable income: Income brought into the statutory tax base.

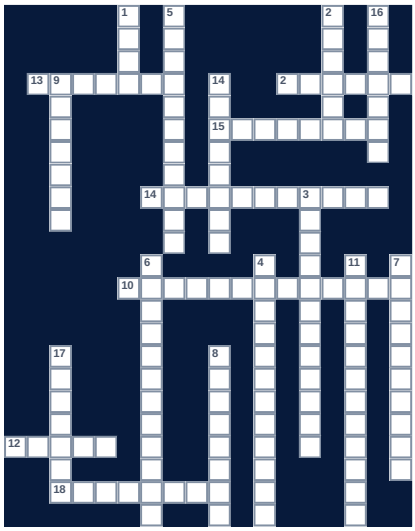
20. A. ordinary income

ordinary income: Income according to ordinary concepts under s 6-5.

20-CLUE CROSSWORD

Crossword - Chapter 5: Returns from Property, Compensation Receipts and Periodicity

Launch Chapter 5 Active Crossword to type directly into the grid and check your answers.



Across

1. Recurring flow of receipts.
2. Authority on compensation and revenue/ capital character.
3. Authority relevant to characterisation of compensation.
4. Character contrasted with revenue or ordinary income.
5. Regular recurrence supporting an income character.
6. Return on debt or use of money.
7. Authority on undissected compensation payments.

Down

1. Return from granting use of property.
2. Property or legal right producing the return.
3. Receipt whose character generally follows what it replaces.
4. Company payment potentially within ss 44-47 ITAA36.
5. Compensation is characterised by the item or right replaced.
6. Upfront lease-related receipt requiring specific statutory analysis.
7. Transfer of a right to future income requiring character analysis.
8. Distribution by a company subject to statutory rules.
9. Periodic payment with statutory treatment.
10. Authority concerning compensation replacing a capital asset or structure.
11. Authority relevant to rent/property receipts.
12. Payment for use of intellectual or other property.
13. Lump sum connected with grant or variation of lease rights.

CROSSWORD ANSWERS

Crossword Answers - Chapter 5

2 Across - STREAM	10 Across - HEAVYMINERALS
12 Across - SMITH	13 Across - CAPITAL
14 Across - PERIODICITY	15 Across - INTEREST
18 Across - MCLAURIN	1 Down - RENT
2 Down - SOURCE	3 Down - COMPENSATION
4 Down - DISTRIBUTION	5 Down - REPLACEMENT
6 Down - LEASEPREMIUM	7 Down - ASSIGNMENT
8 Down - DIVIDEND	9 Down - ANNUITY
11 Down - VANDENBERGHS	14 Down - PHILLIPS
16 Down - ROYALTY	17 Down - PREMIUM

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Professional practice compensation

Problem

Mark runs a physiotherapy clinic. He receives cash fees, outstanding invoice payments, $80,000 compensation for cancellation of a three-year service agreement, $45,000 settlement of an employment-related claim and $25,000 for assigning the right to future payments under another contract. Characterise each amount and explain why the legal source and what the payment replaces matter.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Professional practice compensation

Issue. Compensation and assignment receipts are characterised by what they replace and whether they affect the profit-making structure or merely substitute for revenue.

Rule / Law. Cash fees and invoice collections from professional services are ordinary income under s 6-5. The compensation "substitution principle" in authorities including *McLaurin*, *Allsop*, *Heavy Minerals* and *Phillips* asks what the payment replaces. *Van den Berghs* and *Californian Oil Products* distinguish compensation for the profit-making structure (capital) from compensation replacing trading income (revenue). The sale/assignment of a right to future income may also require the capital/ordinary-income principles in *Myer Emporium*.

Application. Clinic fees and outstanding invoice payments are ordinary income. The $80,000 cancellation payment is likely revenue if it replaces expected service fees under an ordinary trading contract; it may be capital only if cancellation destroys or sterilises an enduring part of the clinic's profit-making structure. The $45,000 employment-related settlement must be dissected: an amount replacing lost wages is revenue; an amount for personal injury, loss of office or surrender of a capital right may be capital or subject to a specific statutory rule. The $25,000 assignment of future payments requires close analysis of the right assigned and whether Mark has converted a future income stream into a present lump sum; it may be ordinary income under the *Myer* principle or a capital receipt depending on the asset/right transferred.

Conclusion. Do not characterise the three lump sums by label alone. Trace each payment to the legal right or income stream it replaces, then apply the corresponding ordinary-income or capital/CGT rule.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Property returns and lease payments

Problem

Priya owns an investment building and receives monthly rent, interest on a tenant loan, a lump-sum lease premium, a royalty for rooftop telecommunications equipment and compensation when a tenant terminates a lease early. Explain the ordinary and statutory income treatment and distinguish revenue receipts from capital receipts.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Property returns and lease payments

Issue. Priya receives several different returns from property and one compensation payment; each must be separately classified.

Rule / Law. Rent and interest are classic ordinary income under s 6-5. Royalties are ordinarily income and, where not ordinary income, ITAA97 s 15-20 can operate. A lease premium or other lump sum connected with granting rights over property must be tested under the relevant specific provisions and CGT rules rather than assumed to be rent. Compensation is characterised by what it replaces.

Application. Monthly rent is ordinary income. Interest on the tenant loan is ordinary income from property. The rooftop telecommunications royalty is assessable as ordinary income or, if necessary, under s 15-20. The lease premium is a lump sum for granting/altering lease rights and requires the specific lease/CGT provisions; it is not automatically recurring rent. The early-termination compensation takes the character of the right or stream replaced: if it substitutes for future rent it is likely revenue; if it compensates for permanent damage to or surrender of an enduring capital asset/ right, capital treatment becomes stronger.

Conclusion. Rent, interest and the royalty are assessable; the lease premium and termination compensation require the statutory lease/CGT and substitution-principle analysis before a final capital/revenue conclusion.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 6. CAPITAL GAINS TAX: EVENTS, ASSETS, COST BASE, LOSSES AND DISCOUNTS

CGT events • CGT assets • proceeds • cost base • capital losses • discount • exemptions • anti-overlap

CGT is a sequence. Do not jump to the 50% discount. First identify the CGT event, timing, asset, proceeds and cost base. Then apply losses, discounts and concessions in the statutory order.

LEARNING OUTCOMES

- Identify common CGT events and their timing.
- Determine whether an asset is pre-CGT or post-CGT and whether a gain or loss is disregarded.
- Build cost base and reduced cost base element by element.
- Apply market-value substitution and anti-overlap rules.
- Distinguish personal-use assets, collectables and ordinary CGT assets.
- Calculate a net capital gain under the five-step method in s 102-5.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: CGT is a statutory method, not a general idea of profit

Every CGT answer should begin with the event, not with the size of the economic profit. Section 102-20 tells the student that a capital gain or loss arises only if a CGT event happens. Identify the event in Division 104, its timing rule and its calculation formula. Then ask whether a CGT asset is required, whether the asset is pre-CGT, whether an exemption applies, and whether another regime has priority.

Capital proceeds and cost base

Section 116-20 supplies the general capital-proceeds rule, but market-value substitution and other modifications can alter the amount. Section 110-25 divides the cost base into five elements. The student should classify each expenditure item by element rather than simply total every historic cost. Incidental costs under s 110-35, ownership costs, value-preserving capital expenditure and title-related expenditure have different statutory homes.

Losses and the s 102-5 method statement

Current-year capital losses are applied before prior-year net capital losses. Discounts are applied after losses, and the order in which losses are allocated can matter because losses should generally be used against non-discount gains first where that produces the lower net capital gain. Collectable losses are quarantined. The final net capital gain is statutory income under s 102-5.

Anti-overlap and depreciating assets

Section 118-20 prevents double taxation where the same economic amount is otherwise assessable as income and a capital gain. Depreciating assets can be excluded from CGT outcomes by s 118-24 because Division 40 is intended to be the primary regime. This interaction matters when a problem mixes business assets, CGT assets and deductible expenditure.

> **In plain English**
> CGT is mechanical once the correct event is identified. Event first; calculation second. Most avoidable exam mistakes come from applying the discount too early or forgetting losses and special asset categories.

Key language

CGT event · CGT asset · A1 · C1 · C2 · D1 · F1 · capital proceeds · cost base · reduced cost base · market value substitution · personal use asset · collectable · main residence · capital loss · discount capital gain · net capital gain · anti-overlap · pre-CGT · post-CGT · acquisition time

Issue → Rule → Authority → Application

I — Identify	R — Rule

State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

6.1 Capital Gains Tax is a method, not a single rate

Australian capital gains tax is not a separate tax imposed by a standalone CGT Act. It is an income-tax regime contained principally in Parts 3-1 and 3-3 ITAA97. A taxpayer's net capital gain is included in assessable income as statutory income under s 102-5. A net capital loss is not deducted from salary, rent or business income. Instead, capital losses are quarantined and applied within the CGT calculation under ss 102-10 and 102-15.

The most important habit in CGT is to follow the statutory sequence. Do not begin with “sale price minus purchase price”. First identify a CGT event. Then identify the CGT asset or right involved. Determine the time of the event. Work out capital proceeds and cost base/reduced cost base. Apply any disregard or exemption. Only then move to the five-step net-capital-gain method in s 102-5.

6.2 Step zero: no CGT event, no capital gain or loss

Section 102-20 states the foundational rule: a capital gain or loss is made only if a CGT event happens. Section 104-5 contains the event table. This chapter focuses on several recurring events:

CGT event	Provision	Typical trigger

A1	s 104-10	Disposal of a CGT asset, usually by changing ownership under a contract.
C1	s 104-20	Loss or destruction of a CGT asset.
C2	s 104-25	Cancellation, surrender, discharge, redemption or similar ending of an intangible CGT asset/right.
D1	s 104-35	Creating a contractual or other legal/equitable right in another entity.
F1	s 104-110	Granting a lease.

Section 102-25 deals with priority where more than one CGT event could apply. A good exam answer identifies the specific event and its time rule rather than writing merely “CGT applies”.

6.3 Pre-CGT assets: an event can happen even though the gain is disregarded

The CGT regime commenced in September 1985. The authorities discussed in this chapter distinguish pre-CGT and post-CGT assets and direct attention to disregard rules such as s 104-10(5)(a). An important conceptual point is that a CGT event can still happen in relation to a pre-CGT asset; the resulting capital gain or loss may then be disregarded. Section 102-23 helps students keep “event” and “taxable result” separate.

The 2026 Budget CGT reforms have now been enacted by the Treasury Laws Amendment (Tax Reform No. 1) Act 2026 (Cth), which received assent on 26 June 2026. The relevant CGT amendments apply from 1 July 2027 in accordance with the Act. For assessment answers, use the law applicable to the stated income year and do not apply later reforms retrospectively.

6.4 What is a CGT asset?

Many CGT events require a “CGT asset”. Section 108-5 defines the concept broadly and includes property and legal or equitable rights that are not property in the ordinary sense. Shares, land, contractual rights, debts and many intangible rights can therefore fall within the regime.

This breadth explains why CGT appears in fact patterns that do not involve selling physical property. Forgiving a debt can involve the ending of a right; agreeing to a

restrictive covenant can involve creation of a contractual right; termination of a contract can involve the ending of an intangible asset.

6.5 Personal-use assets and collectables

The CGT regime treats some private assets specially. Section 108-20 addresses personal-use assets, and s 108-10 addresses collectables. Losses on personal-use assets are generally disregarded, while capital losses from collectables are quarantined for application against capital gains from collectables.

This becomes important for jewellery, artworks, debts between friends and similar facts. The legal classification is not based simply on whether the asset is “personal” in everyday language. Apply the statutory definition and exceptions. A debt can cease to be a personal-use asset where it arose in the course of gaining or producing assessable income—for example, an interest-bearing loan.

6.6 Capital proceeds

Section 116-20 provides the general capital-proceeds rule. Broadly, proceeds include money and the market value of property received or entitled to be received in respect of the CGT event. Section 116-30 contains market-value substitution rules in relevant non-arm's-length or no-consideration situations.

Always ask whether the stated price is the legal capital proceeds. Gifts and transfers for nominal consideration are classic traps. If Jeff gifts land worth $800,000 to his daughter or transfers it for $1, the market-value substitution rule may deem market value for the transferor's capital proceeds. The recipient's cost base may also be affected by the market-value rules in s 112-20.

6.7 Cost base and reduced cost base

Section 110-25 structures the cost base into elements. Students should identify the relevant element rather than placing every historical expense into a single “purchase cost” figure. The first element generally captures money/property given to acquire the asset. Other elements can include incidental costs, non-capital ownership costs in defined circumstances, capital expenditure to increase or preserve value, and capital expenditure to establish, preserve or defend title/right.

Section 110-35 specifies incidental costs. Other provisions prevent amounts already deducted from being counted again in the cost base. This coordination principle is vital: tax law generally does not permit the same economic outgoing to produce a deduction and also inflate the cost base unless legislation allows it.

6.8 Calculating the capital gain or loss for an event

Each CGT event has its own calculation mechanism. For A1, compare capital proceeds with cost base to determine a gain, or with reduced cost base to determine a loss. The event's time rule can be crucial. For a contract-based disposal, the CGT event commonly occurs when the contract is entered into, not at settlement. This means a contract signed before 30 June can affect that income year even where settlement happens in July.

For C1, insurance proceeds can form capital proceeds where an asset is lost or destroyed. For C2, a payment received when a contractual right is cancelled can be proceeds. For D1, the party who creates a right may make a capital gain by comparing proceeds with the incidental costs permitted by the event; the recipient's position requires separate analysis.

6.9 The 50% discount: apply it at the correct stage

Division 115 contains the discount-capital-gain regime. For an eligible individual or trust, an eligible gain on an asset held for at least 12 months can commonly receive the 50% discount, subject to the detailed rules. Companies do not receive the general 50% discount.

The most common calculation mistake is applying the discount too early. Current-year capital losses and prior-year net capital losses are applied before the discount. Section 102-5's method statement gives taxpayers choices about which capital gains are reduced by losses. Tax-effective allocation often means using losses against non-discount gains first so that the discount is preserved for eligible gains.

6.10 The five-step net capital gain method in s 102-5

1. Step 1: reduce current-year capital gains by current-year capital losses. The statutory notes allow choice in the order of application.
2. Step 2: reduce remaining gains by unapplied net capital losses from earlier years, again observing the statutory rules and available choices.
3. Step 3: apply the CGT discount to eligible discount capital gains.
4. Step 4: apply available small-business CGT concessions where relevant. The relevant law and authorities may direct students to ignore these in particular problems.
5. Step 5: add the remaining capital gains. The result is the net capital gain included in assessable income under s 102-5.

Critical rule
Capital losses do not reduce ordinary income. They operate within the CGT method. Collectable losses are subject to their own quarantine under s 108-10.

6.11 Main-residence and other exemptions

This chapter's statutory map includes provisions such as ss 118-110, 118-135, 118-145 and 118-185 dealing with the main-residence framework and partial use. A student should identify the precise exemption provision and test its conditions rather than stating “home is CGT-free”. Periods of income-producing use, absence, land size, timing and ownership can all alter the result.

Section 118-10 contains other disregard rules for specified personal assets. Every exemption is statutory. Check its elements and any threshold.

6.12 Anti-overlap and interaction with ordinary income

Where a gain is also ordinary income—for example, a profit-making transaction—the CGT provisions contain anti-overlap rules such as s 118-20. The student should first calculate the ordinary-income consequence and the CGT consequence, then apply the coordinating provision. Do not simply say “CGT does not apply because it is income”: a CGT event may still happen, but the capital gain can be reduced to avoid double taxation.

6.13 Worked calculation — Priya

The Week 7 calculation notes provide an excellent statutory demonstration. Priya has discount capital gains of $960,000, non-discount capital gains of $8,300, current-year capital losses of $86,000 and a prior-year net capital loss of $20,000. She also has a $600 collectables loss that is quarantined.

Step	Calculation	Result
1A	Apply current loss against non-discount gains: $8,300 − $8,300	$0 non-discount gain; $77,700 current loss remains
1B	$960,000 discount gains − $77,700 remaining current loss	$882,300
2	$882,300 − $20,000 prior-year net capital loss	$862,300
3	$862,300 × 50% discount	$431,150

4	No small-business concessions assumed	$431,150
5	Add remaining gains	Net capital gain = $431,150

The $431,150 enters assessable income under s 102-5. The $600 collectables loss is carried forward for use against future collectables gains under s 108-10(4), rather than reducing the $431,150.

6.14 Worked problem issue map: common CGT events

This chapter examples are designed to make students classify events:

- Shares sold: CGT event A1; determine contract date, proceeds and cost base.
- Stolen necklace: consider C1 and the personal-use/collectable rules; insurance changes capital proceeds.
- Loan forgiven: creditor's debt/right ends under C2; decide whether any loss is disregarded as personal use.
- Restrictive covenant: creation of a contractual right can trigger D1 for the covenantor.
- Lease premium: granting a lease can trigger F1; do not confuse the premium with ordinary rent.
- Gift of land: A1 with market-value substitution for proceeds; recipient cost-base substitution may apply.

6.15 How to write a CGT IRAC answer

I — Issue

Identify each asset/right and each event separately. State whether the problem asks for an individual capital gain/loss or the overall net capital gain.

R — Rule

Cite s 102-20, the specific event in Div 104, the asset/proceeds/cost-base provisions, any exemption/disregard, Div 115 if relevant, and finally the s 102-5 method.

A — Application

Show event time, proceeds and cost base with numbers. Apply exemptions. Keep discount/non-discount gains and quarantined losses in separate columns. Explain the loss-ordering choice.

C — Conclusion

State each gain/loss and the final net capital gain included under s 102-5. State any carried-forward net capital loss or collectables loss separately.

6.16 Current-law discipline: enacted law versus proposals

This chapter contains references to enacted 2026 tax reforms that apply from their specified commencement and application dates, including possible changes commencing in later years. The teaching rule is simple: identify the status of the measure. A Bill, announcement or explanatory memorandum is not automatically enacted law. In assessment work, state the law applying to the specified income year and, if useful, separately note a proposed future change.

6.17 Plain-English summary

CGT is a sequence. Event → asset/right → time → proceeds → cost base → gain/loss → exemptions → losses → discount → concessions → net capital gain. If you follow that order, even a complicated CGT problem becomes manageable. If you skip straight to arithmetic, you are likely to miss the event time, a market-value substitution rule, a disregarded loss, an exemption or the correct ordering of the discount.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

CGT is an event-and-asset system

Capital gains tax is not a separate tax imposed by a single rate. It is a set of statutory rules that identifies CGT assets, specifies CGT events, calculates gains and losses for those events, applies exemptions and concessions, and then places the net capital gain into assessable income. The method matters because a student can reach a numerically plausible answer while being legally wrong if the wrong event, date or asset is used.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

ITAA97 ss 102-5, 102-10, 102-15 and 102-20 provide the core architecture. Division 104 contains CGT events. Section 104-10 (CGT event A1) is the ordinary disposal event; ss 104-20, 104-25 and 104-35 address other events involving rights and intangible dealings identified in this chapter.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

CGT work is primarily statutory. Cases remain relevant to characterisation and overlap with ordinary income, but the starting point is the exact event. Myer/ Westfield/Whitfords Beach are especially important when asking whether a transaction is revenue instead of, or as well as, capital.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

For each transaction write: asset → event → time → proceeds → cost base/reduced cost base → gain/loss → exemption/disregard → discount/concession → netting.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Keep an event ledger. One row per CGT event prevents losses, collectables and discount gains from being combined too early.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Capital proceeds and cost base are statutory amounts, not accounting book values

A balance sheet can identify that an asset exists, but its carrying value does not determine the CGT cost base. The cost base is built from statutory elements such as acquisition money/property, incidental costs, certain ownership costs, capital expenditure increasing/preserving value, and expenditure establishing/preserving title, subject to specific exclusions and adjustments. Reduced cost base is a separate statutory concept used for losses.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use ss 110-25 and 110-35 for cost-base elements and incidental costs, together with ss 112-20 and 116-30 where market-value substitution is triggered. Section 116-20 identifies capital proceeds. Specific provisions can exclude deductible expenditure from cost base or require adjustments.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

This chapter’s Kate example compares indexation and discount methods and demonstrates that stamp duty, legal costs, construction costs and selling commission do not all enter the calculation for the same reason.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot every acquisition/disposal cost and ask which cost-base element, if any, captures it. Then ask whether it has already been deducted or is excluded by another rule.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Maintain a cost-base workpaper with columns for date, expenditure, statutory element, indexation eligibility (if relevant), deduction interaction and adjusted amount.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Capital losses are quarantined and ordering is strategic

Capital losses do not reduce salary or business ordinary income. Current-year capital losses are applied against capital gains under the method statement, and prior-year net capital losses follow at the next stage. Collectable losses are further quarantined to collectable gains. The order chosen can materially affect the final net capital gain when discount and non-discount gains coexist.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Sections 102-5, 102-10, 102-15 and 108-10 are central. The notes to s 102-5 permit choices about applying losses, which is why the Priya worked problem deliberately applies current losses first to non-discount gains.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

This is a statutory calculation rather than a case-law contest. The legal reasoning lies in classifying each gain/loss correctly and applying the method statement in the correct order.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot labels such as collectable, personal-use asset, prior-year net capital loss, current-year capital loss, discount gain and non-discount gain. Keep them separate until the statute tells you to combine them.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Priya: discount gains $960,000; non-discount gains $8,300; current losses $86,000. Apply $8,300 to non-discount gains first, leaving $77,700 to reduce discount gains to $882,300. Apply prior loss $20,000 to $862,300. Apply 50% discount to reach $431,150. The $600 collectable loss remains quarantined.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Discount, indexation, exemptions and taxpayer type

The CGT discount is not simply “halve every capital gain”. Eligibility depends on taxpayer type, asset holding period and other statutory requirements, and it is applied only after losses at the correct step. For eligible pre-21 September 1999 assets, indexation and discount choices can arise. Companies do not receive the general 50% discount. Main-residence and other exemptions must be considered before the final net capital gain.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Division 115 governs the CGT discount. Main-residence rules include ss 118-110 and related provisions. The relevant law and authorities identify the historic indexation cut-off and explain that different entity types have different choices.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The worked examples demonstrate the calculation method; legislation controls entitlement. Always distinguish enacted law from proposals discussed in this chapter.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot acquisition date, taxpayer type, holding period, use as main residence, absence periods, business/private use and any pre-CGT status.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Before applying a percentage, write the legal reason the asset/taxpayer qualifies. Show the discounted amount as a separate line rather than burying it in arithmetic.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Ordinary income and CGT overlap

A land sale or isolated commercial transaction can be ordinary income and also involve a CGT event. The tax system contains anti-overlap rules to prevent double taxation. The conceptual sequence is therefore characterise the transaction under ordinary income principles, identify the CGT event, and then apply the statutory overlap rule.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use s 6-5, the relevant CGT event and anti-overlap rules including s 118-20 where applicable.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Myer Emporium, Californian Copper, Whitfords Beach and Westfield are the principal authorities for the revenue/capital characterisation that must precede the overlap calculation.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Whenever a problem says land was bought “as an investment” but also records a resale/development purpose, analyse both pathways rather than assuming CGT.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Prepare both candidate calculations, then state which amount is assessable as ordinary income and how the CGT gain is reduced/disregarded to prevent double inclusion.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add

any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Priya — s 102-5 net capital gain method statement

Step / item	Tax-law treatment	Number / working
Discount capital gains	Gold Coast/Bondi etc	$960,000
Non-discount capital gains	Current-year non-discount gains	$8,300
Current-year capital losses	Apply first against non-discount gains to preserve discount benefit	$86,000: eliminate $8,300, leaving $77,700
Discount gains after current losses	$960,000 − $77,700	$882,300
Prior-year net capital loss	Apply at Step 2	$20,000 → $862,300
CGT discount	Eligible individual discount at Step 3	$862,300 × 50% = $431,150
Collectable loss	Quarantined under s 108-10(4)	$600 carried forward; not used against ordinary capital gains
Net capital gain	Included as statutory income under s 102-5	$431,150

This schedule is the model for every CGT question: classify each gain/loss before netting, preserve quarantined categories, then apply the method statement in order.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally
5-step, net capital gain calculation (in s 102-5 ITAA97)	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
Priya receives interest on the $20,000 loan to her friend, so the loan debt arises in the course of her gaining or producing her assessable income. This means the debt is not a personal use asset, so the $6,000 capital loss on the forgiven loan is not disregarded.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
For the CIY, Priya's total discount capital gains are: $960,000 (being the $660,000 capital gain on the sale of the Bondi property, plus the $300,000 capital gain in the sale of the Gold Coast property).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
For the CIY, Priya's total non-discount capital gains are: $8,300 (being the $5,800 capital gain on the sale of the GL shares, plus the $2,500 capital gain from the lease premium).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Priya has total capital losses for the CIY of $86,000 (being the $80,000 capital loss on the sale of the vacant land, plus the $6,000 capital loss on the forgiven loan to her friend).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Priya has an unapplied net capital loss from the PIY of $20,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Priya also has a net capital loss from collectables for the CIY of $600 which will be carried forward to reduce her capital gains from collectables in the next income she has such gains: s 108-10(4) ITAA 97.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Step 1: Reduce the capital gains made during the CIY by the capital losses for the CIY.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
In this example, it is much more tax effective to utilise the current year capital loss against the non-discount capital gains first as this will ultimately produce the lowest overall amount in the Priya's assessable income. See Note 1 in Step 1 in s 102-5, which permits a choice to be made about the order in which capital gains can be reduced by capital losses for the CIY.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.

In doing so, the non-discount capital gain is reduced to nil, which leave $77,700 of current year capital loss remaining ($86,000 - $8,300). The remaining current year capital loss ($77,700) is then applied to the discount capital gains, which reduces them to $882,300 ($960,000 - $77,700) at Step 1.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Step 2: Subtract any prior-year, unapplied net capital loss against any capital gains remaining at Step 1.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
The $882,300 discount gain remaining after Step 1 is reduced by $20,000 at Step 2, to result in a capital gain at Step 2 of $862,300.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Step 3: Separate the result from Step 2 into non-discounted capital gains and discounted capital gains, and apply the correct discount percentage to the discount gains only.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
Non-discount capital gains = $0	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Discount capital gains = $862,300	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
The discount capital gain will be reduced to $431,150 ($862,300 × 50%) at Step 3.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Step 4: Apply the CGT small business concessions, if applicable.	This fact bears on whether an activity is a business and/or how the business tax rules apply. Treat formal registrations as evidence, not conclusive proof of business character.
Assume there are no CGT small business concessions available in this question. We do not study the CGT small business concessions in this course.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
Step 5: Add up all of the amounts remaining to get Priya’s net capital gain.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
The non-discount gain was reduced to nil. This means that the remaining capital gain is $431,150, which is Priya’s net capital gain for the year.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

The $431,150 will enter Priya's assessable income as statutory income under s 102-5 ITAA97.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: Assessable income includes net capital gains: section 102-5

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Calculating net capital gains: section 102-5

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Working out net capital losses and their application: sections 102-10 and 102-15

Net capital loss

Calculate capital loss under the CGT rules; do not deduct it from ordinary income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: You can only make a capital gain or loss if a CGT Event happens: section 102-20.

CGT-event gateway

A capital gain/loss arises only because a CGT event happens. Identify the event before doing arithmetic.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Summary of CGT Events: section 104-5

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A1 - most common CGT Event - disposal of a CGT asset: s 104-10

CGT event A1 disposal

Identify change of ownership and the statutory event time, then calculate proceeds and cost base for that asset.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: C1 - loss or destruction of a CGT asset: s 104-20

CGT event involving rights

Identify the exact statutory event and time for the right/asset described in the legal materials before calculating a gain or loss.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: C2 - cancellation, surrender and similar endings: s 104-25

CGT event C2 ending of intangible asset

Use when ownership of an intangible CGT asset such as a contractual right ends by cancellation, surrender, discharge, expiry or similar event.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: D1 - creating contractual or other rights: s 104-35

CGT event D1 creation of contractual/other rights

Use where the taxpayer creates a contractual or other right in another entity; distinguish creation of a right from disposal of an existing asset.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: F1 - granting a lease: s 104-110

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Order of application of CGT Events: section 102-25

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In most cases, capital gains or losses on pre-CGT assets are disregarded. See for example section 104-10(5)(a). Does this mean that a CGT Event does not happen in relation to a pre-CGT asset? See section 102-23.

CGT event A1 disposal

Identify change of ownership and the statutory event time, then calculate proceeds and cost base for that asset.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Example 4: Michael and Jim are best friends. Michael needed some cash to pay for some medical expenses for his daughter. Michael borrowed $5,000 from Jim for 12 months at nil interest. Unfortunately, Michael's daughter passed away and 9 months later, Jim forgave the debt (that is, by releasing or discharging Michael from the obligation to repay the loan). Note, however, s 108-20(2)(d) and s 108-20(1).

Personal-use assets

Identify whether an asset is personal use and apply the special loss/disregard rules rather than ordinary CGT treatment.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Definition of a 'CGT asset' - section 108-5.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What does 'property' mean in section 108-5(1)(a)?

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Legal or equitable rights that are not property: section 108-5(1)(b).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note that a CGT asset includes part of, or an interest in, a CGT asset: section 108-5(2)(a).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Collectables: sections 108-10, 108-15, 108-17 and 118-10(1)

Collectables

Quarantine losses from collectables to gains from collectables as required by the provision; keep a separate carry-forward ledger.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Personal use assets: sections 108-20, 108-25, 108-30 and 118-10(3)

Personal-use assets

Identify whether an asset is personal use and apply the special loss/disregard rules rather than ordinary CGT treatment.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Example 11: Nigella purchased a Mini Cooper motor vehicle 5 years ago for $50,000. She sold it on 1 June 2026 for $28,000. Nigella has a gross capital gain on shares during the 2025/26 year of $100,000. Consider s 118-5.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What is the treatment if a post CGT structure is built on pre-CGT land? See section 108-55(2).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A building or structure on land, or a capital improvement to land, is deemed to be a separate CGT asset from the land if the depreciation provisions (in

Div 40 ITAA97 - studied in a later chapter) apply to the asset: s 108-55(1) and s 108-70(1). The legislation provides the following example (in s 108-70(1)):

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: You own land that you use for pastoral operations. You build some fences that are destroyed by fire. The fences are depreciating assets and are subject to a balancing adjustment on their destruction under Division 40 [meaning the depreciation provisions in the ITAA97]. The fences are taken to be a separate CGT asset from the land.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A depreciating asset that is part of a building or structure is deemed to be a separate CGT asset from the building or structure: s 108-60. The legislation provides the following example (in s 108-60):

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What is the effect of s 118-24(1) in this context (assuming the asset is used 100% to produce assessable income)? Which regime has “priority” regarding such depreciating assets? What does this mean, for example, if the taxpayer has a prior year net capital loss?

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Acquisition rules - see sections 109-5 and 109-10

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Most CGT Events provide for the calculation of a capital gain or capital loss by comparing 2 different amounts. The amount of the gain or loss is the difference between these 2 amounts. See section 102-22.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In many cases, we need to calculate the difference between the capital proceeds, and the cost base or reduced cost base. See, for example, the calculation for CGT Event A1 at section 104-10(4).

CGT event A1 disposal

Identify change of ownership and the statutory event time, then calculate proceeds and cost base for that asset.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note, however, that this is not the universal calculation under the CGT rules. See, for example, the calculation for CGT Event D1 at section 104-35(3). Why does the calculation for CGT Event D1 differ? The point is that you must always check the legislation for the calculation formula for each CGT Event.

CGT event D1 creation of contractual/other rights

Use where the taxpayer creates a contractual or other right in another entity; distinguish creation of a right from disposal of an existing asset.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: General Rules: section 116-20(1) - eg the money (or market value of property) you received, or are entitled to receive, in respect of the CGT Event happening.

Capital proceeds

Identify money/property received or entitled to be received for the CGT event, then test substitution rules.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Market value substitution rule - section 116-30 - read this section in detail.

Market value substitution – proceeds

Apply only if the statutory conditions are satisfied; explain why actual proceeds are replaced with market value.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Apportionment rule - section 116-40

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Example 14: Jeff purchased a block of land in January 2006 for $200,000 near where he lives. He wants to help his adult daughter build a house to live in on the land. On 1 June 2026, Jeff gifts the land to his daughter (meaning for nil consideration). The market value of the land on 1 June 2026 is $800,000. What is Jeff's capital proceeds (consider s 116-30)? What if instead he transferred the land to his daughter for $1? What is his daughter's cost base (consider s 112-20)?

Market value substitution – cost base

Use where the statutory conditions substitute market value for what was actually paid/received in a non-arm's-length or no-consideration setting.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Other modifications to the general rule for capital proceeds in s 116-20 apply. Read the examples in s 116-45 (non-receipt rule), s 116-50 (repaid rule), and s 116-55 (assumption of liability). There is also a misappropriation rule in s 116-60.

Capital proceeds

Identify money/property received or entitled to be received for the CGT event, then test substitution rules.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: According to section 110-25, the 5 elements of cost base are:

Cost-base elements

Assign each amount to the correct statutory cost-base element; accounting book value is not the legal cost base.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: 2nd - incidental costs (eg accountancy, agent & legal fees, costs of transfer, stamp duty, certain advertising costs, valuation costs, search fees, conveyancing kits, borrowing expenses) - see section 110-35. Note the overriding requirements in ss 110-35(1).

Incidental CGT costs

Test legal fees, stamp duty, brokerage, agent fees and other disposal/acquisition costs against the statutory list and timing requirements.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Where indexation applies, the cost base of a CGT asset includes indexation of the elements (except the 3rd element): s 110-36(1).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Market value substitution rule - section 112-20 - read this section in detail

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Apportionment rule - section 112-30

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Generally, expenditure does not usually form part of the cost base or reduced cost base to the extent that a taxpayer has deducted or can deduct it. There are some timing rules regarding this principle: see s 110-40 and s 110-45.

Cost-base exclusions/adjustments

Check whether amounts already deducted or otherwise dealt with must be excluded or adjusted in cost base.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In relation to the reduced cost base, see section 110-55(4). Note, also, section 110-55(9).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If indexation is applicable to the cost base, the third element of the cost base is not indexed: see section 960-275(4).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Split, changed or merged assets: section 112-25

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For CGT assets purchased on or before the 1999 Announcement time, indexation of the asset's cost base is only relevant for individuals trusts and complying super funds if they choose to index the cost base for the purposes of section 110-25.

Cost-base elements

Assign each amount to the correct statutory cost-base element; accounting book value is not the legal cost base.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: That is, indexation is frozen as at 30 September 1999. At that time, inflation data was published on a quarterly basis, and the quarter ending 30 September 1999 is the relevant reference point because indexation was abolished for assets acquired after the 1999 Announcement time: s 114-1. This is why the numerator for the indexation factor (see below) always refers to the index number for the quarter ending 30 September 1999. The legislation still requires the quarterly indexation figure to be used.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference
context: If indexation is relevant, in order to index the cost base of a CGT asset, the asset must be held for at least 12 months before the time of a CGT Event that happens: section 114-10.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Indexing amounts: see sections 960-270, 960-275 and 960-280.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: CGT Event must happen after the 1999 Announcement time - the capital gain must result from a CGT event happening after the 1999 Announcement time (see section 115-15).

CGT discount

Confirm entity eligibility, 12-month holding period and statutory ordering. Companies do not receive the general individual/trust discount.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: No indexation in calculating the capital gain - the capital gain must have been worked out by reference to a cost base whose elements have not been indexed (see section 115-20).

CGT discount

Confirm entity eligibility, 12-month holding period and statutory ordering. Companies do not receive the general individual/trust discount.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Must hold the CGT asset for 12 months - the capital gain must result from a CGT event happening to a CGT asset that was acquired by the entity making the capital gain at least 12 months before the CGT event (see section 115-25).

CGT discount

Confirm entity eligibility, 12-month holding period and statutory ordering. Companies do not receive the general individual/trust discount.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Capital gains from some CGT events do not give rise to discount capital gains. For example, CGT Events D1, F1, F2, F5 and H2 (see section 115-25(3)).

CGT discount

Confirm entity eligibility, 12-month holding period and statutory ordering. Companies do not receive the general individual/trust discount.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The discount percentage for an amount of a discount capital gain is 50% if the gain is made by an individual or trust; and 33.33% (recurring) if the gain is made by a complying superannuation fund (see section 115-100).

CGT discount

Confirm entity eligibility, 12-month holding period and statutory ordering. Companies do not receive the general individual/trust discount.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: See the Method Statement in section 102-5. You need to appreciate the methodology adopted in section 102-5 in detail. See Example 17 below.

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Working out your net capital loss - see section 102-10.

Net capital loss

Calculate capital loss under the CGT rules; do not deduct it from ordinary income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: How to apply net capital losses - see section 102-15.

Application of net capital losses

Use carried-forward net capital losses only against capital gains and in the statutory order.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Kate sold the land with the building on it for $1,600,000 on 16 April 2026. The real estate agent's commission on the sale was $30,000. Assume Kate sold no other CGT assets during the CIY and that she has no prior year net capital loss. (Ignore any possible Capital Allowance Deductions under s 43-10 of ITAA 1997).

Capital works deduction

Identify qualifying construction expenditure, completion/use timing and applicable rate rather than depreciating the building under Div 40.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Example 17: Example of the 5-step, net capital gain calculation (in s 102-5 ITAA97)

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In this example, it is much more tax effective to utilise the current year capital loss against Asset 1 first as this will ultimately produce the lowest overall amount in the taxpayer's assessable income. See Note 1 in Step 1 in s 102-5, which permits a choice to be made about the order in which capital gains can be reduced by capital losses for the CIY.

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Notice that the taxpayer has a choice about the order in which this is done (see Note 2 in Step 2 in s 102-5).

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The $3,000 will enter the taxpayer's assessable income as statutory income under s 102-5.

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Question: What if an amount is assessable as ordinary income under section 6-5 and as a capital gain because of the same CGT Event?

Ordinary income

Identify whether the receipt is income according to ordinary concepts, then apply the resident/foreign-resident jurisdictional subsection and derivation timing.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note the application of section 118-20 - reduce the capital gain by amounts otherwise assessable. Read, in this order, subsections 118-20(1), 118-20(3), and then 118-20(2).

CGT anti-overlap

Reduce a capital gain to prevent double taxation where an amount is already assessable outside the CGT regime.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: How do these provisions rest with section 6-25? What conclusions can you make?

Interaction / no double inclusion

Use where the same amount could be ordinary and statutory income; identify which rule has priority and avoid double counting.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Does section 118-20 apply in this situation? Why?

CGT anti-overlap

Reduce a capital gain to prevent double taxation where an amount is already assessable outside the CGT regime.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: How do the reduced cost base rules work to prevent double counting? Consider sections 110-55(9) and 110-55(4).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: cars and motor cycles (section 118-5)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: collectables and personal use assets (see section 118-10 - discussed previously)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: depreciating assets (see section 118-24)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: trading stock (see section 118-25)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: capital gains and losses from gambling, a game or a competition with prizes (section 118-37(1)(c))

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: certain compensation receipts and damages payments (see section 118-37)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: An important exemption in practice is the CGT main residence exemption (see Subdivision 118-B ITAA97). Please ensure you review the rules as summarised in the textbook and understand the effect of sections 118-110, 118-15, 118-120, 118-140, 118-145, 118-185, 118-190, and 118-192. Also refer to the examples provided on the ATO website at: Treating former home as main residence.

Main residence exemption

Check ownership, dwelling/main residence status and relevant periods before disregarding the gain; then test partial/absence/business-use modifications where relevant.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For assessments for the income year that includes 1 July 2027 and later income years, s 102-5 ITAA97 is amended by the Treasury Laws Amendment (Tax Reform No. 1) Act 2026 (Cth), expanding the net capital gain calculation from 5 to 7 steps. This change accommodates 4 categories of capital gains, distinguishing between:

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: See: Treasury Laws Amendment (Tax Reform No. 1) Bill 2026, Sch 1, and the related Explanatory Memorandum to the Bill; and Income Tax Rates Amendment (Tax Reform No. 1) Bill 2026.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: 5-step, net capital gain calculation (in s 102-5 ITAA97)

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The calculation below shows how s 102-5 ITAA97 applies to the facts. Please ensure you review this section carefully. For a further example, apply the same method to a comparable factual variation.

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Summary (before applying s 102-5 ITAA97)

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Priya also has a net capital loss from collectables for the CIY of $600 which will be carried forward to reduce her capital gains from collectables in the next income she has such gains: s 108-10(4) ITAA 97.

Collectables

Quarantine losses from collectables to gains from collectables as required by the provision; keep a separate carry-forward ledger.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Applying s 102-5 ITAA97

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In this example, it is much more tax effective to utilise the current year capital loss against the non-discount capital gains first as this will ultimately produce the lowest overall amount in the Priya's assessable income. See Note 1 in Step 1 in s 102-5, which permits a choice to be made about the order in which capital gains can be reduced by capital losses for the CIY.

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Notice that Priya has a choice about the order in which this is done (see Note 2 in Step 2 in s 102-5).

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The $431,150 will enter Priya's assessable income as statutory income under s 102-5 ITAA97.

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: Another example is the building in Wangaratta Woollen Mills v FCT 69 ATC 4095, which is regarded as 'plant' (discussed in a later chapter).
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Take the example of Mr Goldfinger from Taxation Ruling 1992/3:
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Example: Take the example of Mr Goldfinger from Taxation Ruling 1992/3. What are the tax implications if Mr Goldfinger acquired the gold bars for $100,000 and sold them 10 days later for $70,000?
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.

- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

> **Required-reading integration.** PTL [11.00]–[11.80]; [11.100]; [11.130]; [11.170]–[11.250]; [11.270]–[11.320]; [11.380]–[11.580]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) ("PTL"). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Capital gains tax is not a separate tax with a single calculation. It is a statutory method for identifying capital gains and losses from CGT events, modifying them under exemptions and special rules, netting them in the order required by s 102-5, and then including only the resulting net capital gain in assessable income. The student who memorises this order avoids most CGT errors.

the legal materials are unusually detailed because CGT problems are sequential. First identify the event and timing. Then identify the asset, ownership and acquisition date. Next calculate capital proceeds and cost base or reduced cost base. Then determine the gain/loss and apply disregards, exemptions, current-year losses, prior-year losses, the discount and any concessions in the statutory order. Each step can contain its own sub-issue.

CGT also contains numerous interaction rules. Personal-use assets, collectables, pre-CGT assets, depreciating assets, main residence rules and anti-overlap provisions can radically change the result. A high-quality answer does not jump from "sold asset" to "50% discount".

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 ss 102-5, 102-10 and 102-15	Provide the net capital gain method, calculation of net capital losses and application of losses.	Write the five-step s 102-5 method in order before inserting numbers.
ITAA97 ss 102-20 and 104-5	A capital gain or loss arises only if a CGT event happens; s 104-5 is the event table.	Always identify the event code before calculating.

ITAA97 s 104-10 (CGT event A1)	The most common event: disposal of a CGT asset. Timing generally turns on the contract, not settlement, for a contractual disposal.	Use for sales/transfers of assets.
ITAA97 ss 104-20, 104-25, 104-35 and 104-110	Cover destruction/loss, ending of rights, creation of contractual/other rights and other events identified in this chapter.	Use the correct event for compensation, rights and non-sale facts rather than defaulting to A1.
ITAA97 ss 108-5, 108-10 and 108-20	Define CGT assets and special treatment of collectables and personal-use assets.	Classify the asset before applying loss rules because some losses are quarantined or disregarded.
ITAA97 ss 116-20 and 116-30	Deal with capital proceeds and market-value substitution in relevant non-arm's-length/no-proceeds situations.	Use when consideration is non-cash, absent or not market value.
ITAA97 ss 110-25, 110-35, 110-45	Set out cost-base elements, incidental costs and exclusions.	Work element by element and remove amounts already deducted where the legislation requires.
ITAA97 s 112-20	Market-value substitution can modify cost base in specified acquisition circumstances.	Use for gifts/non-arm's-length acquisitions where statutory conditions are met.
ITAA97 Div 115	Contains the CGT discount rules.	Apply only after losses at the correct stage of the s 102-5 method and only if the taxpayer/asset/holding period qualifies.
ITAA97 main-residence provisions in Div 118	Can disregard all or part of gains on qualifying dwellings, subject to conditions and partial-use rules.	Identify occupancy, ownership period, income-producing use and any absence/special rules before calculating the taxable gain.

ITAA97 anti-overlap provisions	Prevent the same economic gain/loss being counted twice under ordinary income and CGT.	Analyse both regimes first, then apply the statutory priority/adjustment rule.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
TR 92/3 / Myer line of authority	Important because some asset profits are ordinary income as well as generating a CGT event.	Use to determine whether the CGT result is displaced/reduced by ordinary-income treatment.
CGT examples in Chapter 6	This book uses numerous worked examples to teach event selection, asset classification, cost base, discount/indexation and the net-gain method.	Use the examples as calculation patterns, not as substitutes for the statutory method.
Treasury Laws Amendment (Tax Reform No. 1) Bill 2026 material	The chapter separately discusses enacted reforms applying from the 2027-28 income year.	Clearly label proposals as proposals unless enacted; answer the current-law question using enacted law.

Worked application — fact-by-fact reasoning map

Priya — build a transaction schedule
List every asset/event with proceeds, cost base, gain/loss, discount status and special category before attempting the s 102-5 net calculation.

Current-year capital losses
Apply losses to gains in the order chosen by the taxpayer; the source notes emphasise that applying losses against non-discount gains first can be tax-effective.

Prior-year net capital loss
Apply at Step 2 before the CGT discount. State the remaining gain.

Discount gains
Separate discount and non-discount gains and apply the correct percentage only to qualifying discount gains at the correct step.

Collectables
Keep collectable losses quarantined under s 108-10(4); do not use them against ordinary CGT gains.

Final net capital gain
The supplied calculation reaches $431,150 after the loss and discount ordering. Show every step and then include that net amount under s 102-5.

Indexation versus discount
Where the acquisition date permits a choice, calculate both methods accurately and identify the legally available and tax-effective outcome.

Cost-base classification
For each acquisition, holding, improvement and disposal cost, identify the statutory cost-base element; do not simply total every expense associated with the asset.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 6 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. The correct order for calculating a net capital gain is:

1. Apply the 50% discount, then apply capital losses
2. Identify the CGT event and gain/loss, apply current-year and prior-year capital losses, then apply the discount, then small business concessions
3. Apply small business concessions before identifying the CGT event
4. Apply the discount before determining the cost base

Q2. The 50% CGT discount under Division 115 is available to:

1. Companies and individuals equally
2. Eligible individuals and trusts, for assets held at least 12 months — companies do not receive the general discount
3. Only superannuation funds
4. Any taxpayer regardless of holding period

Q3. A pre-CGT asset is one that:

1. Was acquired before 20 September 1985 and is generally disregarded for CGT purposes
2. Was acquired more than 12 months ago
3. Was inherited from a deceased estate
4. Has increased in value by more than 50%

Q4. The cost base of a CGT asset generally includes:

1. Only the original purchase price
2. Acquisition costs, incidental costs, ownership costs (in some cases), capital improvement costs, and title costs
3. Only capital improvement costs
4. Only stamp duty

Q5. A capital loss:

1. Can be used to reduce assessable income directly like a deduction
2. Can only be offset against capital gains, not against ordinary assessable income
3. Is never deductible
4. Must be carried back to the prior year

Q6. The most common mistake identified in this chapter when calculating a net capital gain is:

1. Forgetting to register for GST
2. Applying the discount too early, before current-year and prior-year capital losses have been applied
3. Using the wrong cost base method
4. Failing to round to the nearest dollar

Q7. A CGT event typically occurs when:

1. An asset is disposed of, or another specified change happens to the asset or the taxpayer's interest in it, as defined by the relevant CGT event category
2. The taxpayer lodges their tax return
3. The taxpayer turns 65
4. An asset is insured

Q8. Where an asset is used partly for income-producing purposes and partly privately, the CGT consequences on sale are:

1. Always fully assessable
2. Generally require apportionment between the relevant use and the private use
3. Always fully disregarded
4. Determined solely by the purchase price

Q9. Small business CGT concessions are applied:

1. Before identifying the CGT event
2. After the discount step, where the taxpayer is eligible and elects to use them, per the statutory order
3. Instead of calculating a cost base
4. Only to primary production businesses

Q10. When answering a CGT problem, the correct starting point is:

1. Apply the 50% discount to the sale price
2. Identify the CGT event, its timing, the asset, the capital proceeds and the cost base — before touching losses or discounts
3. Assume every gain is eligible for the discount
4. Check whether the taxpayer is registered for GST

Chapter 6 Mastery Quiz — Answers and Explanations

A1. Answer: B

Identify the event and gain/loss, apply losses (current then prior year), then the discount, then small business concessions.

A2. Answer: B

Individuals and trusts (holding 12+ months) get the discount; companies do not receive the general discount.

A3. Answer: A

A pre-CGT asset was acquired before 20 September 1985 and is generally disregarded for CGT.

A4. Answer: B

Cost base includes acquisition, incidental, ownership, capital improvement and title costs.

A5. Answer: B

A capital loss can only offset capital gains, not ordinary assessable income.

A6. Answer: B

The most common mistake is applying the discount too early, before losses are applied.

A7. Answer: A

A CGT event occurs on disposal or another defined change as per the relevant CGT event category.

A8. Answer: B

Mixed-use assets generally require apportionment between relevant and private use.

A9. Answer: B

Small business concessions apply after the discount step, per the statutory order, where eligible.

A10. Answer: B

Always identify the event, timing, asset, proceeds and cost base first.

Chapter 6 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Set out the five-step statutory order for calculating a net capital gain under Division 102/115 and explain why the order matters.

SA2. Explain why companies do not receive the general 50% CGT discount, while individuals and trusts can.

SA3. Explain what a pre-CGT asset is and why its tax treatment differs from a post-CGT asset.

SA4. List the five main elements of the cost base of a CGT asset.

SA5. A taxpayer sells shares purchased 18 months ago for a $20,000 gain, and also has a $5,000 capital loss carried forward from a prior year. Calculate the net capital gain (assuming the taxpayer is an eligible individual), showing the correct order of steps.

Chapter 6 Short-Answer Questions — Model Answers

Model Answer SA1

Step 1: identify the CGT event, asset, proceeds and cost base to calculate the raw capital gain or loss. Step 2: reduce remaining gains by current-year capital losses. Step 3: reduce further by unapplied net capital losses from earlier years. Step 4: apply the CGT discount to eligible discount capital gains. Step 5: apply any available small business CGT concessions. The order matters because applying the discount before losses would overstate the discount's benefit and produce an incorrect (too low) net capital gain.

Model Answer SA2

The 50% discount under Division 115 is legislatively restricted to individuals, trusts, and complying superannuation funds (at a reduced rate) — companies were deliberately excluded from the general discount by Parliament, partly because company tax rates and the imputation system already provide a different mechanism for integrating company and shareholder-level taxation, so extending the discount to companies was not considered necessary or appropriate.

Model Answer SA3

A pre-CGT asset is one acquired before 20 September 1985, when the CGT regime commenced. Any capital gain or loss made on a pre-CGT asset is generally disregarded entirely, meaning no CGT consequences arise on its disposal (subject to some exceptions, such as certain capital improvements). A post-CGT asset (acquired on or after that date) is fully subject to the CGT provisions, including cost base calculation, the discount, and loss rules.

Model Answer SA4

The five cost base elements are: (1) the money paid or property given for the asset (acquisition cost); (2) incidental costs of acquisition and disposal (e.g. legal fees, agent's commission, stamp duty); (3) costs of owning the asset (e.g. interest on money borrowed to acquire it, in some circumstances); (4) capital costs to increase or preserve the asset's value (capital improvements); and (5) capital costs to establish, preserve or defend title to the asset.

Model Answer SA5

Step 1: raw capital gain = $20,000. Step 2: no current-year capital losses to apply. Step 3: apply the $5,000 carried-forward capital loss: $20,000 − $5,000 = $15,000. Step 4: the shares were held 18 months (over 12 months) and the taxpayer is an eligible individual, so the 50% discount applies to the remaining $15,000: $15,000 × 50% = $7,500. Step 5: no small business concessions apply on these facts. Net capital gain = $7,500, included in assessable income for the year.

Chapter 6 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Can I use a capital loss to reduce my salary income?

Q: If I've held an asset for exactly 12 months, do I get the discount?

Q: Do companies ever get any CGT discount?

Q: What happens if I make both a capital gain and a capital loss in the same year?

Q: Is my family home always exempt from CGT?

Chapter 6 — Frequently Asked Questions: Suggested Answers

FAQ 1

No — a capital loss can only be offset against capital gains (current year or carried forward to future years), not against ordinary assessable income such as salary.

FAQ 2

The asset generally needs to have been held for at least 12 months, so an asset held for exactly 12 months to the day may not qualify — the precise calculation of the holding period (excluding the day of acquisition) matters and should be checked carefully against the statutory wording.

FAQ 3

No — companies do not receive the general 50% CGT discount under Division 115, though other concessions (such as small business CGT concessions) may still be available to eligible companies in specific circumstances.

FAQ 4

Capital losses (current year first, then any carried-forward prior-year losses) are applied to reduce capital gains before the discount is applied — you cannot apply the discount first and then subtract losses from the discounted amount.

FAQ 5

Usually, under the main residence exemption, but this can be affected by factors such as using part of the home to produce income, the size of the land, or periods when it was not your main residence — the exemption is not automatic in every circumstance.

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income included by a specific provision under s 6-10. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

An amount subtracted from assessable income under a deduction-conferral provision. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define TAX and explain why it matters to the Chapter 1 analysis.
2. Define Equity and explain why it matters to the Chapter 1 analysis.

3. Define Progressive and explain why it matters to the Chapter 1 analysis.
4. Define taxable income and explain why it matters to the Chapter 1 analysis.
5. Define assessable income and explain why it matters to the Chapter 1 analysis.
6. Define ordinary income and explain why it matters to the Chapter 1 analysis.
7. What role does s 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 4-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does ss 4-1, 4-5, 4-10 and 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does ss 6-5, 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does ss 4-1, 4-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Matthews v Chicory Marketing Board illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does MacCormick v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does FCT v Myer Emporium Ltd illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does Zobory v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Federal Coke Co Pty Ltd v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Emma earns $92,000 salary with $20,000 PAYG withheld. She receives a $600 birthday voucher from her employer, $12,000 of Uber receipts (stated exclusive of GST), $24,000 rent, $1,200 bank interest and a $10,000 lottery prize. Her deductible Uber costs are…
20. What should a strong Chapter 1 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. Answer

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. Answer

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. Answer

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. Answer

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. Answer

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

8. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

9. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

10. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

11. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

12. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

13. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

14. Answer

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

15. Answer

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

16. Answer

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

17. Answer

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

18. Answer

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 4-15 in this chapter?

1. s 4-15
2. ss 4-1, 4-5, 4-10 and 4-15
3. ss 6-5, 6-10
4. s 4-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 4-10 in this chapter?

1. s 4-10
2. ss 6-5, 6-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-15

3. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5, 4-10 and 4-15 in this chapter?

1. ss 4-1, 4-5, 4-10 and 4-15
2. ss 6-5, 6-10
3. s 4-10
4. s 4-15

4. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5, 6-10 in this chapter?

1. s 4-15
2. ss 6-5, 6-10
3. s 4-10
4. ss 4-1, 4-5, 4-10 and 4-15

5. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5 in this chapter?

1. s 4-15
2. s 4-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. ss 4-1, 4-5

6. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 4-15
2. s 6-5
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-10 in this chapter?

1. s 4-10
2. s 4-15
3. s 6-10
4. ss 4-1, 4-5, 4-10 and 4-15

8. Which provision is the relevant statutory reference for the rule or method associated with ss 6-15, 6-20, 6-23 in this chapter?

1. ss 6-15, 6-20, 6-23
2. ss 4-1, 4-5, 4-10 and 4-15
3. s 4-10
4. s 4-15

9. Which authority is connected with this proposition: Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

1. MacCormick v FCT
2. FCT v Myer Emporium Ltd
3. Zobory v FCT
4. Matthews v Chicory Marketing Board

10. Which authority is connected with this proposition: Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

1. Zobory v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. MacCormick v FCT

11. Which authority is connected with this proposition: A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

1. FCT v Myer Emporium Ltd
2. Matthews v Chicory Marketing Board
3. MacCormick v FCT
4. Zobory v FCT

12. Which authority is connected with this proposition: Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

1. MacCormick v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. Zobory v FCT

13. Which authority is connected with this proposition: Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

1. Matthews v Chicory Marketing Board
2. MacCormick v FCT
3. Federal Coke Co Pty Ltd v FCT
4. FCT v Myer Emporium Ltd

14. Which authority is connected with this proposition: Non-cash benefits not convertible into money were not ordinary income on the facts.

1. MacCormick v FCT
2. FCT v Cooke & Sherden
3. Matthews v Chicory Marketing Board
4. FCT v Myer Emporium Ltd

15. Which taxation-law term or authority best matches this description: A compulsory exaction by public authority for public purposes.

1. taxable income
2. TAX
3. Equity
4. Progressive

16. Which taxation-law term or authority best matches this description: Tax-system criterion concerned with fairness.

1. Equity
2. Progressive
3. taxable income
4. assessable income

17. Which taxation-law term or authority best matches this description: Rate structure in which the average rate rises as income rises.

1. assessable income
2. Progressive
3. taxable income
4. ordinary income

18. Which taxation-law term or authority best matches this description: Assessable income less deductions under s 4-15.

1. assessable income
2. ordinary income
3. statutory income
4. taxable income

19. Which taxation-law term or authority best matches this description: Income brought into the statutory tax base.

1. statutory income
2. Deduction
3. assessable income
4. ordinary income

20. Which taxation-law term or authority best matches this description: Income according to ordinary concepts under s 6-5.

1. ordinary income
2. tax loss
3. Deduction
4. statutory income

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. A. s 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

2. A. s 4-10

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

3. A. ss 4-1, 4-5, 4-10 and 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

4. B. ss 6-5, 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

5. D. ss 4-1, 4-5

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

6. B. s 6-5

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

7. C. s 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

8. A. ss 6-15, 6-20, 6-23

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

9. D. Matthews v Chicory Marketing Board

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

10. D. MacCormick v FCT

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

11. A. FCT v Myer Emporium Ltd

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

12. D. Zobory v FCT

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

13. C. Federal Coke Co Pty Ltd v FCT

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

14. B. FCT v Cooke & Sherden

Non-cash benefits not convertible into money were not ordinary income on the facts.

15. B. TAX

TAX: A compulsory exaction by public authority for public purposes.

16. A. Equity

Equity: Tax-system criterion concerned with fairness.

17. B. Progressive

Progressive: Rate structure in which the average rate rises as income rises.

18. D. taxable income

taxable income: Assessable income less deductions under s 4-15.

19. C. assessable income

assessable income: Income brought into the statutory tax base.

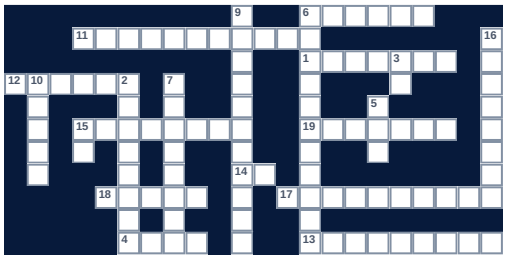
20. A. ordinary income

ordinary income: Income according to ordinary concepts under s 6-5.

20-CLUE CROSSWORD

Crossword - Chapter 6: Capital Gains Tax: Events, Assets, Cost Base, Losses and Discounts

Launch Chapter 6 Active Crossword to type directly into the grid and check your answers.



Across

1. Cost-base concept used for capital-loss calculations.
2. Capital loss quarantined against capital gains.
3. Asset acquired before 20 September 1985, generally disregarded.
4. Special CGT category with quarantined losses.
5. Statutory sequence for calculating the net capital gain.
6. Rule disregarding an otherwise arising capital gain or loss.
7. Most common disposal CGT event.
8. Concession potentially reducing eligible discount capital gains.
9. Rule preventing net capital losses from offsetting ordinary income.
10. Property or legal/equitable right within the CGT regime.
11. Amount included in assessable income under s 102-5.

Down

1. Transfer of ownership commonly triggering CGT event A1.
2. CGT event involving loss or destruction of a CGT asset.
3. Capital gains tax regime in Parts 3-1 and 3-3 ITAA97.
4. Amount received or entitled to be received from a CGT event.
5. CGT category subject to special rules.
6. Substitution rule potentially replacing actual proceeds or cost.
7. Statutory trigger required before a capital gain or loss arises.
8. CGT event involving creation of contractual or other rights.
9. Statutory elements used to calculate many capital gains.

CROSSWORD ANSWERS

Crossword Answers - Chapter 6

1 Across - REDUCED	4 Across - LOSS
6 Across - PRECGT	11 Across - COLLECTABLE
12 Across - METHOD	13 Across - EXEMPTION
14 Across - A1	15 Across - DISCOUNT
17 Across - QUARANTINE	18 Across - ASSET
19 Across - NETGAIN	2 Down - DISPOSAL
3 Down - C1	5 Down - CGT
7 Down - PROCEEDS	8 Down - PERSONALUSE
9 Down - MARKETVALUE	10 Down - EVENT
15 Down - D1	16 Down - COSTBASE

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Net capital gain calculation

Problem

Priya sells a post-CGT investment asset for $500,000. Its cost base is $200,000. She has a current-year capital loss of $20,000 and a carried-forward net capital loss of $40,000. Assume the remaining gain is eligible for the 50% CGT discount and no other concessions apply. Apply s 102-5 and show the statutory order of the calculation.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Net capital gain calculation

Issue. The question is the statutory order for calculating Priya's net capital gain.

Rule / Law. ITAA97 s 102-5 requires capital gains and capital losses to be netted in the statutory order. Current-year capital losses are applied first, then unapplied net capital losses from earlier years, and only then is the CGT discount under Div 115 applied to an eligible remaining discount capital gain.

Application and calculation. Capital proceeds $500,000 less cost base $200,000 gives a $300,000 capital gain. Apply the $20,000 current-year capital loss: $280,000. Apply the $40,000 carried-forward net capital loss: $240,000. The remaining gain is eligible for the 50% discount, reducing it to $120,000. With no other gains, losses or concessions, the net capital gain included in assessable income under s 102-5 is $120,000.

Conclusion. Priya's net capital gain is $120,000. Losses must be applied before the discount; reversing that order would overstate the concession.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Multiple CGT events and categories

Problem

Ethan sells shares, loses a valuable painting in a fire, grants a neighbour a contractual right over land for payment and sells a personal-use boat. Identify the potentially relevant CGT events and explain how capital proceeds, cost base, collectable/personal-use rules and exemptions must be tested before calculating any net capital gain.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Multiple CGT events and categories

Issue. Each transaction potentially triggers a different CGT event and may be affected by special asset-category rules.

Rule / Law. Division 104 identifies CGT events; s 102-25 directs the taxpayer to the most specific event where more than one may apply. Disposal of shares ordinarily triggers CGT event A1 (s 104-10). Loss or destruction of an asset can trigger CGT event C1 (s 104-25). Creating contractual rights for another entity can trigger CGT event D1 (s 104-35). Capital proceeds are generally determined under Div 116 and cost base under Div 110. Collectables and personal-use assets have special rules in Div 108, including quarantining/disregarding some losses.

Application. The share sale is an A1 disposal: calculate proceeds less cost base and then apply losses/discount rules. The destroyed painting requires C1 and insurance/compensation proceeds to be considered; if it is a collectable, the collectable loss restrictions must also be applied. The payment for granting the neighbour a contractual right points to D1, which has its own cost-base limitations. The boat sale is an A1 disposal but the personal-use asset rules must be checked; depending on cost and the statutory thresholds, a gain may be disregarded and a loss is generally disregarded.

Conclusion. Identify the CGT event and asset category first, then proceeds/cost base, then exemptions and loss restrictions, and only at the end calculate the net capital gain.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 7. GENERAL DEDUCTIONS: NEXUS, POSITIVE AND NEGATIVE LIMBS, APPORTIONMENT AND BOUNDARIES

s 8-1 • nexus • positive limbs • negative limbs • apportionment • travel • home office • self-education

Section 8-1 is the centre of deduction analysis. It is not enough that an expense helped the taxpayer earn income. The outgoing must have the required statutory connection and must survive each negative limb.

LEARNING OUTCOMES

- Apply both positive limbs of s 8-1(1).
- Apply all four negative limbs in s 8-1(2).
- Use Ronpibon Tin and later authorities to identify the occasion or essential character of expenditure.
- Apportion mixed-purpose expenditure rationally.
- Analyse travel, home office, self-education, clothing and other boundary expenses.
- Write deduction answers by linking each factual outgoing to a specific statutory limb and authority.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: s 8-1 is a structured test, not a general fairness rule

Section 8-1 contains two positive limbs and four negative limbs. The phrase “to the extent” means mixed expenditure must be apportioned. Start by identifying the occasion and essential character of the outgoing. Then ask whether it was incurred in gaining or producing assessable income or necessarily incurred in carrying on a business for that purpose. Only after a positive limb is satisfied should the student test the negative limbs.

Nexus and essential character

Ronpibon Tin supplies the “incidental and relevant” and “occasion” formulations. *Lunney* emphasises essential character and explains why ordinary commuting is private even though employment motivates the travel. The Full Federal Court in *Hall* reinforces the distinction between expenditure incurred *to* get to income-producing activity and expenditure incurred *in* that activity.

Apportionment

Where one outgoing serves both income-producing and private purposes, *Ronpibon Tin* requires a fair and reasonable division. Students should explain the chosen apportionment method and why it reflects actual use. The Commissioner and the court do not decide how much the taxpayer ought to have spent; the task is to identify what proportion of the actual expenditure has the required connection.

Travel, home office and self-education

Payne, *Vogt* and related authorities show that travel must be classified by the relationship between the places and activities involved. *Handley*, *Forsyth*, *Swinford* and *Hall* distinguish ordinary home use from a genuine place-of-business context. *Finn*, *Hatchett* and *Studdert* show that self-education can be deductible where it maintains or improves skills used in current income-producing work, while expenditure that opens a new income-earning field is generally different.

> **In plain English**
> An expense can be necessary in everyday language and still not be deductible. Section 8-1 asks for the legal connection between the outgoing and the income-producing activity, then separately denies capital, private/domestic and other excluded outgoings.

Key language

general deduction | positive limb | negative limb | nexus | occasion | essential character | business limb | capital | private or domestic | exempt income | apportionment | travel | home office | self-education | clothing | legal expense | necessity | income protection | work expense | substantiation

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

7.1 Section 8-1 is the centre of deduction analysis

Australian income tax does not allow a deduction merely because an expense feels “work-related” or because the taxpayer would not have incurred it but for earning income. The legal starting point is ITAA97 s 8-1. It contains two positive limbs and four negative limbs. A strong student treats those as separate analytical stages.

Under the first positive limb, a loss or outgoing is deductible to the extent that it is incurred in gaining or producing assessable income. Under the second, it is deductible to the extent that it is necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income. Even if a positive limb is

satisfied, s 8-1(2) denies a deduction to the extent the outgoing is capital or capital in nature, private or domestic, incurred in relation to exempt or NANE income, or specifically denied elsewhere.

7.2 The first positive limb: nexus, occasion and essential character

Ronpibon Tin NL v FCT is the foundational authority. The High Court said expenditure must be “incidental and relevant” to gaining assessable income and that the occasion of the outgoing must be found in what is productive of that income. This is a connection test, not a mere subjective-purpose test.

A current authority *Hall v FCT* [2026] FCAFC 43 emphasises the same distinction: a formal connection is insufficient; the essential character of the expenditure matters. The classic commuting example shows the difference between expenditure incurred *to put the taxpayer in a position* to earn income and expenditure incurred *in the course of* earning it.

Lunney & Hayley v FCT remains fundamental. Ordinary home-to-work travel is generally private because its essential character is travelling from the taxpayer's private residence to the place where income-producing activity begins. Calling the trip “necessary to get to work” does not satisfy s 8-1.

7.3 The second positive limb: carrying on a business

The second limb is drafted for business expenditure. *Ronpibon Tin* explains that it has a different verbal formulation but overlaps substantially with the first limb. The key inquiry is whether the expenditure is incurred in the course of carrying on the business for income-producing purposes. This becomes important for overheads, legal expenses, marketing and expenses not directly traceable to a particular receipt.

The Herald & Weekly Times Ltd v FCT and *Charles Moore & Co (WA) Pty Ltd v FCT* illustrate how ordinary incidents of business can satisfy the nexus. The analysis focuses on the business operations that expose the taxpayer to the outgoing.

7.4 Timing of the income is not the same as nexus

There need not be assessable income in the same year as the outgoing. *Smith v FCT* confirms that expenditure such as income-protection premiums can satisfy s 8-1 where the connection is with the taxpayer's continuing income-producing activities, even though the insured income may arise later. The question is the character and connection of the outgoing, not whether it generates immediate income.

7.5 Purpose: relevant, but not always decisive

For some outgoings, objective character can be determined without detailed inquiry into subjective motive. In other cases—especially where the expenditure produces both income and private advantages—purpose can help determine character or apportionment. *Fletcher v FCT* later becomes important where disproportionate deductions and private/tax advantages call for closer examination of the whole arrangement.

Magna Alloys & Research Pty Ltd v FCT is useful in the business context because "necessarily incurred" does not mean legally unavoidable. A business judgment can satisfy the second limb if the expenditure is reasonably capable of being seen as appropriate and adapted to the business's income-producing ends.

7.6 Illegality does not automatically decide deductibility—but specific denial provisions may

Cases such as *FCT v La Rosa* historically demonstrate that the ordinary nexus test can operate even in unlawful income-producing activity. Parliament can and does enact specific denial provisions. The modern lesson is to complete both stages: positive nexus and statutory denial. Never cite an older nexus case without checking whether legislation now overrides the result.

7.7 Apportionment: "to the extent" is doing real work

Section 8-1 repeatedly uses the phrase "to the extent". An outgoing may be partly income-producing and partly private, or partly deductible and partly capital. *Ronpibon Tin* is also a leading apportionment authority. Where there are distinct deductible and non-deductible components, a fair and reasonable apportionment must be made.

Students should distinguish division by use from characterisation of the whole outgoing. A phone bill may be apportioned by work/private use. By contrast, conventional clothing may remain private in character even if worn 100% at work; it is not necessarily converted into a deductible item by a percentage.

7.8 Travel expenses

Travel questions are best solved by identifying the two places and asking what income-producing activity occurs at each. Ordinary home-to-work travel is generally private under *Lunney*. Travel between two workplaces or income-earning activities can be deductible where the journey itself connects those activities. *FCT v Collings* , *Vogt v FCT* and *Payne v FCT* illustrate different travel contexts and why facts matter.

Carrying bulky equipment can alter the character of a journey where the transport of the equipment is an essential part of the employment and the bulk is genuine rather than a matter of convenience. TR 95/34 and related ATO guidance should be used carefully with the case principles.

Safety, lateness, weather or personal injury can explain why a taxpayer chooses an expensive form of transport, but those factors do not necessarily alter the private character of the underlying home-to-work journey.

7.9 Home office and occupancy/running costs

Home-office deductions require careful categorisation. Running expenses—such as work-related electricity, internet or decline in value of office equipment—may be deductible to the extent of income-producing use. Occupancy expenses—rent, mortgage interest, rates—are more difficult and often depend on whether part of the home has the character of a place of business rather than merely a convenient place to work.

Handley v FCT and *Forsyth v FCT* are leading authorities in this area. *FCT v Faichney* is also important in distinguishing components of home-use expenses. Students should not mechanically claim a floor-area percentage of rent simply because a room is used for work.

7.10 Self-education expenses

Self-education is governed by the same s 8-1 nexus but has a well-developed body of authority. *FCT v Finn* allowed expenditure where further study maintained or improved skills used in the taxpayer's existing employment. *FCT v Hatchett* supports deductibility where study is sufficiently connected to current income-earning duties and prospects.

FCT v Maddalena provides the key contrast: expenditure incurred to obtain new employment or qualify for a new income-earning activity is generally too soon; it is directed to obtaining the income-earning position rather than incurred in the course of the existing activity.

TR 2024/3 synthesises the Commissioner's current approach to self-education. Later chapters apply it to Romek's JD, but the core method is already clear: identify the taxpayer's current duties, identify what the course teaches, and determine whether the study maintains/improves existing skills or objectively leads to a new qualification/activity.

7.11 Clothing and appearance

Conventional clothing is ordinarily private, even where the employer expects professional dress and the clothing is worn only at work. *FCT v Edwards* , *Mansfield v FCT* and *Morris v FCT* illustrate the boundaries for uniforms, protective clothing, occupation-specific items and unusual factual circumstances. The statutory specific-deduction and substantiation rules must also be checked.

The exam trap is to argue “I bought it only for work, therefore deductible”. Section 8-1 focuses on essential character, not merely exclusivity of use.

7.12 Core rule map

Authority / rule	Proposition	Use
ITAA97 s 8-1(1)(a)	Nexus with gaining/producing assessable income.	Employees, investors and non-business income activities.
ITAA97 s 8-1(1)(b)	Necessarily incurred in carrying on business for income purpose.	Business overhead and operational expenses.
ITAA97 s 8-1(2)(a)–(d)	Capital; private/domestic; exempt/NANE; specific denial.	Always check after a positive limb.
Ronpibon Tin	Occasion, incidental/relevant connection and apportionment.	Foundational s 8-1 authority.
Lunney	Home-to-work travel ordinarily private.	Commuting.
Magna Alloys	Business “necessity” is commercial, not literal compulsion.	Business judgment expenditure.
Finn; *Hatchett*; *Maddalena*	Existing-income nexus versus new qualification/activity.	Self-education.
Handley; *Forsyth*; *Faichney*	Home office/occupancy and running expenses.	Working from home.

7.13 Worked problem/revision masterclass — solving deduction facts under time pressure

The Week 8 worked problem is a class-test revision exercise. Its most important teaching point is methodological: short-answer tax questions reward precise issue selection, a statutory reference, one or two strong authorities and a concise factual application. A three-mark question does not require an essay; it requires the correct legal route.

For a business receipt, identify s 6-5 and the business principle. For a government grant, identify s 6-5 and s 15-10 if relevant. For a land profit, test ordinary income and CGT separately. For the final tax calculation, show the numbers and do not waste time repeating doctrine already established.

7.14 HD deduction IRAC

I — Issue

What is the outgoing? What income-producing activity is said to give it a deductible character? Is there a separate business limb? Is apportionment required?

R — Rule

State the relevant positive limb of s 8-1 and the negative limbs. Use the closest case to explain nexus/character. Add a specific deduction or denial if one exists.

A — Application

Identify the occasion and essential character. Explain why the outgoing is incurred *in* the income-producing activity rather than merely *to enable* it. Deal expressly with private/capital elements and apportionment.

C — Conclusion

State deductible/not deductible/partly deductible and quantify the deductible proportion if facts permit.

7.15 Plain-English summary

A deduction is not about whether an expense is useful. It is about legal connection. Find what produces the taxpayer's assessable income, locate the occasion of the

expense in that activity, test the positive limb, then check the negative limbs and specific provisions. Only then calculate the amount.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Section 8-1 is a nexus test followed by negative limbs

The general deduction provision asks whether the outgoing is incurred in gaining or producing assessable income or necessarily incurred in carrying on a business for that purpose. Satisfaction of a positive limb is not the end. The outgoing is denied to the extent it is capital, private/domestic, connected with exempt/NANE income or denied by another provision. The words “to the extent” make apportionment fundamental.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

ITAA97 s 8-1(1)(a) and (b) are the positive limbs; s 8-1(2) contains the negative limbs. Sections 8-5 and 8-10 remind students to check specific deductions and priority/coordination rules.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Ronpibon Tin is foundational for nexus and fair/reasonable apportionment. Herald & Weekly Times and Charles Moore show business-operational losses/outgoings can be deductible where sufficiently connected with operations. Hall v FCT [2026] FCAFC 43 is a current authority on the first limb and work-related nexus.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot the activity that produces the assessable income, identify the occasion of the outgoing, then test each negative limb. Avoid asking only whether the expenditure was “helpful” or “necessary”.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

For mixed expenses, identify a reasonable apportionment basis supported by actual use, time, area, kilometres or another factual measure. The deduction is the income-producing portion, not necessarily the whole cash payment.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Travel: getting to work differs from travelling on work

Ordinary home-to-work travel is usually private because it places the taxpayer in a position to perform duties rather than being incurred in performing them. Exceptions and different outcomes can arise where employment itself requires travel, the taxpayer works itinerantly, carries bulky equipment in qualifying circumstances, or travels between income-producing workplaces.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Start with s 8-1 and, where relevant, s 25-100 for travel between workplaces. Apply the specific facts rather than a broad “work-related” label.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Lunney & Hayley is the leading authority for ordinary commuting as private. Collings and Vogt illustrate circumstances where travel can form part of the work. Payne (2001) and s 25-100 are critical for travel between income-earning activities. TR 2021/1 and TR 95/34 are ATO guidance identified here.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot where the journey begins/ends, whether duties commence before departure, whether there are multiple workplaces, itinerancy and equipment facts.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Use a travel log with trip purpose and kilometres. The legal classification comes before multiplying kilometres or actual costs.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Home office: occupancy and running costs are not the same

Working at home does not automatically convert the home into business premises. Running expenses such as electricity, decline in value and work-use consumables can be deductible to the work-related extent. Occupancy expenses such as rent, mortgage interest, rates and insurance usually require the home area to have the character of a place of business. Claiming occupancy expenses can also interact with the CGT main-residence exemption.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a

reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply s 8-1, relevant capital allowance provisions and CGT main-residence rules. ATO guidance including TR 93/30 and PCG 2023/1 is identified in this chapter.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Handley and Forsyth are leading home-office authorities; Swinford illustrates a stronger place-of-business setting. Hall is also included in the current the relevant law and authorities. The cases show that use, physical character and necessity of the space matter.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot exclusive/specialised area, client visits, signage/storage, alternative workplace, work-use percentage and whether the expense is occupancy or running.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Prepare an area/time-use schedule and keep occupancy costs separate from running costs. Then separately flag any CGT consequence.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the

legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Self-education: current income activity versus opening a new field

Education expenses are not deductible merely because education improves employability. The required nexus is with the taxpayer’s current income-producing activities. Expenditure maintaining or improving current skills, or objectively likely to increase income from the current activity, can qualify; expenditure incurred to obtain a new qualification that opens a new income-earning activity is generally too soon/preliminary.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use s 8-1 and s 26-20 for HELP repayments. The relevant rules also identify s 26-19 in connection with Anstis and statutory changes.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Finn supports deductibility where study improves current professional skills. Hatchett and Studdert show the need for connection with current duties. Maddalena, considered in the next chapter, illustrates preliminary expenditure. TR 2024/3 is the current ATO ruling assigned in the Week 9 materials.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot the taxpayer's existing job at the time the cost is incurred, subjects studied, employer encouragement, expected promotion/income effect and whether the qualification creates a new profession.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

For Romek, classify each study component and related travel/materials separately rather than treating the entire degree as one amount.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Clothing, fitness, grooming and protection

Ordinary conventional clothing and general fitness are usually private even if an employer expects a professional appearance or baseline fitness. Deductibility is stronger for protective, occupation-specific or qualifying uniform expenditure and for protective items necessitated by the work environment.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply s 8-1 and any specific substantiation/denial provisions relevant to clothing. This book later revisits these principles in Sally’s police expenses.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Edwards, Mansfield and Morris are the authorities for clothing/protective expenditure. The factual character of the item and work risk matters more than the taxpayer’s subjective belief that it helps employment.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot conventional appearance, compulsory uniform, protective function, occupation specificity, employer requirement and private use.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Create an expense matrix: item; work requirement; private utility; protective/ occupational feature; authority; deductible percentage.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

General deduction — legal-to-numerical apportionment worksheet

Step / item	Tax-law treatment	Number / working
Expense	Identify actual outgoing and activity	Do not start with percentage

Positive limb	s 8-1(1)(a) or (b)	State the income/ business nexus
Capital limb	s 8-1(2)(a)	If capital, move to Div 40/43/40-880/specific regime
Private/ domestic limb	s 8-1(2)(b)	Identify private utility/ occasion
Exempt/ NANE connection	s 8-1(2)(c)	Deny to relevant extent
Specific denial	s 8-1(2)(d) + other provisions	Check statutory overrides
Apportionment	Ronpibon Tin	Use fair/reasonable basis tied to facts
Deductible amount	Eligible percentage × actual expenditure	Show basis and arithmetic

The numerical result is the final line of the legal analysis, not the first.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally

The Class Test consists of short-answer questions. Consistent with the worked problems and previous guidance, students can expect a factual scenario followed by a series of short-answer questions requiring application of the relevant tax law. Responses should be concise, well-reasoned and supported by relevant legislative provisions, case law principles, and calculations (where required). Full essay-style responses are not required, and bullet-point answers are acceptable.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Always read carefully how many marks are allocated to a question and sub-part, and plan your time accordingly to ensure you complete all questions in the time required.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Harmony Homecare Pty Ltd (“HH”) owns and operates 3 aged care facilities in Brisbane. Each facility accommodates approximately 75 residents. HH does not carry on a construction or property development business.	This is an asset trigger. Determine revenue versus capital character, identify any CGT event or Div 40/43 treatment, and construct the relevant cost base/adjustable value.
During the 2025-26 income year, HH invoiced and received $6.8m in weekly accommodation and care fees from its aged care operations.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

On 1 August 2025, HH entered into a contract for the first time to provide meals to an external organisation, being a nearby private rehabilitation clinic. The meals were prepared using the commercial kitchen at one of HH's facilities. HH received $200,000 under this contract during the 2025-26 income year. HH had never entered into such a contract before.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
On 1 September 2025, HH received a $1m grant from the Queensland Government under an aged-care infrastructure funding program to assist with the cost of expanding one of its existing aged care facilities. The grant was provided on condition that the funds were used towards constructing an additional wing containing 20 resident rooms at one of HH's facilities. HH immediately applied the funds towards the construction project.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
HH had acquired a vacant block of land in Ipswich 8 years ago for $500,000. HH purchased the land primarily as a potential site for a future aged care facility. However, Board papers also recorded that the land could be subdivided and sold at a profit if the facility did not proceed or market conditions became favourable. HH sold the land on 1 February 2026 for $1.2m, realising a $600,000 profit (after $100,000 in holding costs were taken into account - none of which was interest).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

For the 2025-26 income year, HH's aggregated turnover was $9.5m, and 4% of its assessable income for the year was base rate entity passive income. HH's taxable income for the 2025-26 income year was $4m (which is inclusive of all relevant amounts and requires no adjustment in light of the facts above).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Required (12 marks out of 20)	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Explain whether the $6.8m in aged care fees and the $200,000 from the meal provision contract are included in HH's assessable income as ordinary income. Support your answer with reference to a key legislative provision and relevant case law principles; (3 marks)	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Explain whether the $1m government grant is included in HH's assessable income as ordinary income and/or statutory income (or neither). Support your answer with reference to key legislative provisions, and relevant case law principles or other authorities; (3 marks)	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Calculate HH's final liability to the ATO (or refund due) on lodgment of its income tax return for the 2025-26 income year. Show all calculations. You do not need to explain your calculation. (2 marks)	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Monica is an Australian tax resident, who is single with no dependents. Monica has a taxable income of $62,400 for the 2025-26 income year. Monica also has an accumulated FEE-HELP debt of $25,000 as at 30 June 2026. Monica does not have private health insurance.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Calculate Monica's liability to the ATO on lodgment of her income tax return for the 2025-26 income year. Show all calculations. You do not need to explain your calculation.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
KAL became concerned that competitor airlines might seek to recruit Jackson for their promotional campaigns, at least for the foreseeable future. To mitigate this risk, KAL offered Jackson a one-off $24,000 payment.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Jackson accepted, and the written agreement implementing the terms was executed on 27 February 2026. Jackson received the $24,000 from KAL on 1 March 2026.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Advise Jackson and KAL of the CGT consequences of this transaction and when any amounts are recognised under the CGT provisions.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: Overview of sections 8-1, 8-5 and 8-10 ITAA97.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Tests of deductibility under s 8-1 ITAA97:

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 8-1 ITAA97 is very important!

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Various judicial tests have been established to show the nexus, yet ultimately they do not displace the statutory test under s 8-1(1)(a).

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: More recently, in Hall v FCT [2026] FCAFC 43, Thawley J (in the Full Federal Court) said the following of the first positive limb of s 8-1:

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: “The [first] positive limb in s 8-1(1) asks a question of connection or occasion: whether the loss or outgoing is incurred in gaining or producing assessable income; “it is both sufficient and necessary that the occasion of the loss or outgoing should be found in whatever is productive of the assessable income” - see: Ronpibon Tin NL v Commissioner of Taxation [1949] HCA 15; 78 CLR 47 at 57. Mere formal connection is not sufficient. It is necessary to look to the essential character of the expenditure, rather than the subjective purpose for which an item of expenditure has been incurred: Lunney v Commissioner of Taxation [1958] HCA 5; 100 CLR 478 at 497-9.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: “[Section 8-1(1)(a)]…does not require that the purpose of the expenditure shall be the gaining of the income of that year, so long as it was made in the given year and is incidental and relevant to the operations or activities regularly carried on for the production of income.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: It is no part of the function of the Act or of those who administer it to dictate to taxpayers in what business they shall engage or how to run their business provitably or economically.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: FCT v La Rosa 2003 ATC 4510 - see (now) s 26-54 ITAA 97

Illegal activity expenditure denial

After applying s 8-1, check the specific denial for expenditure connected with illegal activities as required by the provision.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: FCT v Anstis 2010 ATC 20-221 - see (now) s 26-19 ITAA97

Specific deduction denial/adjustment

Treat this as a specific statutory modification to the general deduction analysis and identify the exact factual trigger in the relevant authorities.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Additional requirements for deductibility under s 8-1 - Note the application of the substantiation provisions in Division 900 of the 1997 Act (via the 4th negative limb).

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Importance of the words ‘to the extent’ in section 8-1.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: *FCT v Payne 2001 ATC 4027 and s 25-100 ITAA97.

Travel between workplaces

Use only after identifying two income-producing activities/workplaces and testing the statutory conditions; ordinary home-to-work travel remains a different issue.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: 1. What is the distinction between (i) a home office; and (ii) the usage of part of the home as a place of ‘business’?

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Question: Is expenditure in any of these 3 areas deductible under section 8-1?

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: FCT v Anstis 2010 ATC 20-221, and s 26-19 ITAA97

Specific deduction denial/adjustment

Treat this as a specific statutory modification to the general deduction analysis and identify the exact factual trigger in the relevant authorities.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If a taxpayer's tuition fees are deductible, how are any related FEE-HELP repayments treated? Distinguish between the time the self-education cost is incurred vs the time when the repayments are made - see s 26-20 ITAA97.

HELP/education debt repayment denial

Distinguish the underlying self-education cost from repayment of a HELP-type debt; the repayment itself is not made deductible merely because the original study cost had an income nexus.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: *The Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or

distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Lunney & Hayley v FCT (1958) 100 CLR 478
ordinary home-to-work commuting is private because it places the taxpayer in a position to work rather than being incurred in performing the work

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: In Ronpibon Tin NL v FCT; Tongkah Compound NL v FCT (1949) 78 CLR 47, the High Court said:
s 8-1 requires a sufficient nexus and fair/reasonable apportionment where expenditure serves income-producing and other purposes

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: More recently, in Hall v FCT [2026] FCAFC 43, Thawley J (in the Full Federal Court) said the following of the first positive limb of s 8-1:
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: "The [first] positive limb in s 8-1(1) asks a question of connection or occasion: whether the loss or outgoing is incurred in gaining or producing assessable income; "it is both sufficient and necessary that the occasion of the loss or outgoing should be found in whatever is productive of the assessable income" - see: Ronpibon Tin NL v Commissioner of Taxation [1949] HCA 15; 78 CLR 47 at 57. Mere formal connection is not sufficient. It is necessary to look to the essential character of the expenditure, rather than the subjective purpose for which an item of expenditure has been incurred: Lunney v Commissioner of Taxation [1958] HCA 5; 100 CLR 478 at 497-9.

s 8-1 requires a sufficient nexus and fair/reasonable apportionment where expenditure serves income-producing and other purposes

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Does the expenditure need to be incurred in the same income year in which the income it is intended to produce is derived? No - see FCT v Smith (1981) 147 CLR 578; 81 ATC 4114 (re deductibility of premiums for an income protection insurance policy - discussed in Chapter 5):
deduction for interest depends on real income-producing nexus and purpose; disproportionate tax-driven arrangements require close analysis

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Snowden Wilson Pty Ltd (1958) 99 CLR 431
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: In Re Magna Alloys & Research Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia [1980] FCA 150, Deane and Fisher J said:
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: What is required is that the relevant expenditure be appropriate and adapted for the ends of the business carried on for the purpose of earning assessable income: see, Ronpibon Tin NL v FC of T; Tongkah Compound NL v FC of

T, supra, 78 CLR at 55-56; 4 AITR at 245; FC of T v Snowden & Willson Pty Ltd, supra, 99 CLR at 444 and 447; 7 AITR at 317 and 320.
s 8-1 requires a sufficient nexus and fair/reasonable apportionment where expenditure serves income-producing and other purposes

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: “The Act must operate upon the result of a taxpayer's activities as it finds them": per Williams J, Tweddle v FC of T [1942] HCA 40…” [Emphasis added; para breaks inserted]
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v La Rosa 2003 ATC 4510 - see (now) s 26-54 ITAA 97
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Cooper 91 ATC 4396
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Day 2008 ATC 20-064

This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Anstis 2010 ATC 20-221 - see (now) s 26-19 ITAA97
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Example: See *Ronpibon Tin NL v FCT; Tongkah Compound NL v FCT (1949) 78 CLR 47, where the High Court said:
s 8-1 requires a sufficient nexus and fair/reasonable apportionment where expenditure serves income-producing and other purposes

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: “…It is important not to confuse the question how much of the actual expenditure of the taxpayer is attributable to the gaining of assessable income with the question how much would a prudent investor have expended in gaining the assessable income. The actual expenditure in gaining the assessable income, if and when ascertained, must be accepted. The problem is to ascertain it by an apportionment. It is not for the Court or the commissioner to say how much a taxpayer ought to spend in obtaining his income, but only how much he has spent: see per Ferguson J. in Tooheys Ltd. v. Commissioner of Taxation (1922) 22 SR (NSW) 432, at p 440 ; per Williams J. in Tweddle v. Federal Commissioner of Taxation [1942] HCA 40; (1942) 7 ATD 186, at p 190 . The question of fact is therefore to make a fair appointment to each object of the companies' actual expenditure where items are not in themselves referable to one object or the other. But this must be done as a matter of fact and therefore not by this Full Court.”

a business can exist despite modest scale where activities are systematic, commercial and directed to profit

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Collings 76 ATC 4254
travel can be deductible where the taxpayer's duties themselves require travel and work begins before/continues through the journey

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Vogt 75 ATC 4073
special work/equipment/travel facts can distinguish ordinary commuting

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Payne 2001 ATC 4027 and s 25-100 ITAA97.
travel between separate income-producing activities requires careful statutory/nexus analysis; ordinary commuting principles remain distinct

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Taxation Ruling TR 2021/1 When are deductions allowed for employees' transport expenses?
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Taxation Ruling 95/34: Employees carrying out itinerant work
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Handley v FCT 81 ATC 4165; and FCT v Forsyth 81 ATC 4157
home occupancy expenses require stronger place-of-business characteristics than mere convenience of working at home

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Swinford v FCT 84 ATC 4803
a home area with stronger business characteristics can support broader deductions than a mere study

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Hall v FCT [2026] FCAFC 43
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Taxation Ruling TR 93/30: Deductions for home office expenses
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Finn (1961) 106 CLR 60
self-education maintaining/improving skills in current employment can be deductible

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Hatchett 71 ATC 4184
education must connect sufficiently with current income-producing activities; a general future career benefit is not enough

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Studdert 91 ATC 5006
study that objectively improves skills used in current duties can have the required nexus

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Anstis 2010 ATC 20-221, and s 26-19 ITAA97
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Taxation Ruling TR 2024/3 Income tax: deductibility of self-education expenses incurred by an individual.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Edwards 94 ATC 4255
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning,

compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Mansfield v FCT 96 ATC 4001
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Morris and Others v FCT 2002 ATC 4404 - sun protection items (eg sunglasses, sunhats , and sunscreen) deductible for employees required to work outdoors.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.

- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

> **Required-reading integration.** PTL [12.00]–[12.230]; [12.270]–[12.300]; [12.320]–[12.350]; [12.370]–[12.440]; [12.580]–[12.780]; [12.800]; [12.810]–[12.850]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) ("PTL"). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Section 8-1 is a deceptively short provision. It contains two positive limbs and four negative limbs, and the words "to the extent" require apportionment. The cases do not replace the section; they help explain nexus, occasion, essential character, business connection and the private/capital boundaries. A strong answer keeps returning to the statutory language.

The first positive limb asks whether the loss or outgoing is incurred in gaining or producing assessable income. The second asks whether it is necessarily incurred in carrying on a business for that purpose. The negative limbs then remove capital, private/domestic and other excluded amounts. The answer must therefore show both inclusion and exclusion analysis where the facts are contestable.

This chapter also introduces recurring boundary categories—travel, home office, self-education and clothing. Each category has its own factual patterns, but the central method remains the same: identify the occasion of the outgoing and ask whether it belongs to the income-producing activity or to the taxpayer's private life/qualification/commuting choice.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 s 8-1(1)(a)	First positive limb: sufficient connection between the outgoing and gaining/producing assessable income.	State the income-producing activity and explain the connection factually.

ITAA97 s 8-1(1)(b)	Second positive limb: losses/ outgoings necessarily incurred in carrying on a business for the purpose of gaining/producing assessable income.	Use for business expenditure and identify the business being carried on.
ITAA97 s 8-1(2)	Negative limbs deny deductions for capital/capital nature, private/ domestic nature, expenditure relating to exempt/NANE income, and amounts denied elsewhere.	Always check the negative limbs after establishing a positive limb.
ITAA97 s 8-5 and s 8-10	Specific deductions may apply where s 8-1 does not; double deduction is prevented.	If s 8-1 fails, ask whether another provision applies rather than ending the analysis.
ITAA97 s 25-100	Specific travel-between-workplaces rule identified in this chapter.	Use after distinguishing ordinary home-to-work commuting from deductible work travel.
ITAA97 ss 26-19 and 26-20	Specific denial/coordination rules relevant to self-education and study-loan repayment issues.	Distinguish the original education expense from later HELP/FEE-HELP repayment obligations.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Ronpibon Tin NL v FCT (1949) 78 CLR 47	Central authority on nexus and apportionment; mixed-purpose expenditure must be divided on a fair and reasonable basis.	Use whenever an outgoing serves both income-producing and private/non-deductible purposes.
Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113	Supports deduction of recurrent business expenses sufficiently connected with the operations by which assessable income is earned.	Use in business nexus analysis.

Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344	Looks to the occasion of the loss/ outgoing in the income-producing operations.	Use for losses/ expenditure arising as an incident of business operations.
Lunney & Hayley v FCT (1958) 100 CLR 478	Ordinary home-to-work travel is generally private; it puts the taxpayer in a position to work rather than occurring in the work itself.	Use as the default commuting authority.
FCT v Vogt ; FCT v Collings ; FCT v Payne	Develop exceptions/limits for travel involving itinerancy, equipment or travel between workplaces.	Use only after explaining why the facts differ from ordinary commuting.
Handley; Forsyth; Swinford; Hall v FCT [2026] FCAFC 43	Home-office authorities distinguish a home used merely for convenience from premises that form a place of business and from running expenses.	Use to classify occupancy versus running expenses and mixed private use.
FCT v Finn; Hatchett; Studdert	Self-education authorities distinguish maintaining/improving skills in current income-earning activities from obtaining a new qualification/new income-earning activity.	Use by comparing the content of the study with the taxpayer's current duties at the time the expense is incurred.
Edwards; Mansfield; Morris	Clothing/grooming/protective-item cases show that conventional clothing is usually private while protective/occupation-specific expenditure may be deductible.	Use for uniforms, specialist clothing and sun protection.

Worked application — fact-by-fact reasoning map

> **Class-test method**
> The Week 8 worked problem expressly trains concise factual application supported by provisions, authorities and calculations. Allocate time by marks and answer each sub-part separately.

Harmony Homecare ordinary business income
Start with the existing aged-care business and classify recurring accommodation/care fees under s 6-5.

One-off meal contract
Ask whether the receipt is still ordinary business income as an incidental/commercial extension of the existing business even though it is the first such contract.

Queensland infrastructure grant
Test ordinary income and s 15-10; the capital purpose of constructing an additional wing is important to characterisation.

Ipswich land sale
Analyse whether the sale is mere realisation, an isolated profit-making transaction or CGT. Use acquisition purpose and subsequent conduct.

Deduction sub-problems
For each outgoing, write the positive limb, negative limb and any specific provision. Do not group unrelated expenses under a general statement that they are “business expenses”.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 7 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. Section 8-1(1) contains two positive limbs. An outgoing is deductible if it is incurred:

1. Only in gaining or producing assessable income
2. In gaining or producing assessable income, OR necessarily incurred in carrying on a business for that purpose
3. Only if approved by the ATO in advance
4. Only for capital assets

Q2. Ronpibon Tin NL v FCT is the leading authority for the test that an outgoing must be:

1. Incidental and relevant to the income-earning activity — its "essential character" is what matters
2. Approved by shareholders
3. Paid in cash
4. Under $10,000

Q3. FCT v Maddalena and FCT v Finn are contrasted because:

1. Maddalena involved a company and Finn an individual
2. Maddalena concerned expenditure to obtain a new job (too soon, not deductible), while Finn concerned expenditure to improve skills in a current role (deductible)
3. They reached the same conclusion
4. Maddalena is a UK case and Finn an Australian case

Q4. Fletcher v FCT is significant because it shows that s 8-1 itself can limit or deny a deduction where:

1. The claimed deduction is disproportionate to the assessable income the arrangement is capable of producing, especially where there are significant private or tax-driven purposes
2. The taxpayer is under 18
3. The expenditure exceeds $1 million
4. The taxpayer has not lodged previous returns

Q5. The four negative limbs in s 8-1(2) exclude a deduction for a loss or outgoing that is:

1. Capital, private/domestic, incurred in gaining exempt/NANE income, or specifically denied by another provision
2. Under $50
3. Paid to a related party
4. Not supported by a tax invoice

Q6. FCT v Hatchett establishes that self-education expenses can be deductible where they:

1. Lead to a completely new career
2. Maintain or improve skills or knowledge used in the taxpayer's current income-earning activity
3. Are paid for by an employer
4. Exceed $5,000

Q7. Charles Moore & Co (WA) Pty Ltd v FCT allowed a deduction for cash stolen while being banked because:

1. Theft losses are always deductible
2. The loss occurred in the course of, and was a risk inherent in, the ordinary conduct of the business's income-earning activities
3. The company had insurance
4. The employee responsible was dismissed

Q8. Home office and travel-to-work expenses are generally analysed (Handley, Forsyth, Swinford) by asking whether:

1. The taxpayer works more than 40 hours a week
2. The home constitutes a genuine "place of business" rather than merely a matter of personal convenience
3. The taxpayer owns or rents the home
4. The travel is more than 10km

Q9. FCT v Snowden & Willson Pty Ltd held that legal and advertising expenses incurred to defend the taxpayer's business reputation during public investigations were deductible because they were:

1. Dictated by business purposes and incidental to carrying on the business, even though not directly income-producing
2. Required by law
3. Paid to government bodies
4. Incurred after the business ceased

Q10. In an IRAC deductions answer, after establishing a positive limb is satisfied, the next step is always to:

1. Calculate the tax payable immediately
2. Test the outgoing against each of the four negative limbs in turn
3. Assume the deduction is automatically allowed
4. Check only the private/domestic limb

Chapter 7 Mastery Quiz — Answers and Explanations

A1. Answer: B

The two limbs are: incurred in gaining/producing assessable income, or necessarily incurred in carrying on a business for that purpose.

A2. Answer: A

Ronpibon Tin requires the outgoing's essential character to be incidental and relevant to the income-earning activity.

A3. Answer: B

Maddalena (new job, too soon) is contrasted with Finn (improving skills in a current role, deductible).

A4. Answer: A

Fletcher allows s 8-1 to limit deductions disproportionate to producible income, especially with private/tax-driven purposes.

A5. Answer: A

The four negative limbs exclude capital, private/domestic, exempt/NANE-income-related, and specifically denied outgoings.

A6. Answer: B

Hatchett allows deductions for self-education that maintains or improves skills in the current role.

A7. Answer: B

Charles Moore allowed the deduction because the theft risk was inherent in the ordinary conduct of the business.

A8. Answer: B

The key question is whether the home is a genuine place of business, not just personally convenient.

A9. Answer: A

Snowden & Willson's costs were deductible as dictated by business purposes and incidental to carrying on the business.

A10. Answer: B

Always test the outgoing against each of the four negative limbs after a positive limb is satisfied.

Chapter 7 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Set out the two positive limbs of s 8-1(1) and explain when the second limb ("necessarily incurred in carrying on a business") is used instead of the first.

SA2. Explain the Ronpibon Tin "essential character" test and how it is applied to mixed-purpose expenditure.

SA3. Contrast Maddalena and Finn and explain the general principle they establish about self-education expenses.

SA4. Explain how Fletcher v FCT allows s 8-1 to limit a deduction even where the general nexus test is technically satisfied.

SA5. A solicitor pays for study to become qualified as a barrister. Applying Maddalena and Finn, identify the issue, state the rule, and reach a conclusion on deductibility.

Chapter 7 Short-Answer Questions — Model Answers

Model Answer SA1

The first limb covers losses/outgoings incurred in gaining or producing assessable income — used for employees and individuals earning income outside a business context. The second limb covers losses/outgoings necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income — used where the taxpayer is carrying on a business, and captures expenditure that supports the business generally (such as reputation-defence costs in Snowden & Willson) even without a direct link to a specific receipt.

Model Answer SA2

The Ronpibon Tin test asks what the essential character of the expenditure is — is it incidental and relevant to the income-producing activity? For mixed-purpose expenditure (part work, part private), the outgoing is apportioned so that only the portion whose essential character relates to income-producing use is deductible, with the private portion excluded under the private/domestic negative limb.

Model Answer SA3

In Maddalena, expenditure to obtain qualifications for a new income-earning activity (a new job) was held not deductible because it is incurred too soon — directed at obtaining the position, not incurred in the course of already carrying out income-producing work. In Finn, expenditure to study overseas and improve existing professional skills used in the taxpayer's current role was deductible. The general principle: self-education expenses are deductible where they maintain or improve skills in a current income-earning activity, but not where they are directed at opening up a new field of income-earning activity.

Model Answer SA4

Fletcher confirms that satisfying the general nexus test under s 8-1(1) is not automatically sufficient — the Full High Court held that where a taxpayer's outgoing (such as interest on a large loan) is disproportionate to the assessable income the arrangement is objectively capable of producing, and there are significant non-income (private or tax-driven) purposes, the deduction may be limited to a reasonable amount reflecting the true income-producing purpose, rather than allowed in full.

Model Answer SA5

Issue: whether the barrister-qualification course fees are deductible under s 8-1. Rule: Maddalena (new income-earning activity, not deductible) vs Finn (improving skills in current role, deductible). Application: becoming a barrister from a solicitor practice is generally treated as commencing a new field of professional practice, analogous to Maddalena, rather than merely upgrading skills used in the current role — the roles, admission requirements, and manner of practice differ substantially. Conclusion: on these facts, the study fees are more likely non-deductible, being incurred to obtain a new income-earning qualification rather than to improve skills already used in the current occupation, though the specific overlap in skills used should be examined closely.

Chapter 7 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Can I deduct the cost of a university degree needed to start a new career?

Q: Can I deduct travel between home and my regular workplace?

Q: If an expense produces both work and private benefits, can I still deduct part of it?

Q: Does an expense have to directly produce income to be deductible?

Q: Can a legitimate business deduction still be denied?

Chapter 7 — Frequently Asked Questions: Suggested Answers

FAQ 1

Generally no — following Maddalena, expenditure incurred to obtain new qualifications for a new income-earning activity is considered too soon; it is directed at obtaining the position rather than incurred in the course of already carrying it out.

FAQ 2

Generally no — ordinary home-to-work travel is a private expense, not incurred in gaining assessable income, though exceptions can apply in limited circumstances (e.g. carrying bulky tools, or itinerant work patterns).

FAQ 3

Yes — Ronpibon Tin confirms that mixed-purpose expenditure can be apportioned, with only the portion connected to income-producing use being deductible.

FAQ 4

No — the second limb of s 8-1(1) allows a deduction for a loss or outgoing "necessarily incurred in carrying on a business", even where it does not directly produce a specific item of income (e.g. Snowden & Willson's reputation-defence costs).

FAQ 5

Yes — Fletcher shows that even where a nexus with assessable income exists, s 8-1 can still limit or deny the deduction where it is disproportionate to the income the arrangement can produce, particularly where there is a significant private or tax-driven purpose.

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does Nexus mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Positive mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Negative mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does Capital mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does private/domestic character mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does apportionment mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does Ronpibon mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Lunney mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does Nexus mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Required connection between outgoing and assessable-income production or business. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

2. What does Positive mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Limbs in s 8-1(1) that confer a general deduction. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

3. What does Negative mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Limbs in s 8-1(2) that deny certain outgoings. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

4. What does Capital mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Outgoing excluded from s 8-1 where capital in nature. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

5. What does private/domestic character mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Private or domestic outgoing excluded by s 8-1(2). Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

6. What does apportionment mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Split mixed expenditure between deductible and non-deductible components. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

7. What does Ronpibon mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Authority on nexus and apportionment. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

8. What does Lunney mean, why does it matter in Chapter 7, and how should a student use it in a problem question?

Authority on ordinary home-to-work travel. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define Nexus and explain why it matters to the Chapter 7 analysis.
2. Define Positive and explain why it matters to the Chapter 7 analysis.
3. Define Negative and explain why it matters to the Chapter 7 analysis.
4. Define Capital and explain why it matters to the Chapter 7 analysis.
5. Define private/domestic character and explain why it matters to the Chapter 7 analysis.
6. Define apportionment and explain why it matters to the Chapter 7 analysis.
7. What role does s 8-1 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 8-1(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does s 8-1(2) play in this chapter, what factual trigger makes it relevant, and how would you apply it?

10. What role does s 8-1(1)(a) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does s 8-1(1)(b) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 8-1(2)(a) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Ronpibon Tin NL v FCT (1949) 78 CLR 47 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does Lunney & Hayley v FCT (1958) 100 CLR 478 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does FCT v Vogt; FCT v Collings; FCT v Payne illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Mia is a salaried architect. She pays for ordinary business clothing, a document briefcase, travel from home to her regular office, travel from the office to client sites, a professional subscription, home-office electricity and legal fees defending a…
20. What should a strong Chapter 7 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

Required connection between outgoing and assessable-income production or business. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

2. Answer

Limbs in s 8-1(1) that confer a general deduction. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

3. Answer

Limbs in s 8-1(2) that deny certain outgoings. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

4. Answer

Outgoing excluded from s 8-1 where capital in nature. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

5. Answer

Private or domestic outgoing excluded by s 8-1(2). Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

6. Answer

Split mixed expenditure between deductible and non-deductible components. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

7. Answer

s 8-1 • nexus • positive limbs • negative limbs • apportionment • travel • home office • self-education

8. Answer

ITAA97 s 8-1(1)(a) and (b) are the positive limbs; s 8-1(2) contains the negative limbs. Sections 8-5 and 8-10 remind students to check specific deductions and priority/coordination rules.

9. Answer

Under the first positive limb, a loss or outgoing is deductible to the extent that it is incurred in gaining or producing assessable income. Under the second, it is deductible to the extent that it is necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income. Even if a positive limb is satisfied, s 8-1(2) denies a deduction to the extent the outgoing is capital or capital in nature, private or domestic, incurred in relation to exempt or NANE…

10. Answer

ITAA97 s 8-1(1)(a) and (b) are the positive limbs; s 8-1(2) contains the negative limbs. Sections 8-5 and 8-10 remind students to check specific deductions and priority/coordination rules.

11. Answer

s 8-1(1)(b) should be cited only after identifying the factual trigger it governs. State the exact statutory words or elements, apply each limb, exception or method step to the facts, and then explain the resulting tax consequence.

12. Answer

s 8-1(2)(a) should be cited only after identifying the factual trigger it governs. State the exact statutory words or elements, apply each limb, exception or method step to the facts, and then explain the resulting tax consequence.

13. Answer

For a business receipt, identify s 6-5 and the business principle. For a government grant, identify s 6-5 and s 15-10 if relevant. For a land profit, test ordinary income and CGT separately. For the final tax calculation, show the numbers and do not waste time repeating doctrine already established.

14. Answer

Central authority on nexus and apportionment; mixed-purpose expenditure must be divided on a fair and reasonable basis.

15. Answer

Supports deduction of recurrent business expenses sufficiently connected with the operations by which assessable income is earned.

16. Answer

Looks to the occasion of the loss/outgoing in the income-producing operations.

17. Answer

Ordinary home-to-work travel is generally private; it puts the taxpayer in a position to work rather than occurring in the work itself.

18. Answer

Develop exceptions/limits for travel involving itinerancy, equipment or travel between workplaces.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 8-1 in this chapter?

1. s 8-1(2)
2. s 8-1(1)(a)
3. s 8-1
4. s 8-1(1)

2. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(1) in this chapter?

1. s 8-1(1)(a)
2. s 8-1(1)
3. s 8-1
4. s 8-1(2)

3. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(2) in this chapter?

1. s 8-1
2. s 8-1(1)
3. s 8-1(1)(a)
4. s 8-1(2)

4. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(1)(a) in this chapter?

1. s 8-1(1)
2. s 8-1(2)
3. s 8-1
4. s 8-1(1)(a)

5. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(1)(b) in this chapter?

1. s 8-1(1)(b)
2. s 8-1
3. s 8-1(2)
4. s 8-1(1)

6. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(2)(a) in this chapter?

1. s 8-1(2)
2. s 8-1
3. s 8-1(2)(a)
4. s 8-1(1)

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 6-5
2. s 8-1
3. s 8-1(2)
4. s 8-1(1)

8. Which provision is the relevant statutory reference for the rule or method associated with s 15-10 in this chapter?

1. s 8-1(2)
2. s 8-1
3. s 8-1(1)
4. s 15-10

9. Which authority is connected with this proposition: Central authority on nexus and apportionment; mixed-purpose expenditure must be divided on a fair and reasonable basis.

1. Ronpibon Tin NL v FCT (1949) 78 CLR 47
2. Lunney & Hayley v FCT (1958) 100 CLR 478
3. Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344
4. Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113

10. Which authority is connected with this proposition: Supports deduction of recurrent business expenses sufficiently connected with the operations by which assessable income is earned.

1. Ronpibon Tin NL v FCT (1949) 78 CLR 47
2. Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344
3. Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113
4. Lunney & Hayley v FCT (1958) 100 CLR 478

11. Which authority is connected with this proposition: Looks to the occasion of the loss/outgoing in the income-producing operations.

1. Ronpibon Tin NL v FCT (1949) 78 CLR 47
2. Lunney & Hayley v FCT (1958) 100 CLR 478
3. Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113
4. Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344

12. Which authority is connected with this proposition: Ordinary home-to-work travel is generally private; it puts the taxpayer in a position to work rather than occurring in the work itself.

1. Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344
2. Lunney & Hayley v FCT (1958) 100 CLR 478
3. Ronpibon Tin NL v FCT (1949) 78 CLR 47
4. Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113

13. Which authority is connected with this proposition: Develop exceptions/limits for travel involving itinerancy, equipment or travel between workplaces.

1. Ronpibon Tin NL v FCT (1949) 78 CLR 47
2. Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113
3. Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344
4. FCT v Vogt; FCT v Collings; FCT v Payne

14. Which authority is connected with this proposition: Home-office authorities distinguish a home used merely for convenience from premises that form a place of business and from running expenses.

1. Ronpibon Tin NL v FCT (1949) 78 CLR 47
2. Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113
3. Handley; Forsyth; Swinford; Hall v FCT [2026] FCAFC 43
4. Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344

15. Which taxation-law term or authority best matches this description: Required connection between outgoing and assessable-income production or business.

1. Capital
2. Nexus
3. Positive
4. Negative

16. Which taxation-law term or authority best matches this description: Limbs in s 8-1(1) that confer a general deduction.

1. Negative
2. Positive
3. private/domestic character
4. Capital

17. Which taxation-law term or authority best matches this description: Limbs in s 8-1(2) that deny certain outgoings.

1. Capital
2. Negative
3. apportionment
4. private/domestic character

18. Which taxation-law term or authority best matches this description: Outgoing excluded from s 8-1 where capital in nature.

1. Ronpibon
2. private/domestic character
3. apportionment
4. Capital

19. Which taxation-law term or authority best matches this description: Private or domestic outgoing excluded by s 8-1(2).

1. Lunney
2. private/domestic character
3. Ronpibon
4. apportionment

20. Which taxation-law term or authority best matches this description: Split mixed expenditure between deductible and non-deductible components.

1. apportionment
2. Herald
3. Lunney
4. Ronpibon

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. C. s 8-1

s 8-1 • nexus • positive limbs • negative limbs • apportionment • travel • home office • self-education

2. B. s 8-1(1)

ITAA97 s 8-1(1)(a) and (b) are the positive limbs; s 8-1(2) contains the negative limbs. Sections 8-5 and 8-10 remind students to check specific deductions and priority/coordination rules.

3. D. s 8-1(2)

Under the first positive limb, a loss or outgoing is deductible to the extent that it is incurred in gaining or producing assessable income. Under the second, it is deductible to the extent that it is necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income. Even if a positive limb is satisfied, s…

4. D. s 8-1(1)(a)

ITAA97 s 8-1(1)(a) and (b) are the positive limbs; s 8-1(2) contains the negative limbs. Sections 8-5 and 8-10 remind students to check specific deductions and priority/coordination rules.

5. A. s 8-1(1)(b)

s 8-1(1)(b) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

6. C. s 8-1(2)(a)

s 8-1(2)(a) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

7. A. s 6-5

For a business receipt, identify s 6-5 and the business principle. For a government grant, identify s 6-5 and s 15-10 if relevant. For a land profit, test ordinary income and CGT separately. For the final tax calculation, show the numbers and do not waste time repeating doctrine already established.

8. D. s 15-10

For a business receipt, identify s 6-5 and the business principle. For a government grant, identify s 6-5 and s 15-10 if relevant. For a land profit, test ordinary income and CGT separately. For the final tax calculation, show the numbers and do not waste time repeating doctrine already established.

9. A. Ronpibon Tin NL v FCT (1949) 78 CLR 47

Central authority on nexus and apportionment; mixed-purpose expenditure must be divided on a fair and reasonable basis.

10. C. Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113

Supports deduction of recurrent business expenses sufficiently connected with the operations by which assessable income is earned.

11. D. Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344

Looks to the occasion of the loss/outgoing in the income-producing operations.

12. B. Lunney & Hayley v FCT (1958) 100 CLR 478

Ordinary home-to-work travel is generally private; it puts the taxpayer in a position to work rather than occurring in the work itself.

13. D. FCT v Vogt; FCT v Collings; FCT v Payne

Develop exceptions/limits for travel involving itinerancy, equipment or travel between workplaces.

14. C. Handley; Forsyth; Swinford; Hall v FCT [2026] FCAFC 43

Home-office authorities distinguish a home used merely for convenience from premises that form a place of business and from running expenses.

15. B. Nexus

Nexus: Required connection between outgoing and assessable-income production or business.

16. B. Positive

Positive: Limbs in s 8-1(1) that confer a general deduction.

17. B. Negative

Negative: Limbs in s 8-1(2) that deny certain outgoings.

18. D. Capital

Capital: Outgoing excluded from s 8-1 where capital in nature.

19. B. private/domestic character

private/domestic character: Private or domestic outgoing excluded by s 8-1(2).

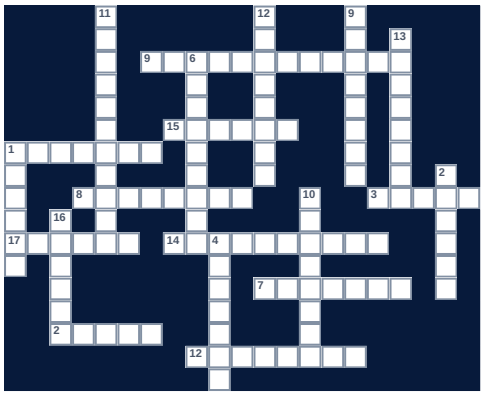
20. A. apportionment

apportionment: Split mixed expenditure between deductible and non-deductible components.

20-CLUE CROSSWORD

Crossword - Chapter 7: General Deductions: Nexus, Positive and Negative Limbs, Apportionment and Boundaries

Launch Chapter 7 Active Crossword to type directly into the grid and check your answers.



Across

1. Expense characterised by the advantage or matter to which it relates.
2. Required connection between outgoing and assessable-income production or business.
3. Authority on home office and occupancy-type expenses.
4. Private or domestic outgoing excluded by s 8-1(2).
5. Limbs in s 8-1(1) that confer a general deduction.
6. Authority on losses incidental to business operations.
7. Authority relevant to home office expenditure.
8. Loss or outgoing sufficiently connected with business operations.
9. Authority relevant to travel in carrying out income-earning activities.
10. Authority illustrating broad nexus subject to statutory denial.

Down

1. Authority on business outgoings connected with income production.
2. Authority on ordinary home-to-work travel.
3. Outgoing excluded from s 8-1 where capital in nature.
4. Split mixed expenditure between deductible and non-deductible components.
5. Expense category commonly private unless special rules apply.
6. Authority on nexus and apportionment.
7. Authority on legal expenses and business nexus.
8. Authority on disproportionate deductions and income purpose.
9. Limbs in s 8-1(2) that deny certain outgoings.
10. Expense category requiring distinction between commuting and work travel.

CROSSWORD ANSWERS

Crossword Answers - Chapter 7

2 Across - LEGAL	3 Across - NEXUS
5 Across - HANDLEY	7 Across - PRIVATE
8 Across - POSITIVE	9 Across - CHARLESMOORE
12 Across - FAICHNEY	14 Across - INCIDENTAL
15 Across - VOUGHT	17 Across - LAROSA
1 Down - HERALD	2 Down - LUNNEY
4 Down - CAPITAL	6 Down - APPORTION
9 Down - CLOTHING	10 Down - RONPIBON
11 Down - MAGNAALLOYS	12 Down - FLETCHER
13 Down - NEGATIVE	16 Down - TRAVEL

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Employee and professional deductions

Problem

Mia is a salaried architect. She pays for ordinary business clothing, a document briefcase, travel from home to her regular office, travel from the office to client sites, a professional subscription, home-office electricity and legal fees defending a complaint about work performed. Apply s 8-1 and any relevant boundaries, including apportionment.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Employee and professional deductions

Issue. Each outgoing must satisfy s 8-1's nexus and avoid the capital, private/domestic and other negative limbs; mixed expenditure must be apportioned.

Rule / Law. ITAA97 s 8-1(1) allows losses/outgoings incurred in gaining assessable income or necessarily incurred in carrying on a business, while s 8-1(2) denies capital, private/domestic and exempt-income related amounts. *Ronpibon Tin* supports apportionment and the essential-character inquiry. Travel between home and a regular workplace is ordinarily private; travel undertaken in performing work between workplaces/client sites can be deductible. *FCT v Finn* and *Maddalena* illustrate the boundary for maintaining current skills versus obtaining a new income-earning position.

Application. Ordinary business clothing is private in character and not deductible merely because worn at work. A document briefcase used for work is income-producing; depending on cost it may be immediately deductible under a specific rule or depreciated, rather than simply claimed under s 8-1 as a capital item. Home-to-regular-office travel is ordinarily private. Office-to-client travel is undertaken in the course of employment and is deductible. The professional subscription has a direct employment nexus and is deductible. Home-office electricity is deductible to the extent actually related to income-producing use, with private use apportioned. Legal fees defending a complaint about work already performed are likely revenue and employment-connected, unless the expenditure secures or protects an enduring capital asset.

Conclusion. The strongest deductions are client travel, professional subscription, work-related home-office costs and work-related defence costs; ordinary clothing and ordinary commuting are not deductible, and the briefcase follows the relevant capital allowance/specific deduction rule.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Mixed business and private expenditure

Problem

A sole trader uses a vehicle 70% for client travel and 30% privately, pays interest on a mixed-purpose loan, incurs entertainment expenditure for clients and suffers theft of cash while transporting daily takings to the bank. Identify the deduction issues, apportionment and any specific denial provisions that must be checked.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Mixed business and private expenditure

Issue. The vehicle and loan are mixed-purpose items requiring apportionment; entertainment and illegal/unlawful outgoings require specific denial checks; the stolen cash raises the nexus issue illustrated by *La Rosa*.

Rule / Law. Section 8-1 permits the income-producing portion of a mixed outgoing and *Ronpibon Tin* requires fair apportionment. Interest is traced to the use of borrowed funds, not merely the security for the loan. Division 32 generally denies entertainment deductions subject to exceptions. Specific denial provisions must be applied after the positive s 8-1 nexus. *FCT v La Rosa* illustrates that a business nexus can exist for lost/stolen trading cash, but Parliament can and has enacted specific denials for some unlawful activities.

Application. Vehicle expenses are deductible only to the 70% business-use extent (subject to the motor-vehicle substantiation method used). Interest on the mixed-purpose loan must be traced and apportioned by the use of each borrowing component. Client entertainment is prima facie denied by Div 32 unless a statutory exception applies. Theft of daily takings while being transported to the bank has a close operational connection with the business; the positive nexus is strong, but any specific statutory denial relevant to unlawful conduct must still be checked on the facts.

Conclusion. Apportion mixed vehicle/interest expenditure, deny entertainment unless an exception applies, and analyse the stolen cash through s 8-1 followed by the specific denial provisions.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 8. DEDUCTIONS ACROSS TIME: PRELIMINARY, POST-CESSATION, INTEREST AND SELF-EDUCATION

contemporaneity • preliminary expenditure • post-cessation expenditure • interest • blackhole expenditure • timing

Timing matters in deductions. Expenditure may be too early, too late, or sufficiently connected despite a temporal gap. This chapter explains contemporaneity without turning it into a rigid rule.

LEARNING OUTCOMES

- Distinguish preliminary expenditure from expenditure incurred in an existing income-earning activity.
- Apply Steele to pre-income interest and understand the factors in TR 2004/4.
- Analyse post-cessation expenditure.
- Recognise when capital-allowance or business-related-cost provisions may operate instead of s 8-1.
- Apply current self-education principles, including TR 2024/3 and the cases in the Week 9 required reading.
- Work through Romek's education, home office, travel and clothing expenses carefully.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: deductibility can survive a change in timing or business status

The contemporaneity problem asks whether expenditure is too early, too late or too remote from income-producing activity. The answer is not found by applying a mechanical same-year rule. The cases examine whether the occasion of the expenditure remains sufficiently connected with the income-producing activity or business.

Preliminary expenditure

Maddalena distinguishes expenditure incurred in getting a new income-earning activity from expenditure incurred in the course of an existing activity. *Softwood Pulp* and related authorities help identify whether business operations have commenced. If an amount is capital and does not fit another regime, s 40-880 can become important as a business-related capital expenditure provision.

Post-cessation interest and continuing nexus

Steele and subsequent authorities require close attention to the purpose and use of borrowed funds and whether the connection continues after the relevant activity has ceased. The mere fact that a business has stopped does not necessarily destroy nexus, but refinancing, private use or an independent decision can.

Section 40-880 method

When applying s 40-880, first ask whether the expenditure is capital. Then identify the business relationship, the statutory exclusions and whether another provision already recognises the amount. The provision is residual, not a substitute for ignoring more specific rules.

> **In plain English**
> Time is evidence of connection, not an automatic rule. An outgoing before income starts can sometimes qualify; an outgoing after income stops can sometimes qualify. The real question remains the statutory connection.

Key language

contemporaneity | preliminary expenditure | post-cessation | interest | Steele | Maddalena | blackhole expenditure | non-commercial loss | self-education | initial qualification | | home office | work travel | employment nexus | private expense | capital allowance | business recommencement | cessation | continuing efforts | temporal connection

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

8.1 Contemporaneity: when must the outgoing occur relative to the income?

Section 8-1 asks whether an outgoing is incurred “in gaining or producing” assessable income or “in carrying on” a business for that purpose. Those words create a temporal dimension. An expense may be commercially sensible and ultimately lead to income, yet still be too preliminary, too remote or incurred after the income-producing activity has ceased.

Amalgamated Zinc (de Bavay's) Ltd v FCT is a classic authority for the idea that “in gaining or producing” means in the course of the income-producing activity. The

problem is therefore not whether the expense has some future relationship with income, but whether the statutory connection exists at the time and in the circumstances in which the expense is incurred.

8.2 Preliminary expenditure: getting ready to earn is not always earning

Expenditure incurred before a business begins is commonly non-deductible under s 8-1 because it is preliminary to carrying on the business and/or capital in character. *FCT v Maddalena* gives the personal-exertion equivalent: costs of obtaining a new income-earning position are generally incurred too soon. The taxpayer is preparing to enter the activity rather than incurring the outgoing in the course of an existing activity.

Softwood Pulp & Paper Ltd v FCT is important for business feasibility and establishment expenditure. Modern legislation can provide specific relief even where s 8-1 fails. This chapter directs attention to Subdiv 40-I and provisions such as ss 40-830/40-832/40-835/40-840/40-855, and to s 40-880 for certain business-related capital expenditure. This is why a good answer never stops after concluding “capital” or “preliminary”: search for a specific deduction.

8.3 Steele: contemporaneity is relevant, not absolute

Steele v DFCT is the leading High Court authority softening an overly rigid timing rule. Interest incurred before assessable income begins can still be deductible where the borrowing is directed to acquiring or developing an income-producing asset and the connection with future income remains sufficiently strong.

The case confirms several important propositions: the purpose of borrowing is generally identified by the use of the borrowed funds; interest on borrowed money used to acquire an income-producing asset is ordinarily revenue rather than capital; and the security for the loan is not decisive. *FCT v Munro* supports the proposition that the use of borrowed funds, not the asset given as security, is critical.

TR 2004/4 distils the Commissioner's view of *Steele*. Interest before income begins can remain deductible where it is not incurred too soon, is not private, the pre-income period is not so long that nexus is lost, the expenditure is directed to producing assessable income and continuing efforts are made toward that end.

8.4 Post-cessation expenditure

The mirror problem arises after a business or income-producing activity ends. Later expenses are not automatically non-deductible merely because the activity has ceased. The question is whether the occasion of the outgoing is found in the earlier income-producing activity.

Placer Pacific Management Pty Ltd v FCT is a key authority for later expenditure connected with earlier business operations. *Brown v FCT* likewise assists with post-cessation interest in appropriate circumstances. The analytical question remains nexus: has the connection to the former income-producing activity been preserved, or has a new private or capital purpose intervened?

8.5 Self-education revisited: the current-income/new-qualification boundary

Self-education is one of the clearest applications of contemporaneity. *FCT v Finn* supports deductions for education that maintains or improves skills used in current employment. *FCT v Hatchett* similarly recognises a sufficient nexus where study directly advances existing teaching duties and prospects. *FCT v Studdert* and *FCT v MI Roberts* add factual examples of the connection between study and existing employment.

Maddalena marks the other side: expenditure directed toward obtaining new employment or qualifying for a new profession is preliminary. TR 2024/3 is the modern ATO ruling students should read alongside the cases. Its core approach is factual: identify current duties, course content, objective purpose and whether the education leads to a new income-earning activity or qualification.

Week 9 self-education authority checklist

Read TR 2024/3 paras 22-25 as the summary of principles and compare Examples 1, 11 and 13. For subject-by-subject characterisation, compare paras 81-85 and Example 21 with *Ting v FCT [2015] AATA 166*. Use *Finn*, *Hatchett*, *Studdert*, *Maddalena* and *FCT v MI Roberts* as the principal factual comparators, and the Tribunal decisions *YDXM*, *Assefa*, *NT91/37* and *Masters* as persuasive examples. ATO "Lawyers expenses P-S" guidance may assist, but it is guidance rather than legislation or precedent. HELP/FEE-HELP repayments must also be tested against s 26-20 ITAA97. Where the answer remains genuinely fact-sensitive, a private ruling under Div 359 TAA53 Sch 1 is a practical risk-management option.

8.6 A law degree, PLT and the initial professional qualification problem

The Romek problem asks a question highly relevant to law students: can a paralegal deduct the costs of a JD because the degree improves legal knowledge used at work? The relevant law and guidance require a cautious answer. A law degree is not

merely in-house training; it forms part of the academic pathway to admission as a lawyer. Where the objective character of the degree is obtaining the taxpayer's initial professional qualification, the Commissioner's likely view is that the expenditure is not deductible under s 8-1 even if some subjects overlap with current paralegal tasks.

That conclusion must not be generalised into “law degrees are never deductible”. The authorities show the importance of individual facts. *Ting v FCT* and TR 2024/3 paras 81–85/Example 21 raise the possibility that particular components can sometimes be separately characterised. Tribunal cases such as *YDXM v FCT*, *Assefa v FCT*, *NT91/37 v FCT* and *Masters v FCT* demonstrate differing outcomes. Tribunal decisions are persuasive rather than binding in the same sense as superior-court authority, and their facts must be compared carefully.

Section 26-20 ITAA97 separately denies deductions for HELP/FEE-HELP repayments. This is a statutory denial and must be distinguished from the s 8-1 question concerning underlying tuition fees.

8.7 Short professional courses

Romek's Legal Technology and AI Governance course is analytically different from the JD. The course may improve electronic discovery and document-automation skills already used in his commercial-litigation work. That creates a strong current-employment nexus. His additional hope of moving into technology law is relevant but does not automatically destroy deductibility. Analyse objective course content, current duties and the relative significance of existing-income and future-career purposes.

8.8 Home office and mixed study/work use

Romek uses a dedicated room 60% for employment and 40% for university study. This forces separate questions. To the extent the university study is non-deductible because it leads to initial qualification, costs attributable to that use do not become deductible merely because the same room is also used for employment. Employment-related running costs can be apportioned if the nexus is established. Occupancy expenses such as rent require the home-office principles considered in Chapter 7.

8.9 Travel, reimbursements and bulky documents

Romek's travel examples are designed to teach characterisation:

- ordinary tram fares home-to-office are generally private under *Lunney*;
- using Uber because of injury or night-time safety does not usually change the underlying private character of home travel;

- transporting genuinely bulky work documents can alter the occasion of travel where the transport of the items is an essential employment requirement;
- travel directly from one income-earning activity to another can have a stronger deduction nexus than travel home in between;
- a reimbursement from the employer requires separate income/deduction analysis and attention to whether the employee has ultimately borne the expense.

8.10 Clothing and work accessories

The Armani suit, white shirts, shoes and ties are conventional clothing. Even exclusive work use generally does not remove their private character. Dry-cleaning follows the deductibility of the underlying clothing unless a specific rule applies. By contrast, the document wallet designed for confidential court materials is not conventional clothing; it may be a work tool or depreciating asset, requiring its own analysis.

8.11 Private rulings as risk management

The Week 9 required reading makes an important professional-practice point. Where the deductibility of education expenses is genuinely fact-sensitive, a taxpayer can seek a private ruling from the ATO. Advising a client about the availability and effect of a ruling is part of competent tax practice. Later chapters explain Div 359 TAA53 Sch 1 and the protection available where a ruling binds the Commissioner.

8.12 Case hierarchy and how to use ATO rulings

TR 2024/3 is an ATO public ruling, not a judicial precedent. It can bind the Commissioner in relevant circumstances, but examples in a ruling are illustrations, not conclusive precedents for all factually similar taxpayers. This chapter uses *YDXM v FCT* for this point and returns to Dixon CJ's observation in *Finn* that the result often depends on the facts of the particular case.

A high-quality student therefore distinguishes: statute → binding court authority → persuasive tribunal decisions → ATO rulings/guidance. Do not present all sources as equal.

8.13 Core authority map

Authority	Principle	Use
Amalgamated Zinc	Outgoing must be incurred in the course of gaining/producing income.	Temporal connection.

Maddalena	Costs of obtaining a new income-earning position are preliminary.	Initial qualification/job seeking.
Softwood Pulp	Pre-business/feasibility expenditure can fail s 8-1.	Then check Div 40/s 40-880.
Steele; TR 2004/4	Pre-income interest may be deductible where nexus remains strong.	Land/property development and pre-rental periods.
Munro	Use of borrowed funds matters; security does not determine interest deductibility.	Tracing borrowing purpose.
Placer Pacific; *Brown*	Post-cessation expenses can remain deductible where occasion lies in former activity.	Later liabilities/interest.
Finn; *Hatchett*; TR 2024/3	Education connected with current duties may be deductible.	Skill maintenance/ improvement.
YDXM; *Masters*; *Ting*	Fact-sensitive education decisions; tribunal hierarchy matters.	JD/degree subject analysis.

8.14 Application masterclass — Romek

Romek's problem should be answered by categories, not by listing receipts and expenses in the order presented. A strong structure is: (1) JD/FEE-HELP; (2) short professional course; (3) home-office running/occupancy expenses; (4) travel; (5) clothing and work accessories. For each category, state s 8-1, the closest authority, application and any specific denial.

The better view in the authorities discussed in this chapter is that Romek's JD tuition is unlikely to be deductible because the degree is directed to initial professional qualification for admission. A subject-by-subject argument is possible only if supported by strong facts and should be described as fact-sensitive rather than treated as certain. The voluntary FEE-HELP repayment is denied by s 26-20.

8.15 HD IRAC method

I — Issue

For each expense, identify the present income-producing activity and whether the outgoing is incurred in that activity, preliminary to a new activity, private/domestic or capital.

R — Rule

Use s 8-1 positive/negative limbs, then the specific case/ruling. Add s 26-20 or a specific deduction where relevant.

A — Application

Compare course content to current duties. For travel, identify endpoints and purpose. For home office, distinguish running from occupancy. For clothing, analyse essential character rather than exclusive work use.

C — Conclusion

Give a separate conclusion and deductible amount/proportion for each category. Where uncertainty remains, identify the private-ruling option.

8.16 Plain-English summary

Timing matters because s 8-1 asks whether an outgoing occurs in the income-producing activity. Some expenses happen too early; some later expenses remain connected. Self-education is the same problem in another form: are you improving the job you already have, or paying to qualify for a new one? Ask that question before doing any calculation.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Timing and contemporaneity: when an expense is too early or too late

A cost may be commercially related to earning income yet fail s 8-1 because the required nexus is not contemporaneous with the income-producing activity. Preliminary expenditure incurred to obtain a job or establish a new activity is

commonly too early. Post-cessation expenditure can remain deductible where the liability or occasion is sufficiently rooted in the former income-producing operations.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply s 8-1 first. Where capital business expenditure falls outside s 8-1, test specific provisions such as s 40-880 rather than forcing a deduction through the general provision.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Maddalena is the classic preliminary-expense authority. Amalgamated Zinc and Softwood Pulp explore temporal connection. Placer Pacific and Brown support deductions for some post-cessation liabilities where the occasion lies in the former business. Steele shows that interest incurred before income begins can still have the required nexus in appropriate circumstances.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot whether the taxpayer is preparing to commence, actively earning, temporarily paused, or permanently ceased. Ask what event created the liability and when.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact

provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Use a timeline: expenditure date; activity status; liability origin; expected income connection; provision; conclusion.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Interest follows the use and purpose of borrowed funds

Interest is recurrent in form but deductibility depends on the connection between borrowing and assessable-income activities. The security offered for the loan is not determinative; tracing the use of borrowed funds and the objective purpose of the borrowing is central. Mixed-purpose loans require apportionment.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use s 8-1, and distinguish interest from borrowing expenses dealt with under s 25-25. Cost-base rules can capture some non-deducted ownership/financing expenditure where statutory conditions are met.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Munro is a foundational authority on the use of borrowed funds. Steele shows pre-income interest can be deductible where the project is sufficiently committed and directed to future assessable income. Ure and Fletcher, considered in the avoidance context, show how purpose and disproportionate arrangements affect analysis.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot drawdowns, redraws, refinancing, mixed private/business use, change of use and what asset/activity the borrowed money actually funds.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Maintain a loan tracing schedule by tranche. Apportion interest according to the use of principal rather than the property mortgaged.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Section 40-880 as a business-capital “blackhole” provision

Some business expenditure is capital and therefore denied by s 8-1, but is not included in the cost of a depreciating asset or another specific tax regime. Section 40-880 can provide a five-year deduction for qualifying business-related capital expenditure, subject to its exclusions and limitations. The provision is not a general rescue rule for every capital cost.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply s 40-880 only after checking whether another provision deals with the expenditure. the legal materials also identify related sections in Subdivision 40-I and TR 2011/6 in the final revision problem.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

This book uses failed/proposed acquisition and business-structure expenditure to teach the provision. ATO ruling TR 2011/6 is important for its detailed interpretation but remains administrative guidance, not legislation.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot capital expenditure connected with a business or proposed business that produces no asset for Div 40/CGT cost base and no deduction elsewhere. Then work through exclusions.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

A five-year write-off schedule should show total qualifying amount, start year, annual 20% deduction and remaining unclaimed balance.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add

any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Self-education and mixed-purpose study at a deeper level

A degree or course may contain subjects with different relationships to current employment. The legal analysis can therefore require apportionment rather than an all-or-nothing answer. The question is the connection between each component of expenditure and the taxpayer’s current income-producing activities at the time it is incurred.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply s 8-1, TR 2024/3 and relevant denial rules including s 26-20 for HELP repayments. Consider travel, equipment and home-study expenses under their own rules.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Finn, Hatchett, Studdert, Maddalena, MI Roberts, Ting, YDXM, Assefa and Masters are included in the Week 9 reading set to show different factual boundaries of self-education nexus.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot current duties, course content, new qualification, promotion prospects, employer support, mixed subjects and whether each expense is tuition, travel, equipment or repayment of debt.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Prepare a course-component matrix and then a deduction schedule. Legal characterisation should explain the percentage claimed.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Timing / interest / self-education workpaper

Step / item	Tax-law treatment	Number / working

Preliminary expenditure	Before income activity begins	Maddalena: often too early; test s 40-880 if capital business expenditure
Pre-income interest	Borrowing committed to future income project	Steele can support nexus where project is sufficiently developed/ committed
Post-cessation liability	Liability rooted in former business	Placer Pacific/Brown line: cessation does not automatically sever nexus
Mixed-purpose loan	Income and private uses	Trace principal and apportion interest
Current-field study	Maintains/improves existing skills	Finn/Hatchett/Studdert/ TR 2024/3
New-field qualification	Opens new income activity	generally preliminary; Maddalena
HELP repayment	Repayment of study debt	s 26-20 denial is separate from deductibility of original course costs
s 40-880 pool	Qualifying business-related capital expenditure	20% per year for five years, subject to conditions/exclusions

Use a timeline and a separate loan/course-component schedule. Time and purpose are legal facts that determine the number.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally

Romek works 4 days per week as a paralegal at Jameson Beckett Lawyers ("JBL"), a commercial litigation firm in Southport. His annual salary is $50,000. Romek lives in a 2-bedroom apartment by himself in Broadbeach and is due to complete his Juris Doctor at Griffith University in June CIY.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
During the CIY, Romek studied 4 university subjects: Civil Litigation Practice, Commercial Law, Legal Profession and Ethics, and Family Law. The tuition fees for each subject were $4,700. The fees were incurred during the CIY and deferred through FEE-HELP. Romek also made a voluntary repayment of $1,500 towards his FEE-HELP debt during the CIY. JBL does not practise in family law.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Romek also intends to enrol in the Graduate Diploma of Legal Practice in September FIY, at a cost of $10,000. This course is required for admission into legal practice.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Romek paid $1,200 during the CIY to attend a short course titled Legal Technology and AI Governance. Romek says that the course improved his understanding of electronic discovery, document automation and AI tools that are increasingly used in commercial litigation; however, he says he also did it because he was attracted by the possibility of moving into technology law in the future where remuneration is typically higher.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Due to reduced office space (in an effort to save commercial rent), JBL required Romek to work from home 2 days per week because no workstation was available for him at the firm on those days. Romek converted the 2nd bedroom of his apartment, comprising 20% of the apartment's floor area, into a dedicated work and study room. The room is not used for sleeping, tutoring (see below) or private purposes.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
During the CIY, Romek paid $40,000 in rent, $1,200 for electricity, $1,800 in internet and mobile phone costs, and $1,200 for an ergonomic office chair. Romek estimates that the room, equipment, internet and phone were all used 60% for JBL employment duties and 40% for university study.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
During the CIY, Romek incurred the following travel costs:	This is an outgoing trigger. Identify nexus, timing, capital/private character and any specific deduction or denial provision before quantifying the deduction.
$350 in tram fares travelling between his apartment and JBL's office, and back again, to get to and from work each day;	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

$300 in Ubers for travel between home and work while recovering from a rugby injury. Romek says these Ubers were necessary because of his injury and because he was carrying two A4 folders containing case law research for a matter he was working on (which were too large for his backpack);	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
$80 on his personal credit card for Uber fares incurred to travel from work to home one evening and returning to work the next morning. JBL had directed Romek to take home 3 archive boxes of court documents that were due to be filed with the court the next day. The boxes weighed approximately 30kgs in total. That evening, Romek was required to review the documents against a filing checklist and confirm that all required materials were included, which he did. JBL reimbursed the Uber fares in Romek's next pay run.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
$200 for travelling directly from JBL's office to a tutoring centre in Burleigh Heads, where Romek derived $15,000 in assessable income during the CIY as an after-hours maths tutor to high school students one evening per week;	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
$150 for travelling from JBL's office to home for a "quick dinner", followed by $250 for travelling shortly afterwards from home to the tutoring centre; and	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

$400 on Ubers travelling from the tutoring centre back to his home late at night. Romek says the fares were necessary because his tutoring work finished late and he had read media reports about safety issues in Burleigh after dark.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
JBL requires employees who attend court or client meetings to wear formal business attire. During the CIY, Romek purchased a navy-blue, Armani suit for $2,200, 4 white business shirts for $300, black leather shoes for $180, and two business ties for $100. He spent $150 dry-cleaning his suits. Romek wore these items exclusively for work, except that he wore the shoes once to attend a wedding.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
To match his suit and to keep a professional image, Romek also spent $280 on an artificial leather, document wallet designed for the secure transport of confidential and sensitive documents for court events or client meetings.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Advise Romek whether any of the above expenses, or part thereof, are deductible to him. Support your answer with reference to relevant legislation and case law.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

In April FIY, Romek was instructed by his boss to file urgent court documents and then to stop by the local Westpac bank branch to deposit $8,000 in cash received from a client in payment of JBL's invoice for legal services (which was not trust money).	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
The bag contained the $8,000 client payment, Romek's personal wallet containing $180 in cash, and a business tie that had cost Romek $50. Romek had only purchased the bag a few months before the theft for $100 as well as his wallet for $60.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
JBL received no insurance payout for the stolen funds. Romek believes he was specifically targeted for the theft because of the "sharp" business attire he says he was required to wear as a condition of his employment.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Advise JBL whether the $8,000 in stolen money is deductible to the firm under s 8-1 ITAA 1997. Support your answer with reference to relevant case law.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Advise Romek whether the other items stolen from him at the café (namely his bag, tie, wallet and $180 in cash) are deductible to him under s 8-1 ITAA97. Support your answer with reference to relevant case law.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: In order to claim a general deduction under section 8-1, a taxpayer must show that a loss or outgoing was incurred ‘in gaining or producing your assessable income’ or ‘in carrying on a business’ for that purpose.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The general position is that expenditure incurred before the commencement of a business (including expenditure incurred to diversify an existing business) is not deductible under section 8-1 because it is not incurred in carrying on a business etc (section 8-1(1)(b)) and/or is capital expenditure (and therefore denied deductibility under section 8-1(2)(a)).

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Does Subdiv 40-I ITAA97 now provide a capital allowance deduction over time for costs such as feasibility studies. See s 40-840(2)(d)(ii), s 40-832, 40-835, and s 40-855 ITAA97?

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Also consider 40-880(2) and 40-880(2A) ITAA97 for business related costs (colloquially known as “blackhole” expenses), but note s 40-880(5) and 40-880(7) ITAA97 (which may be further subject to the non-commercial loss rules in Div 35 ITAA97: s 35-10(2B) ITAA97).

Business-related capital expenditure

Use only after confirming the expenditure is capital and is not dealt with by another provision. Then work through the business connection and exclusions and spread qualifying expenditure over five years.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: First consider some general propositions about the deductibility of interest under s 8-1 (as confirmed by the High Court in Steele):

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Generally, interest on money borrowed for the purpose of acquiring an income producing asset is deductible under s 8-1.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If Steele happened today, query whether Div 35 ITAA97 (deferring deductions from non-commercial business activities conducted by

individuals) would quarantine the taxpayer's losses so they are deductible only against future assessable income from the business activity (see ss 35-10(1) and 35-10(2) ITAA97). However, the real property test in s 35-40 ITAA97 may apply to permit the deduction (if other requirements are satisfied - s 35-10(1(a) ITAA97).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note that s 26-102 ITAA97 can deny deductions for the holding costs of vacant land (eg interest and council rates) unless the land is in use (or available for use) in carrying on a business.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The general position is that expenditure incurred after the cessation of a business is not deductible under section 8-1 because it is not incurred in carrying on a business etc (section 8-1(1)(b)) and/or is capital expenditure (and therefore denied deductibility under section 8-1(2)(a)). See, for example, Amalgamated Zinc (de Bavay's) Ltd v FCT (1935) 54 CLR 295.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates "to the extent" of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part A

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Advise Romek whether any of the above expenses, or part thereof, are deductible to him. Support your answer with reference to relevant legislation and case law.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part B (If time permits)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Advise JBL whether the $8,000 in stolen money is deductible to the firm under s 8-1 ITAA 1997. Support your answer with reference to relevant case law.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Advise Romek whether the other items stolen from him at the café (namely his bag, tie, wallet and $180 in cash) are deductible to him under s 8-1 ITAA97. Support your answer with reference to relevant case law.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: As part of your revision, you are encouraged to read all of Taxation Ruling TR 2024/3: Income Tax:

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: We discussed the view that a law degree is not merely workplace training. Rather, it forms part of the

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note too that while the deductibility of tuition fees depends on the s 8-1 nexus analysis, HELP/FEEHELP repayments are non-deductible: s 26-20 of the ITAA 1997.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: The words ‘in gaining or producing’ are read to mean ‘in the course of gaining or producing’: Amalgamated Zinc (de Bavay’s) Ltd v FCT (1935) 54 CLR 295. With the words ‘in carrying on a business’ emphasis is often placed on the ‘carrying on’ component.
temporal connection matters; liabilities after a business changes/ceases require examination of the occasion of the outgoing

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Maddalena 71 ATC 4161
expenditure incurred to obtain new employment or open a new income-earning activity is preliminary and generally not deductible under s 8-1

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Softwood Pulp & Paper Ltd v FCT 76 ATC 4439 - Consider :
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Steele v FCT 99 ATC 4242.

interest incurred before income commences can be deductible where the borrowing is sufficiently committed to a future income-producing project

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Also note that the security for the borrowing is irrelevant in determining the deductibility of the interest: FCT v Munro (1926) 38 CLR 153.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The ATO says in Taxation Ruling TR 2004/4 at para 9, that:
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The general position is that expenditure incurred after the cessation of a business is not deductible under section 8-1 because it is not incurred in carrying on a business etc (section 8-1(1)(b)) and/or is capital expenditure (and therefore denied deductibility under section 8-1(2)(a)). See, for example, Amalgamated Zinc (de Bavay's) Ltd v FCT (1935) 54 CLR 295.
temporal connection matters; liabilities after a business changes/ceases require examination of the occasion of the outgoing

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Placer Pacific Management Pty Ltd v FCT 95 ATC 4459
post-cessation expenditure can remain deductible where the occasion of the liability is found in the former business operations

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Brown 99 ATC 4600
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: As part of your revision, you are encouraged to read all of Taxation Ruling TR 2024/3: Income Tax:
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Finn (1961) 106 CLR 60
self-education maintaining/improving skills in current employment can be deductible

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Hatchett 71 ATC 4184
education must connect sufficiently with current income-producing activities; a general future career benefit is not enough

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Studdert 91 ATC 5006
study that objectively improves skills used in current duties can have the required nexus

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v MI Roberts 92 ATC 4787.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: In TR 2024/3, compare Examples 1, 11, and 13. What is the basis for the ATO's conclusion in each of
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Ting v FCT [2015] AATA 166, and
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: TR 2024/3 at paras 81 to 85, and Example 21.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Regarding the role of examples in a tax ruling, note paragraph 8 of TR 2024/3, as well as the following
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: observations of Senior Member Evans-Bonner in YDXM v FCT [2022] AATA 2382 (at para 41):
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: YDXM v FCT [2022] AATA 2382 - the taxpayer's JD costs were not deductible.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Assefa v FCT [2009] AATA 2 - the taxpayer's tuition costs for her nursing degree were not
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or

distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: NT91/37 v FCT [1991] AATA 290 - the taxpayer's pre-admission course at the College of Law
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Masters v FCT [2017] AATA 1042 - the taxpayer was permitted deductions for some of the
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.

- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. Week 8 requires review of the Week 7 readings. For the matching Week 9 worked problem, also use the supplied the relevant material, including TR 2024/3 and the self-education authorities. The

> prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) ("PTL"). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Contemporaneity is about the temporal relationship between expenditure and the income-earning activity. The words "in gaining or producing" do not create an absolute rule that income must already be flowing on the day the expense is incurred. Instead, timing helps reveal whether the outgoing is part of the income-producing process, preliminary to it, or a residual consequence of a former activity.

Preliminary expenditure often fails because it is incurred to put the taxpayer in a position to earn income rather than in the course of earning it. But Steele demonstrates that sufficiently committed income-producing activity can exist before actual receipts commence. Post-cessation expenditure can also remain deductible if the liability retains the necessary connection with the former income-producing operations.

The worked problem uses self-education, home office, travel and work accessories to force careful application. The supplied Week 9 required reading, including TR 2024/3, is important because self-education depends on the taxpayer's existing duties and the content/purpose of the study, not on broad claims that education "helps a career".

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 s 8-1	Contemporaneity is an aspect of the statutory nexus under both positive limbs, not a free-standing deduction rule.	Use timing evidence to explain whether the outgoing occurs in the income-producing activity.
ITAA97 Subdiv 40-I and s 40-880	This chapter identifies business-related capital expenditure rules that may provide deductions over time where s 8-1 denies a capital/ preliminary outgoing.	Use after characterising the expenditure and checking the statutory conditions/ exclusions.

ITAA97 s 26-20	Denies deductions for specified study-loan repayments even where the original education cost may have been deductible.	Separate the original tuition/ course expenditure from repayment of the government loan.
TR 2024/3	Current ATO ruling supplied for self-education expenses of individuals.	Use as administrative guidance to organise the current-employment nexus analysis after stating s 8-1 and the cases.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Amalgamated Zinc (de Bavay's) Ltd v FCT (1935) 54 CLR 295	The words "in gaining or producing" direct attention to expenditure incurred in the course of the income-producing activity.	Use as the doctrinal starting point for contemporaneity.
FCT v Maddalena 71 ATC 4161	Expenditure incurred to obtain a new employment position/ earning activity is preliminary and not incurred in earning income from that future position.	Use for job-seeking and initial qualification costs.
Softwood Pulp and Paper Ltd v FCT	Used for preliminary business expenditure incurred before the income-producing business has commenced.	Use where expenditure relates to investigating/ establishing a future business.
Steele v DCT 99 ATC 4242	Interest on borrowed funds can be deductible during a pre-income period where objective circumstances show a sufficiently committed and continuing income-producing purpose.	Use to explain why timing is important but not decisive.

Finn; Hatchett; Studdert	Current-skill self-education authorities.	Use where study maintains/improves current duties or objectively leads to increased income from the current activity.
MI Roberts; Ting; YDXM; Assefa; NT91/37; Masters	The supplied Week 9 reading uses these decisions/examples to illustrate the factual boundaries in self-education and professional qualification cases.	Use for comparison only where the taxpayer's current duties and course content are genuinely analogous.

Worked application — fact-by-fact reasoning map

Romek's law studies
Identify Romek's current employment duties at the time of each expense. Ask whether the study maintains/improves those skills or qualifies him for a new profession. Do not reason backwards from the fact that the course may later improve his career.

Home office
Separate occupancy expenses from running expenses, identify the area's character/use and apportion for income-producing use.

Travel
Distinguish ordinary commuting from travel between workplaces or travel integral to the work/study activity. Apply the relevant travel authorities and any specific provision.

Clothing
Classify conventional clothing, compulsory/non-compulsory uniform, protective clothing and occupation-specific clothing separately.

Document wallet/equipment
Ask whether the item is a work tool, private accessory or depreciating asset. The correct provision can differ depending on cost and expected effective life.

Private ruling option
Where the legal outcome is uncertain and the facts are prospective, explain how a private ruling can provide Commissioner-binding protection for the applicant's arrangement.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as "what tax is payable?".

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 8 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. FCT v Munro establishes that interest on borrowed funds is deductible based on:

1. The lender's identity
2. The use to which the borrowed funds are put, traced through the transaction
3. The interest rate charged
4. Whether the loan is secured

Q2. Steele v DFCT confirms that interest can be deductible even before assessable income is derived, provided:

1. The borrowing is genuinely and not too soon directed at a future income-producing use, not one that is merely too remote or speculative
2. The taxpayer has already lodged a return
3. The loan is interest-free
4. The property has already been sold

Q3. Placer Pacific Management Pty Ltd v FCT and FCT v Brown both concern:

1. Deductibility of outgoings incurred after a business has ceased, where the liability is a recurrent one from earlier operations
2. Fringe benefits tax
3. The CGT discount
4. Constitutional limits on tax

Q4. Amalgamated Zinc (De Bavay's) Ltd v FCT **establishes that a deduction is generally not available for an outgoing where:**

1. It relates to a business or income-producing activity that has permanently ceased and there is no ongoing connection to income production
2. The amount exceeds $100,000
3. The taxpayer is a foreign resident
4. It was incurred more than 5 years ago

Q5. FCT v Studdert **allowed a deduction for self-education (an aircraft engineer training as a pilot) because:**

1. Pilots earn more than engineers
2. The study had a sufficiently close, factually-established connection to his current employment duties and prospects
3. The study was compulsory under aviation law
4. The employer required it

Q6. FCT v MI Roberts **is used to illustrate that self-education for a genuinely different role or occupation, even within the same broad industry:**

1. Is always deductible
2. Is generally treated in the same way as Maddalena — as directed at obtaining a new position rather than improving the current one
3. Is only deductible for engineers
4. Depends solely on the cost of the study

Q7. Timing rules for deductions generally require that an outgoing be:

1. Merely anticipated, not yet incurred
2. Actually incurred — a presently existing liability, not a mere expectation of a future expense
3. Paid in cash within the income year
4. Approved by the ATO before being claimed

Q8. Prepaid expenditure rules can affect the timing of a deduction by:

1. Denying the deduction altogether
2. Spreading the deduction over the period to which the prepayment relates, rather than allowing it entirely upfront, subject to specific exceptions
3. Doubling the deduction
4. Only applying to companies

Q9. Post-cessation expenditure (Placer Pacific, Brown) can be deductible where:

1. It relates to a liability that arose from, and remains connected to, the former income-producing business, even though the business has ceased
2. The taxpayer restarts the business
3. Five years have passed since cessation
4. The expense is under $500

Q10. When analysing a self-education deduction problem, the central factual question is:

1. How much the study costs
2. Whether the study maintains or improves skills used in the taxpayer's current income-earning activity, or instead opens up a new field of activity
3. Whether the study is full-time or part-time
4. Whether the taxpayer passed the study

Chapter 8 Mastery Quiz — Answers and Explanations

A1. Answer: B

Munro requires tracing the use of borrowed funds to determine interest deductibility.

A2. Answer: A

Steele allows deductibility where the borrowing is genuinely directed at future income production, not too remote or speculative.

A3. Answer: A

Both concern post-cessation deductibility of recurrent liabilities connected to the former business.

A4. Answer: A

Amalgamated Zinc denies deductions where the business has permanently ceased with no ongoing connection to income production.

A5. Answer: B

Studdert's course had a close, factually-established connection to his current employment duties and prospects.

A6. Answer: B

MI Roberts is treated like Maddalena — directed at a new position, not improving the current one.

A7. Answer: B

A deduction requires an actually incurred, presently existing liability, not a mere expectation.

A8. Answer: B

Prepayment rules can spread the deduction over the relevant period, subject to exceptions.

A9. Answer: A

Post-cessation expenditure can be deductible where it remains connected to the former business.

A10. Answer: B

The central question is whether study maintains/improves current skills or opens a new field.

Chapter 8 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Explain the "tracing" principle from FCT v Munro for interest deductibility and apply it to a case where borrowed funds are redirected to a private purpose.

SA2. Explain how Steele v DFCT allows interest to be deductible before any assessable income has actually been derived.

SA3. Contrast FCT v Studdert and FCT v MI Roberts and explain what distinguishes deductible from non-deductible self-education in each case.

SA4. Explain the general principle in Amalgamated Zinc regarding deductions for outgoings connected to a business that has ceased, and how Placer Pacific and Brown qualify this principle.

SA5. A taxpayer borrows money to buy a rental property that is not yet tenanted. Applying Steele v DFCT, discuss whether interest incurred during the vacancy period is deductible.

Chapter 8 Short-Answer Questions — Model Answers

Model Answer SA1

Munro requires tracing the actual use of borrowed funds — deductibility of interest follows the purpose to which the money was put, not merely the security given for the loan or the borrower's overall activities. If borrowed funds are redirected to a private purpose (e.g. a holiday), the interest attributable to that redirected portion loses its connection to income production and becomes non-deductible, even if the original loan was taken out for an income-producing purpose.

Model Answer SA2

Steele v DFCT held that interest incurred on borrowed funds used to acquire land intended for future income-producing development was deductible in the years before any income was actually derived, because the borrowing was genuinely and not too remotely directed at future income production — mere absence of current income does not defeat the deduction, provided the income-producing purpose remains real and not abandoned or merely speculative.

Model Answer SA3

In Studdert, an aircraft engineer's flying course was found to have a sufficiently close, factually-established connection to his current employment duties and future prospects within the same employer, making the fees deductible. MI Roberts illustrates the opposite conclusion where the study is aimed at qualifying for what is, in substance, a new position or field of activity — even within a related industry — placing it alongside Maddalena as non-deductible. The distinguishing factor is the closeness and directness of the connection to the taxpayer's existing income-earning role, not merely the general industry.

Model Answer SA4

Amalgamated Zinc establishes the general principle that once a business has permanently ceased, outgoings incurred afterward generally lose their connection to income production and are not deductible. Placer Pacific and Brown qualify this by recognising that a liability which arose from, and remains genuinely connected to, the former business's earlier operations (such as a recurrent contractual obligation like a workers' compensation levy or ongoing contractual payment) can still be deductible after cessation, because the "occasion" of the outgoing is found in the earlier income-producing business operations, not in some new, unconnected activity.

Model Answer SA5

Applying Steele v DFCT, interest incurred during a genuine vacancy period is likely deductible provided the property is genuinely being held for future income-producing use (e.g. actively marketed for rent) and the delay is not indefinite or the property has not been repurposed for private use. The key question is whether the income-producing purpose remains real and continuing during the vacancy, rather than abandoned — if so, the interest retains its connection to the future assessable income the property is intended to produce.

Chapter 8 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Can I deduct interest on a loan before my investment starts earning income?

Q: If I close my business, can I still claim deductions afterward?

Q: Does self-education have to be directly required by my employer to be deductible?

Q: If I redirect a business loan to buy something for myself, can I still deduct the interest?

Q: Can prepaying a full year of expenses in advance let me claim it all as one deduction now?

Chapter 8 — Frequently Asked Questions: Suggested Answers

FAQ 1

Potentially yes — Steele v DFCT confirms interest can be deductible in an earlier income year, provided the borrowing is genuinely and not too remotely directed toward future income production, rather than speculative or abandoned.

FAQ 2

Sometimes — Placer Pacific and Brown show that a liability genuinely connected to the former business (such as a recurrent contractual obligation) can remain deductible even after cessation, though Amalgamated Zinc confirms deductions generally stop where the connection to income production has ended.

FAQ 3

No — Studdert shows a deduction can be allowed even for voluntary study, provided there is a sufficiently close factual connection between the study and the taxpayer's current employment duties and prospects.

FAQ 4

No — Munro's tracing principle means the interest deduction follows the actual use of the funds; redirecting borrowed money to a private purpose breaks the connection to income-producing use for that portion.

FAQ 5

Not always — prepayment rules can require the deduction to be spread over the period the payment covers, rather than claimed entirely in the year of payment, subject to specific statutory exceptions (e.g. for small business entities in some circumstances).

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income included by a specific provision under s 6-10. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

An amount subtracted from assessable income under a deduction-conferral provision. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define TAX and explain why it matters to the Chapter 1 analysis.
2. Define Equity and explain why it matters to the Chapter 1 analysis.

3. Define Progressive and explain why it matters to the Chapter 1 analysis.
4. Define taxable income and explain why it matters to the Chapter 1 analysis.
5. Define assessable income and explain why it matters to the Chapter 1 analysis.
6. Define ordinary income and explain why it matters to the Chapter 1 analysis.
7. What role does s 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 4-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does ss 4-1, 4-5, 4-10 and 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does ss 6-5, 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does ss 4-1, 4-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Matthews v Chicory Marketing Board illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does MacCormick v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does FCT v Myer Emporium Ltd illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does Zobory v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Federal Coke Co Pty Ltd v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Emma earns $92,000 salary with $20,000 PAYG withheld. She receives a $600 birthday voucher from her employer, $12,000 of Uber receipts (stated exclusive of GST), $24,000 rent, $1,200 bank interest and a $10,000 lottery prize. Her deductible Uber costs are…
20. What should a strong Chapter 1 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. Answer

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. Answer

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. Answer

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. Answer

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. Answer

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

8. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

9. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

10. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

11. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

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For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

14. Answer

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

15. Answer

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

16. Answer

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

17. Answer

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

18. Answer

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 4-15 in this chapter?

1. s 4-15
2. ss 4-1, 4-5, 4-10 and 4-15
3. ss 6-5, 6-10
4. s 4-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 4-10 in this chapter?

1. s 4-10
2. ss 6-5, 6-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-15

3. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5, 4-10 and 4-15 in this chapter?

1. ss 4-1, 4-5, 4-10 and 4-15
2. ss 6-5, 6-10
3. s 4-10
4. s 4-15

4. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5, 6-10 in this chapter?

1. s 4-15
2. ss 6-5, 6-10
3. s 4-10
4. ss 4-1, 4-5, 4-10 and 4-15

5. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5 in this chapter?

1. s 4-15
2. s 4-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. ss 4-1, 4-5

6. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 4-15
2. s 6-5
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-10 in this chapter?

1. s 4-10
2. s 4-15
3. s 6-10
4. ss 4-1, 4-5, 4-10 and 4-15

8. Which provision is the relevant statutory reference for the rule or method associated with ss 6-15, 6-20, 6-23 in this chapter?

1. ss 6-15, 6-20, 6-23
2. ss 4-1, 4-5, 4-10 and 4-15
3. s 4-10
4. s 4-15

9. Which authority is connected with this proposition: Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

1. MacCormick v FCT
2. FCT v Myer Emporium Ltd
3. Zobory v FCT
4. Matthews v Chicory Marketing Board

10. Which authority is connected with this proposition: Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

1. Zobory v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. MacCormick v FCT

11. Which authority is connected with this proposition: A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

1. FCT v Myer Emporium Ltd
2. Matthews v Chicory Marketing Board
3. MacCormick v FCT
4. Zobory v FCT

12. Which authority is connected with this proposition: Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

1. MacCormick v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. Zobory v FCT

13. Which authority is connected with this proposition: Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

1. Matthews v Chicory Marketing Board
2. MacCormick v FCT
3. Federal Coke Co Pty Ltd v FCT
4. FCT v Myer Emporium Ltd

14. Which authority is connected with this proposition: Non-cash benefits not convertible into money were not ordinary income on the facts.

1. MacCormick v FCT
2. FCT v Cooke & Sherden
3. Matthews v Chicory Marketing Board
4. FCT v Myer Emporium Ltd

15. Which taxation-law term or authority best matches this description: A compulsory exaction by public authority for public purposes.

1. taxable income
2. TAX
3. Equity
4. Progressive

16. Which taxation-law term or authority best matches this description: Tax-system criterion concerned with fairness.

1. Equity
2. Progressive
3. taxable income
4. assessable income

17. Which taxation-law term or authority best matches this description: Rate structure in which the average rate rises as income rises.

1. assessable income
2. Progressive
3. taxable income
4. ordinary income

18. Which taxation-law term or authority best matches this description: Assessable income less deductions under s 4-15.

1. assessable income
2. ordinary income
3. statutory income
4. taxable income

19. Which taxation-law term or authority best matches this description: Income brought into the statutory tax base.

1. statutory income
2. Deduction
3. assessable income
4. ordinary income

20. Which taxation-law term or authority best matches this description: Income according to ordinary concepts under s 6-5.

1. ordinary income
2. tax loss
3. Deduction
4. statutory income

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. A. s 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

2. A. s 4-10

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

3. A. ss 4-1, 4-5, 4-10 and 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

4. B. ss 6-5, 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

5. D. ss 4-1, 4-5

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

6. B. s 6-5

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

7. C. s 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

8. A. ss 6-15, 6-20, 6-23

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

9. D. Matthews v Chicory Marketing Board

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

10. D. MacCormick v FCT

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

11. A. FCT v Myer Emporium Ltd

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

12. D. Zobory v FCT

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

13. C. Federal Coke Co Pty Ltd v FCT

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

14. B. FCT v Cooke & Sherden

Non-cash benefits not convertible into money were not ordinary income on the facts.

15. B. TAX

TAX: A compulsory exaction by public authority for public purposes.

16. A. Equity

Equity: Tax-system criterion concerned with fairness.

17. B. Progressive

Progressive: Rate structure in which the average rate rises as income rises.

18. D. taxable income

taxable income: Assessable income less deductions under s 4-15.

19. C. assessable income

assessable income: Income brought into the statutory tax base.

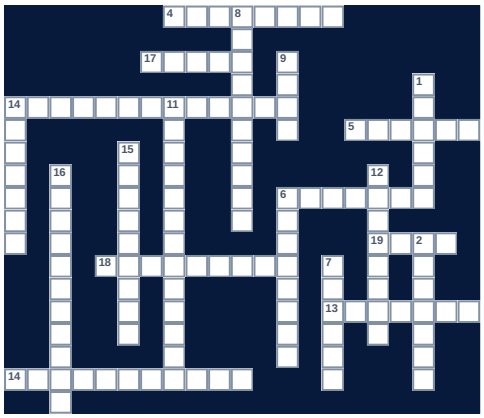
20. A. ordinary income

ordinary income: Income according to ordinary concepts under s 6-5.

20-CLUE CROSSWORD

Crossword - Chapter 8: Deductions Across Time: Preliminary, Post-Cessation, Interest and Self-Education

Launch Chapter 8 Active Crossword to type directly into the grid and check your answers.



Across

1. Authority on nexus for education expenses.
2. Self-education authority.
3. Education can be deductible where it improves current employment skills.
4. Expense incurred after a business or income activity has ended.
5. Unsuccessful or abandoned business expenditure requiring special analysis.
6. Expenditure incurred before an income-producing activity begins.
7. Authority on continuing nexus after business cessation.
8. Business-related capital expenditure potentially dealt with by s 40-880.
9. Self-education authority.

Down

1. High Court authority on interest during pre-income construction period.
2. Education directed to a new occupation is generally not deductible under s 8-1.
3. Cost of borrowed money tested by use and continuing nexus.
4. Authority on post-cessation business expenditure.
5. Whether the original income-producing nexus persists over time.
6. Authority supporting self-education maintaining or improving current skills.
7. Study expenditure requiring connection with current income-earning activities.
8. Authority on preliminary expenditure.
9. Project-pool regime for certain project amounts.
10. Authority denying costs of getting a new income-earning position.
11. Authority concerning post-cessation expenditure and nexus.

CROSSWORD ANSWERS

Crossword Answers - Chapter 8

4 Across - HATCHETT	5 Across - ASSEFA
6 Across - IMPROVE	10 Across - POSTCESSATION
13 Across - ABORTED	14 Across - PRELIMINARY
17 Across - BROWN	18 Across - BLACKHOLE
19 Across - TING	1 Down - STEELE
2 Down - NEWTASK	3 Down - INTEREST
7 Down - PLACER	8 Down - CONTINUITY
9 Down - FINN	11 Down - SELFEDUCATION
12 Down - SOFTWOOD	14 Down - PROJECT
15 Down - MADDALENA	16 Down - AMALGAMATED

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Self-education and preliminary expenditure

Problem

Romek is an employed engineer. He enrols in a postgraduate course directly improving his current engineering skills, buys textbooks, travels from work to university and also pays for a separate course qualifying him to become a real-estate agent. Analyse the self-education deductions and any specific statutory denial.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Self-education and preliminary expenditure

Issue. Romek has one course maintaining current engineering skills and another qualifying him for a different occupation.

Rule / Law. Section 8-1 allows self-education costs where the study maintains or improves skills used in the taxpayer's current income-earning activities or is likely to increase income from those activities. *FCT v Finn* supports that nexus. *FCT v Maddalena* denies expenditure incurred too soon—i.e. to obtain the qualifications for a new income-earning activity rather than in the course of the current one. Specific self-education provisions and denial rules must also be checked.

Application. The postgraduate engineering course directly improves skills used in Romek's present employment, so tuition, textbooks and other properly substantiated course costs have a strong nexus. Travel from work directly to university is more closely connected with the income-producing/self-education activity than ordinary home-to-work travel and is generally deductible subject to the travel rules. The real-estate course is directed at qualifying for a new occupation, so *Maddalena* indicates the necessary nexus with current engineering income is absent.

Conclusion. Current-engineering self-education costs are deductible to the extent permitted and substantiated; the real-estate qualification costs are not deductible against current engineering income.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Aborted acquisition and post-cessation interest

Problem

Mia’s business borrows to acquire an income-producing asset but the acquisition fails after due-diligence costs are incurred. Two years later the business closes, yet interest continues on the original business borrowing. Analyse s 8-1, the continuing nexus authorities and whether s 40-880 or project rules may apply to otherwise capital/preliminary expenditure.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Aborted acquisition and post-cessation interest

Issue. The failed acquisition raises preliminary/capital expenditure; the later interest raises whether the income-producing nexus survives business cessation.

Rule / Law. Section 8-1 denies capital expenditure even where commercially connected to business. Section 40-880 can provide a five-year write-off for certain business-related capital expenditure not otherwise dealt with, subject to exclusions; the project-pool rules in Subdiv 40-I may also apply in appropriate cases. Interest is ordinarily deductible under s 8-1 where the borrowing is used for income-producing purposes, and authorities such as *Placer Pacific*, *Steele* and post-cessation interest cases ask whether the original income-producing nexus continues after the business ends.

Application. Due-diligence costs directed to acquiring a capital asset are capital and not deductible under s 8-1. If the acquisition is abandoned, test whether s 40-880 or a project-pool provision specifically covers the expenditure and whether any exclusion applies. The original borrowing was for an income-producing asset/ business purpose. Closure two years later does not automatically sever the interest nexus; if the borrowing cannot realistically be repaid and has not been refinanced or redirected for private purposes, the continuing liability may remain deductible.

Conclusion. The aborted-acquisition expenditure requires the capital write-off/project provisions, while post-cessation interest may remain deductible if the original business nexus continues and no new private purpose intervenes.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 9. CAPITAL V REVENUE, WHEN EXPENDITURE IS INCURRED, DIVISION 40 AND DIVISION 43

capital v revenue • incurred expenditure • depreciating assets • Division 40 • capital works • Division 43

A deduction may fail under s 8-1 because it is capital, but that is often the beginning rather than the end of the analysis. Australian tax law contains capital allowance regimes that may provide deductions over time.

LEARNING OUTCOMES

- Apply the classic capital/revenue tests without treating any one label as decisive.
- Use Sun Newspapers as the central structural analysis.
- Determine when a liability is incurred.
- Identify depreciating assets and calculate decline in value under Div 40.
- Identify capital works deductions under Div 43.
- Coordinate capital allowances with CGT and avoid double counting.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: capital versus revenue is about the character of what the expenditure secures

Section 8-1(2)(a) denies a deduction for capital expenditure. The classic cases do not provide a single verbal formula; they provide indicators. *Vallambrosa Rubber* contrasts recurring working expenditure with more enduring outlays. *British Insulated* focuses on enduring advantage. *Sun Newspapers* distinguishes the business

structure or profit-yielding subject from the process by which the business earns income. Students should use these indicators cumulatively and explain which features are strongest on the facts.

Division 40

Capital expenditure on a depreciating asset is generally recognised through decline-in-value deductions rather than an immediate s 8-1 deduction. Identify whether the item is a depreciating asset, its cost, start time, effective life, method and taxable-use percentage. On disposal or another balancing-adjustment event, compare termination value with adjustable value.

Division 43

Capital works involve structural construction expenditure and operate separately from Division 40. A building can contain Division 43 structural expenditure and separate Division 40 depreciating assets. Correct classification therefore requires the student to break a project into components rather than treating the entire invoice as one tax asset.

In plain English
Capital expenditure is often about creating, enlarging or protecting the profit-yielding structure. Revenue expenditure is usually about operating that structure. If s 8-1 denies a capital outgoing, immediately ask whether Div 40, Div 43 or another specific rule gives relief over time.

Key language

capital | revenue | once and for all | enduring benefit | profit-yielding structure | process | incurred | present liability | depreciating asset | decline in value | effective life | prime cost | diminishing value | balancing adjustment | capital works | construction expenditure | Div 40 | Div 43 | cost | taxable purpose | CGT interaction

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and

question. Break mixed facts into separate sub-issues.	paragraph that matters. Then state the case/ruling proposition that interprets the rule.
A — Apply Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.	**C — Conclude** Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/ refund, or procedural right. State any qualification or alternative view.

9.1 Why capital versus revenue matters

Section 8-1(2)(a) denies a general deduction for a loss or outgoing of capital, or of a capital nature. This is one of the most important boundaries in Australian income tax. An expense can have an obvious business purpose and still fail s 8-1 because it creates, acquires, enlarges or protects the profit-yielding structure rather than operating that structure.

The capital/revenue distinction is not determined by accounting treatment, the size of the payment or the taxpayer's description. It is a legal characterisation based on the advantage sought and the role of the expenditure in the taxpayer's income-producing operations.

9.2 The older indicators: once-and-for-all and enduring benefit

Vallambrosa Rubber Co Ltd v Farmer is associated with the “once and for all” versus recurrent-expenditure indicator. Recurrent expenditure is often revenue; a one-off payment is more likely capital. But recurrence is only an indicator. Annual licence fees can be revenue even though essential to the business, and a repeated capital acquisition does not become revenue merely through repetition.

British Insulated & Helsby Cables Ltd v Atherton is associated with the “enduring benefit” idea. Expenditure bringing into existence an asset or advantage for the enduring benefit of the business may be capital. “Enduring” does not mean permanent; the inquiry is practical and commercial.

9.3 Sun Newspapers: the central Australian framework

Sun Newspapers Ltd v FCT is a leading authority. Dixon J distinguished the business entity, structure or organisation set up for earning profit from the process by which that organisation operates to obtain regular returns. His Honour identified three matters:

1. Character of the advantage sought—what is the taxpayer acquiring, preserving or obtaining, and what is its lasting quality?
2. Manner of use, reliance or enjoyment—how is the advantage used and is recurrence relevant?
3. Means adopted to obtain it—is the taxpayer paying periodically for use, or making a final provision to secure future use/enjoyment?

Later cases repeatedly emphasise the first factor: character of the advantage sought. In an exam, begin there. Identify the advantage precisely before deciding whether it belongs to the profit-yielding structure or the profit-making process.

9.4 Applying the capital/revenue distinction

Broken Hill Theatres Pty Ltd v FCT and *National Australia Bank Ltd v FCT* illustrate how the framework applies to different commercial advantages. The proper method is not to count capital indicators and revenue indicators mechanically. Explain what the expenditure buys or achieves in the context of the taxpayer's business.

Examples:

- ordinary wages, rent and consumables used in operations are typically revenue;
- acquiring land, plant or a new business structure is typically capital;
- repairing an existing asset may be revenue, but replacing the whole asset or substantially improving it may be capital;
- legal fees take their character from the advantage or dispute to which they relate.

9.5 “Incurred”: when does a deduction arise?

Even if an outgoing is deductible in character, the taxpayer must have “incurred” it. A cash payment is not always necessary, and payment is not always sufficient. The taxpayer generally needs to be definitively committed to the liability rather than merely expecting, budgeting for or making a contingent provision.

TR 97/7 is a key ATO ruling on when a loss or outgoing is incurred. The cases require attention to whether a presently existing legal liability has arisen, whether it is

defeasible or contingent, and whether the amount can be reasonably estimated where exact quantification comes later.

This issue appears in the Mia worked problem where an accountant issues an invoice on 15 June for services already provided in April and May, but Mia pays in July. The legal question is not simply the payment date; it is when Mia became definitively committed to the liability.

9.6 If s 8-1 denies capital expenditure, ask whether Division 40 provides a deduction

Division 40 ITAA97 contains the capital-allowance regime for depreciating assets. A depreciating asset generally has a limited effective life and can reasonably be expected to decline in value over the time it is used. Land is excluded, and some structural assets are dealt with elsewhere.

The deduction is generally for the decline in value of a depreciating asset to the extent it is used for a taxable purpose. Students must identify:

1. whether there is a depreciating asset;
2. who holds it;
3. its cost;
4. when it starts to be used or installed ready for use;
5. effective life;
6. prime cost or diminishing value method;
7. taxable-purpose percentage; and
8. any balancing adjustment on disposal.

9.7 Diminishing value and prime cost

Students should perform actual capital-allowance calculations and show the statutory formula, not an accounting depreciation formula.

Division 40 calculation formulas

Prime cost - s 40-75 ITAA97:
Asset's cost × (days held / 365) × (100% / asset's effective life).

Diminishing value for post-9 May 2006 assets - s 40-72 ITAA97:
Base value × (days held / 365) × (200% / asset's effective life).

After calculating decline in value, limit the deduction to the asset's taxable-purpose use. For passenger vehicles subject to the statutory car limit, the 2025-26 car limit is $69,674; apply s 40-230 ITAA97 and the ATO amount for the relevant income year.

Where an asset is used partly for business and partly privately, calculate decline in value first and then limit the deduction to taxable-purpose use as required by the regime.

Low-cost business items. PS LA 2003/8 sets out the Commissioner's practical administrative approach for qualifying low-cost tangible business assets. Subject to its qualifications, the threshold rule accepts immediate revenue treatment for qualifying items costing $100 or less including GST. This is an administrative practice, not a new statutory deduction, so students should distinguish it from Div 40 and the low-value pool rules.

9.8 Balancing adjustments

When a depreciating asset stops being held or used—for example, it is sold—a balancing adjustment can compare its termination value with its adjustable value. A gain-like amount may be included in assessable income or a loss-like amount may be deductible. CGT interactions must also be considered because depreciating assets can fall within both regimes, with statutory coordination preventing double recognition.

9.9 Division 43: capital works

Division 43 provides deductions for qualifying capital expenditure on buildings and structural improvements. It is distinct from Div 40. A permanently affixed building or structural improvement may fall under Div 43 even though plant or removable equipment within it is a Div 40 depreciating asset.

The rate and eligibility depend on construction date, type of capital works and use. The example facts involving a commercial building and newly constructed storage

structure are designed to teach this boundary. A student must distinguish the building itself from removable systems such as CCTV equipment.

Division 43 calculation method

For qualifying capital works, the statutory method is based on construction expenditure × applicable rate × days used in the income year / 365, subject to the precise commencement-date, ownership/lease, use and apportionment rules. A 2.5% rate over 40 years commonly applies to modern income-producing capital works, but the statutory rate must be checked for the particular construction. No Div 43 deduction starts until construction is complete: see s 43-30 ITAA97. Apportion where only part of the works or only part of the income year qualifies.

9.10 Repairs, improvements and capital allowances must be coordinated

Section 25-10, covered more fully in the next chapter, allows certain repair expenditure. But an improvement, replacement of an entirety or initial repair may not qualify. If denied as a repair because it is capital, Div 40 or Div 43 may instead provide deductions over time. This illustrates a recurring tax method: failure under one provision does not end the inquiry.

9.11 Core authority and provision map

Source	Proposition	Use
ITAA97 s 8-1(2)(a)	Capital or capital-nature outgoings denied under general deduction.	Always check after positive nexus.
Sun Newspapers	Structure versus process; three-factor framework.	Primary capital/revenue authority.
Vallambrosa Rubber	Recurrence/once-and-for-all indicator.	Supporting factor, not decisive rule.
British Insulated	Enduring benefit indicator.	Long-lasting advantage.
TR 97/7	When an outgoing is “incurred”.	Invoice/liability timing.

Div 40	Decline in value of depreciating assets.	Equipment, vehicles, removable systems.
Div 43	Capital works deductions.	Buildings/structural improvements.

9.12 Application masterclass — Mia: periods of inactivity and recommencement

Mia's corporate-training business loses its only client on 30 June. From 1 July to 31 August she takes no steps to obtain new work and seriously considers leaving the market, although she retains website, insurance, software and storage infrastructure. From 1 September she actively markets again, and from 1 November earns income under a new contract.

The key issue is whether the business temporarily paused or had ceased and later recommenced. Apply the contemporaneity and business-continuity principles from Chapter 8. Retaining infrastructure supports continuity, but complete inactivity and contemplation of permanent exit point the other way. From 1 September, active efforts to obtain clients strongly support carrying on the business even before new revenue arrives.

Analyse the $2,500 holding costs in the inactive period separately from the post-1 September website, marketing and advertising costs. The latter are much more clearly connected with current business activity. The June accountant invoice raises the “incurred” timing issue: services were performed before 30 June and an invoice issued on 15 June, though paid in July.

9.13 Application masterclass — Sarah: borrowed money, mixed use and a vehicle

Sarah increases a loan secured over her rental property but uses the additional $100,000 for a BMW, a personal handbag and dividend-paying shares. The security over a rental property does not determine interest deductibility. Following *Munro* and *Steele*, trace the use of borrowed funds.

Interest attributable to the personal handbag is private. Interest attributable to dividend-producing shares has an income-producing connection. Interest attributable to the vehicle requires apportionment according to its business/private use. The BMW itself is a depreciating asset under Div 40; if used 10% for business, the decline-in-value deduction is limited accordingly. The handbag remains private notwithstanding the business-secured loan.

9.14 HD IRAC method

I — Issue

Is the outgoing revenue or capital? If capital, does Div 40, Div 43 or another specific provision confer a deduction? When was it incurred?

R — Rule

State s 8-1 positive nexus, s 8-1(2)(a), *Sun Newspapers*, then the applicable specific capital-allowance regime and timing rule.

A — Application

Identify the advantage sought. Explain structure versus process. If Div 40 applies, identify asset, cost, start time, method, effective life and taxable-purpose use. Show the formula.

C — Conclusion

State whether an immediate deduction, declining-value deduction, capital-works deduction or no deduction is available and quantify it.

9.15 Plain-English summary

Revenue expenditure runs the profit-making machine; capital expenditure builds, buys or strengthens the machine. If s 8-1 says “capital”, do not stop. Check the capital-allowance rules. Then ask when the outgoing was incurred and how much is deductible for the income year.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Capital versus revenue: identify the advantage sought

The capital/revenue distinction asks what the expenditure is calculated to effect from a practical and business perspective. Recurrence is relevant but not decisive. Expenditure creating, enlarging or replacing the profit-yielding structure tends to capital; expenditure operating that structure to earn income tends to revenue. The distinction is one of character, not bookkeeping labels.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Section 8-1(2)(a) denies capital expenditure under the general deduction provision. Specific regimes such as Div 40, Div 43 and s 40-880 can then provide statutory write-offs.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Vallambrosa Rubber supplies the often-cited recurrence distinction but is not a complete test. British Insulated emphasises enduring advantage. Sun Newspapers provides the leading Australian structural framework: character of the advantage, manner of use and means adopted. Broken Hill Theatres and NAB apply capital/revenue reasoning in commercial settings.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot acquisition or creation of an asset/structure, one-off establishment expenditure, replacement of an entirety, enduring benefit, and whether the cost relates to day-to-day operations.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact

provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

In a P&L reconciliation, add back accounting expenses that are capital for tax and then claim the permitted Div 40/43/40-880 amount separately.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

“Incurred” is a legal concept, not just cash payment

A taxpayer can incur an outgoing before it is paid where there is a presently existing pecuniary liability that is definitively committed, even if exact quantification/payment follows. Conversely, a mere provision, estimate or contingent liability may not yet be incurred. Timing therefore requires attention to contracts, invoices and contingencies.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Section 8-1 uses the word “incurred”. Specific timing provisions can modify the result. Accounting accrual entries are relevant evidence but not conclusive for tax.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The relevant law and authorities use business invoice examples and authorities dealing with definitively committed liabilities to distinguish incurred amounts from contingencies.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot invoice date, service/performance date, contractual liability, conditions precedent, dispute/contingency and payment date.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Build an accrual schedule comparing accounting recognition date, legal liability date, payment date and tax deduction year.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Division 40: depreciating assets have a tax lifecycle

For a depreciating asset, the tax law substitutes decline in value for accounting depreciation. Students must identify the holder, asset, start time, cost, effective life and method, calculate decline in value, and then account for a balancing adjustment when the asset is sold, lost or otherwise stops being used. Private use requires apportionment.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Division 40 includes decline-in-value rules and balancing adjustment provisions such as s 40-285. Diminishing value and prime cost methods have separate statutory formulas. Low-value/small-business concessions apply only if their own criteria are satisfied.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

This chapter/worked problem materials use CCTV, business equipment, cars and other assets to make students distinguish depreciating assets from capital works and CGT assets.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot whether the asset is tangible/declining in value, whether it is excluded from Div 40, first-use date, effective life, business-use percentage and termination value.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Tax fixed-asset register: opening adjustable value + second-element costs − decline in value = closing adjustable value; on disposal compare termination value with adjustable value for balancing adjustment.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add

any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Division 43: capital works are not Division 40 assets

Buildings and structural improvements often fall within Div 43 rather than Div 40. The deduction is generally a statutory percentage of construction expenditure over time, subject to commencement/use and other requirements. Land itself is not depreciated. Structural improvements must therefore be separated from removable plant/ equipment.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use Div 43, including s 43-10 and related construction-expenditure provisions identified in the materials.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The Marty problem’s new storage building is designed to force the Div 43/Div 40 distinction: building works and CCTV have different regimes.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot building/extension/structural improvement versus separate plant. Identify construction completion and first income-producing use.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Maintain separate schedules for Div 43 construction expenditure and Div 40 depreciating assets. This also helps calculate CGT cost-base adjustments on disposal.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Accounting profit → taxable income: depreciation/capital works bridge

Step / item	Tax-law treatment	Number / working
Accounting profit before tax	Starting management/accounting number	PBT

Add back accounting depreciation	Accounting depreciation is not the Div 40 deduction	+ book depreciation
Add back capital expenditure expensed in accounts	Capital denial under s 8-1	+ capital amount
Deduct Div 40 decline in value	Tax depreciation based on cost, start time, effective life/method	− Div 40 amount
Deduct Div 43 capital works	Separate building/construction schedule	− Div 43 amount
Add/subtract balancing adjustment	On disposal of depreciating asset	± s 40-285 result
CGT adjustments	Calculate land/building gains separately; adjust cost base for relevant deductions	+ net capital gain as required
Taxable income	After all tax-specific adjustments	final statutory amount

Never use a single accounting “depreciation” line for tax. Keep Div 40, Div 43 and CGT workpapers separate.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally

Mia has operated a corporate training business for 5 years. The business provides leadership training workshops to corporate clients. On 30 June 2025, Mia's only client at the time terminated its ongoing services agreement. From 1 July 2025, the business had no active clients, no scheduled training engagements and no source of business income.	This fact bears on whether an activity is a business and/or how the business tax rules apply. Treat formal registrations as evidence, not conclusive proof of business character.
Between 1 July 2025 and 31 August 2025, Mia took no steps to obtain new clients. During that period, she considered permanently exiting the corporate training market and taking up unrelated employment. She did not advertise the business, approach prospective clients, issue proposals or otherwise seek new work. However, she retained the business infrastructure, including its website, professional indemnity insurance, software subscriptions and storage arrangements for training equipment. She incurred $2,500 in costs for those items during this period.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

On 1 September 2025, Mia decided to recommence the business and resumed efforts to obtain income. She updated the business website, engaged a marketing consultant, advertised leadership training packages to corporate clients for $12,000 per workshop, and prepared proposals herself for prospective clients. Between 1 September 2025 and 31 October 2025, Mia received around 20 enquiries, although most prospective clients considered her proposed fees too high or deferred their training budgets. During this period, Mia derived no income yet incurred:	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
$2,000 in website update costs	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
$5,000 in marketing consultant fees, and	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
$3,000 in advertising costs.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

On 1 November 2025, a new corporate client with a national presence entered into a 9-month training agreement with Mia at $10,000 per workshop. Mia delivered training services under that agreement until she sold the business assets on 31 July 2026. From 1 November 2025 to 30 June 2026, Mia incurred:	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
$10,000 in marketing consultant fees	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
$6,000 in advertising costs, and	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
$8,000 in business-related travel costs.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
On 15 June 2026, Mia received a $1,500 invoice from her accountant for business accounting services provided during April and May 2026. Mia paid the invoice on 10 July 2026.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Advise Mia whether any of the above expenses are deductible to her for the 2025-26 income year. Support your answer with reference to relevant legislation and case law.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Sarah runs an interior design business, and she mainly services wealthy clients in Sydney's eastern suburbs.	This fact bears on whether an activity is a business and/or how the business tax rules apply. Treat formal registrations as evidence, not conclusive proof of business character.
Sarah also owns a residential rental property in Bondi and derives gross annual rent of $120,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
In February 2026, Sarah increased the loan secured over the Bondi property by $100,000, and the bank advanced the funds into her personal bank account.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Sarah purchased a brand new, BMW electric vehicle for $80,000 and drove it out of the dealership on the same day. Logbook records show that Sarah uses the vehicle 10% for business purposes, and 90% for private purposes. If relevant, the vehicle has an effective life of 8 years.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Sarah purchased a Birkin handbag for her personal use for $15,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Sarah purchased shares in Gamma Ltd (which regularly pays franked dividends) for $5,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Mia incurred $2,000 in bank interest for the period 10 February 2026 to 30 June 2026 in respect of the increased loan.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Advise Sarah of the amount of any deductions she can claim for the 2025-26 income year in respect of the above expenses. Support your answer with reference to relevant legislation and case law principles. If relevant, Sarah prefers to use the diminishing value method of depreciation.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: REVENUE/CAPITAL DICHOTOMY UNDER s 8-1

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 8-1(2)(a) - denies deductibility for losses or outgoings of capital, or of a capital nature

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Overall, it is likely that the payment for the pizza oven would be capital and non-deductible under s 8-1 whereas the electricity payments would not be capital."

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates "to the extent" of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: TAX ACCOUNTING FOR DEDUCTIONS UNDER s 8-1

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates "to the extent" of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: When is a loss or outgoing 'incurred' under s 8-1 of the ITAA 97?

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates "to the extent" of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: a taxpayer need not actually have paid any money to have incurred an outgoing provided the taxpayer is definitively committed in the year of income. Accordingly, a loss or outgoing may be incurred within section 8-1 even though it remains unpaid, provided the taxpayer is 'completely subjected' to the loss or outgoing. That is, subject to the principles set out below, it is not sufficient if the liability is merely contingent or no more than pending, threatened or expected, no matter how certain it is in the year of income that the loss or outgoing will be incurred

in the future. It must be a presently existing liability to pay a pecuniary sum; [emphasis added]

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: (Note s 82KZM ITAA36 would not apply to spread the deduction over the insurance period - see s 82KZM(ba)(ii) ITAA36).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: DIVISION 40 OF THE ITAA 1997

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Operative provision - section 40-25(1):

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: You can deduct an amount equal to the decline in value for an income year (as worked out under Division 40) of a depreciating asset that you held for any time during the year.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What is a depreciating asset? See section 40-30

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: When is a depreciating asset ‘held’? See section 40-40.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Choice of methods to calculate decline in value: see section 40-65.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Prime cost method: see section 40-75; or

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Diminishing value method (from 9 May 2006): see section 40-72.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The diminishing value method can not be chosen for some intangible assets. See the types of intangible assets covered by s 40-70(2) (and s 40-72(2)).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Cost or base value (effectively, written down value): see sections 40-85, 40-175, 40-180, 40-185, 40-190.

Notice/effect of assessment

Distinguish validity/effect of the assessment from the taxpayer's right to challenge the amount through Part IVC.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note the adjustment for the cost of a car (section 40-230). For the 2025-26 income year, the car limit is $69,674.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Effective life - choice (section 40-95) between Commissioner's determination (section 40-100) and self-assessment (section 40-105).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: As an exercise, search Table A in Schedule 2 of this Determination to find the effective life of a dishwasher in a rental property, and Table B for the effective life of a laptop computer.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note that you can not self-assess the effective life for certain intangible assets as the legislation prescribes the effective life (see s 40-95(7)).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Taxable purpose is defined in section 40-25(7).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Reduction of deduction for decline in value for a purpose other than a taxable purpose: see section 40-25(2). The legislation requires you to first calculate the decline in value of the asset (s 40-25(1)) and then to “reduce” this by the non- income producing portion (s 40-25(2)).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and

consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 40-27 ITAA97 provides that individuals can not benefit from excessive deductions related to depreciating assets held to produce residential rental income.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note that the decline in value of a depreciating asset that you hold is its' cost, where, inter alia, that cost does not exceed $300 and you use the asset predominately for the purpose of producing assessable income that is not income from carrying on a business (see section 40-80(2)). Read this section carefully for all of the requirements!

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Romek is a paralegal for a law firm on the Gold Coast. To match his suit and to keep a professional image, Romek spent $280 on an artificial leather, document wallet designed for the secure transport of confidential and sensitive documents for court events or client meetings. Assuming the wallet is used solely in Romek's employment, the expense is immediately deductible to him pursuant to s 40-80(2) ITAA97.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Balancing adjustment event: section 40-295.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: the asset's termination value > adjustable value, the difference is included in assessable income (statutory income): section 40-285(1).

Balancing adjustment

When a depreciating asset stops being held/used, compare termination value and adjustable value and bring the statutory balancing amount to account.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: the asset's termination value < adjustable value, the difference is deductible (specific deduction): section 40-285(2).

Balancing adjustment

When a depreciating asset stops being held/used, compare termination value and adjustable value and bring the statutory balancing amount to account.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What is an asset's termination value? See section 40-300 and 40-305.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Adjustment for the termination value of a car which has a cost calculated by applying the section 40-230 car limit: see sections 40-320 and 40-325.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If a depreciating asset is held 100% for the purposes of producing assessable income, any capital gain or loss arising from the happening of CGT Event A1 as a result of the disposal of the depreciating asset is disregarded (assuming that the disposal is also a balancing adjustment event): s 118-24(1).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note that although section 118-24(1) disregards capital gains or losses on depreciating assets that are also balancing adjustment events, the exclusion does not apply to capital gains or losses from CGT Event K7 happening (see section 118-24(2)). CGT Event K7 is relevant when a balancing adjustment event occurs for a depreciating asset that you hold and use only partly for a taxable purpose. However, if the depreciating asset is also a personal use asset, any capital loss on its disposal is disregarded.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: DEDUCTIONS FOR CAPITAL WORKS (DIVISION 43 OF THE ITAA 1997)

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Capital Works (Division 43 of the ITAA 1997)

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: You can deduct an amount for capital works for the year if the requirements in s 43-10 are satisfied.

Capital works deduction

Identify qualifying construction expenditure, completion/use timing and applicable rate rather than depreciating the building under Div 40.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What are capital works? A taxpayer can claim deductions under Division 43 for capital expenditure incurred in constructing capital works being a building, or an extension, alteration or improvement to a building: section 43-20(1).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Division 43 also applies to capital works that are structural improvements, or extensions, alterations or improvements to structural improvements: section 43-20(2). Some examples of structural improvements are contained in section 43-20(3). Section 43-20(3) provides an inclusive list of examples of structural improvement and not an exhaustive list.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Example: Although a building might be a depreciating asset, expenditure on buildings is generally deductible under Division 43 (ie the capital works provisions) and not Division 40 - unless it is ‘plant’ (see below).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 43-10(2)(a) requires the capital work to have a "construction expenditure area" as one of the prerequisites for obtaining a Division 43 deduction. What is construction expenditure? See s 43-70(1). Note some of the types of expenditure that are excluded in s 43-70(2) (e.g. paragraphs (a), (b), (d), (e)) and therefore could not be added to other construction expenditure costs of the capital work for the purposes of the Division 43 deduction. Also read sections 43-120 and 43-125.

Capital works deduction

Identify qualifying construction expenditure, completion/use timing and applicable rate rather than depreciating the building under Div 40.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For this example, you can assume that most expenditure on capital works to which Division 43 apply are deducted at a rate of 2.5% per annum over 40 years. [Remember part year apportionment issues, where relevant, and the fact that the building must be used for the purposes of producing assessable income.]

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Div 43 deduction for the CIY is calculated using the formula:

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: There is no deduction until construction is complete: s 43-30. Therefore, you may need to apportion part of the deduction in the first year.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Of course, taxpayers can only get Division 43 deductions if the capital works are used in a deductible way (i.e. for the purpose of producing assessable income). Where only part of capital works are used to produce assessable income, an apportionment is required to reduce the deduction (usually on a floor area basis).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If the taxpayer satisfies the requirements for deductibility under Division 43 (even if the relevant expenditure is in respect of a depreciating asset), then depreciation deductions under Division 40 can not be claimed since Division 40 is deemed not to apply (see sections 40-45(2) and 43-50).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: However, if the expenditure on a building (or other capital works) satisfies the definition of ‘plant’, then the capital works expenditure will not be deductible under Division 43 (see sections 43-70(2)(e), 43-10, and 43-15) and instead, will be deductible under Division 40.

Capital works deduction

Identify qualifying construction expenditure, completion/use timing and applicable rate rather than depreciating the building under Div 40.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Definition of ‘plant’: see section 45-40. You may need to print this out if it is not in your Core Tax Legislation. The s 45-40 definition is an inclusive definition. This means that an item can still be regarded as ‘plant’ if it is not on the list. Therefore, we need to know what the common law regards is ‘plant’.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What happens if an asset is both a Division 40 and a Division 43 asset? Then, if the asset is plant, for example, deductions will be calculated according to Division 40. As you know when you stop holding a Division 40 depreciating asset (eg. selling or scrapping the asset) a balancing adjustment event

happens. If Division 40 prevails over Division 43 in respect of the asset, then to the extent that the depreciating asset has been used for a taxable purpose, the gain or loss on sale will be picked up under Division 40 and not CGT.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: But what happens if the depreciating asset is part of a CGT asset? For example, the factory (or building) in Wangaratta Woollen Mills v FCT was obviously fixed to land and part of the land. If the owner in Wangaratta sold the land and factory, then the disposal of the factory would be a balancing adjustment event (because it was a Division 40 asset (plant) and the owner no longer holds it). Note the obvious practical point that some of the sale proceeds for the disposal would be attributable to the land and some of them to the building. Is it correct then to put the construction costs of the factory in the CGT cost base of the land? The answer is no. The CGT rules will treat the factory as a separate CGT asset from the land (see s 108-55) so that capital gain or loss on disposal of the factory is disregarded, with the gain or loss only being picked up under the Division 40 balancing adjustment provisions. The same logic applies to a depreciating asset that is part of a building: s 108-60.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: On another matter, if Division 43 capital works expenditure forms part of the cost base of a CGT asset (eg 4th element if you incurred it, or 1st element if you purchased the capital work from someone else), then the cost base needs to be reduced to the extent of any Division 43 deductions you have claimed (if the CGT asset was acquired after 7.30pm on 13 May 1997). See s 110-45.

Cost-base exclusions/adjustments

Check whether amounts already deducted or otherwise dealt with must be excluded or adjusted in cost base.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Expenditure does not form part of the reduced cost base to the extent you have deducted it or can deduct it (see section 110-55(4) and 110-55(9)).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Note the application of section 110-45(4): capital expenditure by a previous owner that you can deduct after acquisition.

Cost-base exclusions/adjustments

Check whether amounts already deducted or otherwise dealt with must be excluded or adjusted in cost base.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: 1. Does Division 40 apply to the house? Why?

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: 2. Is the Company entitled to a Division 43 deduction in the 2025-26 income year? Why? How much is the deduction?

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part A

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part B

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: Vallambrosa Rubber Co Ltd v Farmer (1910) 5 TC 529.
recurrence can indicate revenue character but is not a complete capital/revenue test

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: British Insulated & Helsby Cables v Atherton (1926) 10 TC 155

expenditure securing an enduring advantage can point to capital character

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Sun Newspapers Ltd; Associated Newspapers Ltd v FCT (1938) 61 CLR 337
leading Australian framework for capital/revenue: character of advantage, manner of use and means adopted to obtain it

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Broken Hill Theatres Pty Ltd v FCT (1952) 85 CLR 423
structural/once-and-for-all expenditure can be capital despite connection with business

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *National Australia Bank Ltd v FCT 97 ATC 5153
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The Commissioner in Taxation Ruling TR 97/7 (at para 6) provides a good summary of the relevant principles established by case law on when a loss or outgoing is incurred.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Wangaratta Woollen Mills v FCT 69 ATC 4095
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Faichney 72 ATC 4245
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Carpentaria Transport Pty Ltd v FCT 90 ATC 4590
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.

- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

> **Required-reading integration.** PTL [16.120]–[16.186]; [12.230]–[12.260]; [13.00]–[13.110]; [13.180]; [14.00]–[14.118]; [14.125]; [14.165]–[14.215]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) ("PTL"). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

The capital/revenue distinction is one of the central organising ideas in deductions. Section 8-1 can have a strong nexus with income yet still deny an outgoing because it is capital or capital in nature. The practical consequence is not necessarily "no deduction"; the student must then look for capital allowance regimes such as Div 40 and Div 43 or other specific provisions.

Sun Newspapers provides the principal Australian framework: consider the character of the advantage sought, the manner in which it is used/recurred, and the means adopted to obtain it. Older indicators such as enduring benefit and once-and-for-all payment can assist, but no single slogan decides the issue. The question is whether the expenditure belongs to the profit-yielding structure or the process of operating that structure.

This chapter also introduces tax accounting for deductions—when an outgoing is "incurred"—and the capital allowance system. Depreciating assets under Div 40 and capital works under Div 43 must be coordinated with the general deduction rule and with CGT.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 s 8-1(2)(a)	Denies capital or capital-nature losses/outgoings under the general deduction provision.	Use after establishing nexus; then move to a specific capital allowance if available.

ITAA97 Div 40	Provides decline-in-value deductions for depreciating assets, subject to exclusions and special rules.	Identify whether the item is a depreciating asset, its cost, start time, effective life and chosen method.
ITAA97 ss 40-25, 40-65, 40-70 and related method provisions	Govern the basic decline-in-value calculation and methods in this chapter.	Show the statutory formula and apportion for taxable use.
ITAA97 balancing adjustment provisions	Adjust assessable income/ deductions when a balancing adjustment event occurs for a depreciating asset.	Use on disposal, loss or cessation of use of Div 40 assets.
ITAA97 Div 43	Provides deductions for qualifying capital works over statutory rates/periods.	Use for buildings and structural improvements that are excluded from ordinary Div 40 treatment.
Tax accounting “incurred” principles	An outgoing can be incurred before it is paid if the taxpayer is definitively committed to the liability; a mere estimate or contingent liability is insufficient.	Use where invoices, accruals, provisions or deferred payments straddle income years.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Vallambrosa Rubber Co Ltd v Farmer	Classic contrast between capital expenditure and revenue expenditure by reference to enduring/ structural character.	Use as historical assistance, not as a substitute for Sun Newspapers.
British Insulated & Helsby Cables Ltd v Atherton	Enduring-benefit formulation: expenditure bringing into existence an enduring advantage can indicate capital.	Use as one indicator.

Sun Newspapers Ltd v FCT (1938) 61 CLR 337	Principal Australian framework distinguishing the business entity/structure from the process by which it operates.	Use as the central authority in any capital/ revenue deduction problem.
Broken Hill Theatres; NAB and related authorities	Show application of structural/ advantage analysis in differing commercial contexts.	Use factually, focusing on what the payment secured.
Nilsen Development Laboratories and related “incurred” authorities	Used to determine when a liability is sufficiently definite to be incurred for tax purposes.	Use when a taxpayer has an invoice, provision or future obligation but payment occurs later.

Worked application — fact-by-fact reasoning map

Mia — business cessation and recommencement
Ask whether the business truly ceased or was temporarily inactive. The answer affects nexus, contemporaneity and whether post/pre-commencement expenditure retains connection.

Invoices and timing
Identify when the legal liability became definite. Do not equate “paid” with “incurred” unless the applicable accounting method/rule requires it.

Sarah — borrowed money and interest
Trace borrowed funds to income-producing/private uses. Interest follows use of funds and may require apportionment.

Mixed-use motor vehicle/depreciating asset
Apply Div 40 and apportion for taxable purpose. If disposed of, calculate the balancing adjustment.

Birkin handbag or private/luxury item
Do not let business ownership alone create deductibility. Characterise actual use, private nature and whether it is genuinely a depreciating asset used for taxable purpose.

Dividend shares
Investment assets can produce assessable income while acquisition cost remains capital; interest on borrowings may be deductible even though the share cost itself is not.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 9 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. Sun Newspapers Ltd v FCT **sets out three matters relevant to the capital/revenue distinction:**

1. Price, quantity, and quality
2. The character of the advantage sought, the manner of its use/enjoyment, and the means adopted to obtain it
3. The taxpayer's age, residency and marital status
4. The size of the business only

Q2. The distinction drawn in Sun Newspapers **is between:**

1. The profit-making process and the profit-making structure
2. Companies and individuals
3. Fixed and floating capital only
4. Domestic and foreign expenditure

Q3. British Insulated and Helsby Cables Ltd v Atherton **established the "enduring benefit" test, under which expenditure is more likely capital where it:**

1. Is paid annually
2. Brings into existence an asset or advantage for the enduring benefit of the business
3. Is under $10,000
4. Relates to trading stock

Q4. Broken Hill Theatres Pty Ltd v FCT **held that legal expenditure incurred to reorganise the taxpayer's business structure (following the minority approach in Hallstroms) was:**

1. Revenue in nature because it was a legal expense
2. Capital in nature because it related to the profit-earning structure, not the day-to-day earning process
3. Not deductible under any provision
4. A CGT event

Q5. Division 40 of the ITAA 1997 provides deductions for the decline in value of:

1. Trading stock
2. Depreciating assets used for a taxable purpose
3. Goodwill only
4. Land

Q6. Division 43 provides deductions for:

1. Capital works, such as the construction cost of income-producing buildings, over a specified statutory period
2. Motor vehicle running costs
3. Employee wages
4. Interest on business loans

Q7. National Australia Bank Ltd v FCT **is used in this chapter to illustrate:**

1. How the capital/revenue framework applies to a different type of commercial advantage in a banking context
2. The definition of a permanent place of abode
3. The CGT small business concessions
4. The constitutional taxation power

Q8. The correct method for applying the capital/revenue distinction, according to this chapter, is to:

1. Mechanically count capital indicators against revenue indicators
2. Explain what the expenditure buys or achieves in the context of the taxpayer's business, rather than mechanically counting indicators
3. Always classify legal fees as capital
4. Rely solely on the amount of the expenditure

Q9. Vallambrosa Rubber Co Ltd v Farmer, an early UK authority, is relevant to the capital/revenue distinction because it:

1. Introduced the "once and for all" versus recurrent expenditure consideration as one relevant (but not decisive) indicator
2. Concerned rubber industry-specific tax concessions
3. Only applies to companies incorporated in the UK
4. Is no longer good law anywhere

Q10. Under Division 40/43, if an asset does not qualify as a depreciating asset for Division 40 purposes but is instead a capital works item (such as a building), the correct provision to apply is:

1. Division 40
2. Division 43
3. Section 8-1 in full
4. No deduction is available under any provision

Chapter 9 Mastery Quiz — Answers and Explanations

A1. Answer: B

Sun Newspapers lists the character of the advantage sought, the manner of its use/enjoyment, and the means adopted to obtain it.

A2. Answer: A

Sun Newspapers distinguishes the profit-making process from the profit-making structure.

A3. Answer: B

British Insulated establishes that expenditure creating an enduring benefit or asset for the business is more likely capital.

A4. Answer: B

Broken Hill Theatres treated the reorganisation legal costs as capital, relating to the profit-earning structure.

A5. Answer: B

Division 40 covers decline in value of depreciating assets used for a taxable purpose.

A6. Answer: A

Division 43 covers capital works such as building construction costs, over a statutory period.

A7. Answer: A

NAB v FCT illustrates the capital/revenue framework applied to a banking-context commercial advantage.

A8. Answer: B

The correct method explains what the expenditure buys/achieves in context, not mechanical indicator-counting.

A9. Answer: A

Vallambrosa Rubber introduced recurrence as one relevant, non-decisive indicator.

A10. Answer: B

Capital works items not qualifying under Division 40 are dealt with under Division 43.

Chapter 9 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Set out the three matters from Sun Newspapers Ltd v FCT relevant to distinguishing capital from revenue expenditure.

SA2. Explain the "enduring benefit" test from British Insulated and Helsby Cables and its limitations as a sole test.

SA3. Explain the distinction between the "profit-making structure" and the "profit-making process" and why it matters for characterising expenditure.

SA4. Explain the difference in what Division 40 and Division 43 each provide deductions for.

SA5. A business pays $50,000 in legal fees to defend a lawsuit that threatened to shut down its entire operating licence. Applying Sun Newspapers and Broken Hill Theatres, discuss whether this expenditure is capital or revenue.

Chapter 9 Short-Answer Questions — Model Answers

Model Answer SA1

Dixon J in Sun Newspapers identified three matters: (1) the character of the advantage sought — including whether it has lasting qualities; (2) the manner in which the advantage is to be used, relied upon, or enjoyed — including whether it recurs; and (3) the means adopted to obtain it — whether by a periodical payment covering its use for a period, or a final lump-sum payment securing future use or enjoyment.

Model Answer SA2

The enduring benefit test asks whether expenditure brings into existence an asset or advantage for the enduring benefit of the taxpayer's business, in which case it is more likely capital. Its limitation as a sole test is that not all capital expenditure produces a physical or tangible enduring asset (as Sun Newspapers itself later clarified) — an enduring benefit to the profit-making structure, rather than a specific tangible asset, can still make expenditure capital, so the test must be applied alongside the broader structure/process distinction rather than in isolation.

Model Answer SA3

The profit-making structure is the underlying framework, organisation or apparatus within which a business operates to earn its profits (e.g. its factory, its network of supply agreements, its capital base). The profit-making process is the day-to-day trading activity carried out using that structure to generate regular income. Expenditure that establishes, expands, or alters the structure is generally capital; expenditure incurred in the course of the ordinary operating process is generally revenue. This distinction matters because it determines whether an outgoing is immediately deductible under s 8-1 or must instead be dealt with (if at all) under the capital allowance or CGT provisions.

Model Answer SA4

Division 40 provides deductions for the decline in value of depreciating assets (tangible items with a limited effective life, such as machinery, equipment, and some intangible assets) used for a taxable purpose, spread over the asset's effective life. Division 43 provides deductions for capital works — the construction cost of buildings and structural improvements used to produce assessable income — deducted at a fixed statutory rate over a much longer specified write-off period reflecting the building's longer useful life.

Model Answer SA5

Applying Sun Newspapers: the character of the advantage sought was preserving the business's very ability to operate (its operating licence) — a structural, enduring advantage, not a routine trading matter; the manner of use was a one-off defence of an existential threat, not a recurring operational cost; and the means adopted was a single lump-sum legal fee to secure the continued existence of the business itself. Applying Broken Hill Theatres by analogy, expenditure that protects or restores the taxpayer's fundamental capacity to carry on the business (its profit-making structure) is generally capital, even though the fees were paid to lawyers rather than for a physical asset. On these facts, the $50,000 is more likely capital expenditure, non-deductible under s 8-1, though the specific nature of the threatened licence and the business's ordinary legal-cost patterns should be checked before finalising the conclusion.

Chapter 9 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Are legal fees always deductible as a business expense?

Q: If I build a new factory, can I deduct the construction cost immediately?

Q: What's the difference between Division 40 and Division 43?

Q: Is a one-off (non-recurring) payment always capital?

Q: How do I decide whether an expense relates to the "structure" or the "process" of a business?

Chapter 9 — Frequently Asked Questions: Suggested Answers

FAQ 1

Not always — as Broken Hill Theatres shows, legal fees relating to the taxpayer's profit-earning structure (e.g. reorganising the business itself) are generally capital, while legal fees incurred in the ordinary course of earning income (e.g. debt collection) are generally revenue and deductible.

FAQ 2

No — construction costs of income-producing buildings are generally capital works deductible under Division 43 over a specified statutory write-off period, not immediately deductible under s 8-1.

FAQ 3

Division 40 covers the decline in value of depreciating assets (like machinery and equipment) used for a taxable purpose. Division 43 covers capital works such as buildings and structural improvements, deducted over a longer statutory period reflecting their longer useful life.

FAQ 4

No — while recurrence is one relevant indicator (from cases like Vallambrosa Rubber), it is not decisive on its own; a one-off payment can still be revenue in character depending on what it achieves for the business.

FAQ 5

Ask whether the expenditure sets up, alters, or protects the underlying framework within which the business operates (structure — capital) versus whether it relates to the everyday activities the business carries out to earn income within that existing framework (process — revenue).

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income included by a specific provision under s 6-10. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

An amount subtracted from assessable income under a deduction-conferral provision. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define TAX and explain why it matters to the Chapter 1 analysis.
2. Define Equity and explain why it matters to the Chapter 1 analysis.

3. Define Progressive and explain why it matters to the Chapter 1 analysis.
4. Define taxable income and explain why it matters to the Chapter 1 analysis.
5. Define assessable income and explain why it matters to the Chapter 1 analysis.
6. Define ordinary income and explain why it matters to the Chapter 1 analysis.
7. What role does s 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 4-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does ss 4-1, 4-5, 4-10 and 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does ss 6-5, 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does ss 4-1, 4-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Matthews v Chicory Marketing Board illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does MacCormick v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does FCT v Myer Emporium Ltd illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does Zobory v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Federal Coke Co Pty Ltd v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Emma earns $92,000 salary with $20,000 PAYG withheld. She receives a $600 birthday voucher from her employer, $12,000 of Uber receipts (stated exclusive of GST), $24,000 rent, $1,200 bank interest and a $10,000 lottery prize. Her deductible Uber costs are…
20. What should a strong Chapter 1 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. Answer

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. Answer

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. Answer

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. Answer

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. Answer

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

8. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

9. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

10. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

11. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

12. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

13. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

14. Answer

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

15. Answer

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

16. Answer

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

17. Answer

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

18. Answer

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 4-15 in this chapter?

1. s 4-15
2. ss 4-1, 4-5, 4-10 and 4-15
3. ss 6-5, 6-10
4. s 4-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 4-10 in this chapter?

1. s 4-10
2. ss 6-5, 6-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-15

3. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5, 4-10 and 4-15 in this chapter?

1. ss 4-1, 4-5, 4-10 and 4-15
2. ss 6-5, 6-10
3. s 4-10
4. s 4-15

4. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5, 6-10 in this chapter?

1. s 4-15
2. ss 6-5, 6-10
3. s 4-10
4. ss 4-1, 4-5, 4-10 and 4-15

5. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5 in this chapter?

1. s 4-15
2. s 4-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. ss 4-1, 4-5

6. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 4-15
2. s 6-5
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-10 in this chapter?

1. s 4-10
2. s 4-15
3. s 6-10
4. ss 4-1, 4-5, 4-10 and 4-15

8. Which provision is the relevant statutory reference for the rule or method associated with ss 6-15, 6-20, 6-23 in this chapter?

1. ss 6-15, 6-20, 6-23
2. ss 4-1, 4-5, 4-10 and 4-15
3. s 4-10
4. s 4-15

9. Which authority is connected with this proposition: Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

1. MacCormick v FCT
2. FCT v Myer Emporium Ltd
3. Zobory v FCT
4. Matthews v Chicory Marketing Board

10. Which authority is connected with this proposition: Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

1. Zobory v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. MacCormick v FCT

11. Which authority is connected with this proposition: A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

1. FCT v Myer Emporium Ltd
2. Matthews v Chicory Marketing Board
3. MacCormick v FCT
4. Zobory v FCT

12. Which authority is connected with this proposition: Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

1. MacCormick v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. Zobory v FCT

13. Which authority is connected with this proposition: Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

1. Matthews v Chicory Marketing Board
2. MacCormick v FCT
3. Federal Coke Co Pty Ltd v FCT
4. FCT v Myer Emporium Ltd

14. Which authority is connected with this proposition: Non-cash benefits not convertible into money were not ordinary income on the facts.

1. MacCormick v FCT
2. FCT v Cooke & Sherden
3. Matthews v Chicory Marketing Board
4. FCT v Myer Emporium Ltd

15. Which taxation-law term or authority best matches this description: A compulsory exaction by public authority for public purposes.

1. taxable income
2. TAX
3. Equity
4. Progressive

16. Which taxation-law term or authority best matches this description: Tax-system criterion concerned with fairness.

1. Equity
2. Progressive
3. taxable income
4. assessable income

17. Which taxation-law term or authority best matches this description: Rate structure in which the average rate rises as income rises.

1. assessable income
2. Progressive
3. taxable income
4. ordinary income

18. Which taxation-law term or authority best matches this description: Assessable income less deductions under s 4-15.

1. assessable income
2. ordinary income
3. statutory income
4. taxable income

19. Which taxation-law term or authority best matches this description: Income brought into the statutory tax base.

1. statutory income
2. Deduction
3. assessable income
4. ordinary income

20. Which taxation-law term or authority best matches this description: Income according to ordinary concepts under s 6-5.

1. ordinary income
2. tax loss
3. Deduction
4. statutory income

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. A. s 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

2. A. s 4-10

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

3. A. ss 4-1, 4-5, 4-10 and 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

4. B. ss 6-5, 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

5. D. ss 4-1, 4-5

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

6. B. s 6-5

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

7. C. s 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

8. A. ss 6-15, 6-20, 6-23

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

9. D. Matthews v Chicory Marketing Board

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

10. D. MacCormick v FCT

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

11. A. FCT v Myer Emporium Ltd

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

12. D. Zobory v FCT

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

13. C. Federal Coke Co Pty Ltd v FCT

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

14. B. FCT v Cooke & Sherden

Non-cash benefits not convertible into money were not ordinary income on the facts.

15. B. TAX

TAX: A compulsory exaction by public authority for public purposes.

16. A. Equity

Equity: Tax-system criterion concerned with fairness.

17. B. Progressive

Progressive: Rate structure in which the average rate rises as income rises.

18. D. taxable income

taxable income: Assessable income less deductions under s 4-15.

19. C. assessable income

assessable income: Income brought into the statutory tax base.

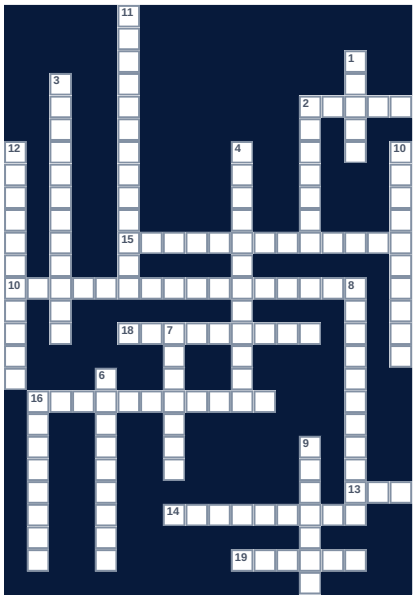
20. A. ordinary income

ordinary income: Income according to ordinary concepts under s 6-5.

20-CLUE CROSSWORD

Crossword - Chapter 9: Capital v Revenue, When Expenditure Is Incurred, Division 40 and Division 43

Launch Chapter 9 Active Crossword to type directly into the grid and check your answers.



Across

1. Capital allowance regime for depreciating assets.
2. Work that changes or enhances an asset beyond repair.
3. Authority on enduring benefit and capital expenditure.
4. Authority on capital/revenue character in a commercial setting.
5. Adjustment on disposal or cessation of a depreciating asset.
6. Period used in depreciation calculations.
7. Business profit-yielding framework relevant to capital analysis.
8. Restoration distinguished from capital improvement.

Down

1. Capital works regime for qualifying construction expenditure.
2. Asset with a limited effective life capable of declining in value.
3. Capital works expenditure potentially within Division 43.
4. One statutory method for decline in value.
5. Recurring or operational expenditure ordinarily on revenue account.
6. Alternative decline-in-value method.
7. Expenditure on the profit-yielding structure rather than ordinary operations.
8. Authority refining capital/revenue analysis.
9. Leading Australian authority on capital/ revenue distinction.
10. Classic recurrence test authority.
11. Timing concept requiring a presently existing liability.
12. Reduction in value giving rise to Div 40 deductions.

CROSSWORD ANSWERS

Crossword Answers - Chapter 9

2 Across - DIV40	5 Across - IMPROVEMENT
10 Across - BRITISHINSULATED	13 Across - NAB
14 Across - BALANCING	15 Across - EFFECTIVELIFE
18 Across - STRUCTURE	19 Across - REPAIR
1 Down - DIV43	3 Down - DEPRECIATING
4 Down - CONSTRUCTION	6 Down - PRIMECOST
7 Down - REVENUE	8 Down - DIMINISHING
9 Down - CAPITAL	10 Down - BROKENHILL
11 Down - SUNNEWSPAPERS	12 Down - VALLAMBROSA
16 Down - INCURRED	17 Down - DECLINE

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Plant, building works and repairs

Problem

Sarah’s retail business buys a $120,000 machine, constructs a $300,000 storage extension and spends $18,000 replacing a damaged roof with substantially equivalent materials. Explain the capital/revenue character of each amount and the possible operation of Divisions 40 and 43 and the repairs provisions.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Plant, building works and repairs

Issue. The machine, building extension and roof work are all capital/revenue classification problems, but different statutory regimes may still allow deductions over time.

Rule / Law. Section 8-1(2)(a) denies capital expenditure. Section 25-10 allows repairs, but not reconstruction/replacement of the entirety or improvements of a capital nature. Division 40 provides decline-in-value deductions for depreciating assets and Division 43 provides capital-works deductions for qualifying structural expenditure. *Sun Newspapers* and related authorities distinguish the profit-yielding structure from recurrent operations.

Application. The $120,000 machine is a separate depreciating asset and is capital: no immediate s 8-1 deduction, but Div 40 applies. The $300,000 storage extension creates/improves structural premises and is capital works, so Div 43 should be considered rather than s 8-1. The $18,000 roof work replaces damaged material with substantially equivalent material. If it restores rather than improves and is not a reconstruction of the entirety, s 25-10 supports an immediate repair deduction. If the work replaces an entire separate asset or substantially improves the building, capital treatment would follow instead.

Conclusion. Machine—Div 40; extension—Div 43; like-for-like roof restoration—likely s 25-10 repair, subject to the entirety/improvement tests.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - When is expenditure incurred?

Problem

A company signs an unconditional service contract on 28 June requiring payment of $60,000 on 15 July for work already completed. It also agrees in June to a future refurbishment whose scope and price will not be fixed until August. Determine which liabilities are incurred in the current year and then classify any resulting deduction or capital allowance pathway.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - When is expenditure incurred?

Issue. Deductibility requires the liability to be "incurred" in the current year before its revenue/capital treatment is considered.

Rule / Law. Under s 8-1, an outgoing is generally incurred when the taxpayer is definitively committed or presently subject to a pecuniary liability, even if payment occurs later; a merely contingent or future liability is not yet incurred. Once incurred, the capital/revenue distinction and any specific capital allowance provision must be applied.

Application. The $60,000 service contract is unconditional, the work is already completed and only payment is postponed to 15 July. The company is definitively committed by 28 June, so the outgoing is incurred in the current year. If the services are revenue in character and satisfy s 8-1, the deduction is taken in that year (subject to any timing provision). By contrast, the proposed refurbishment has no fixed scope or price until August and therefore no presently existing pecuniary liability in June; it is not yet incurred. When it later crystallises, its nature must be classified—an improvement/refurbishment may be capital and fall under Div 40/43 rather than s 8-1.

Conclusion. $60,000 is incurred in the current year; the future refurbishment is not incurred until the obligation becomes definite.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 10. SPECIFIC DEDUCTIONS, BORROWING COSTS, REPAIRS AND DEDUCTION DENIALS

specific deductions • borrowing costs • repairs • mortgage discharge • deduction denials • capital treatment

Specific deduction provisions often rescue expenditure that is capital or otherwise outside s 8-1. A disciplined answer checks the general provision first, then asks whether a more specific rule applies.

LEARNING OUTCOMES

- Apply the interest-use principle and distinguish interest from borrowing expenses.
- Calculate deductions for borrowing expenses under s 25-25.
- Apply mortgage discharge and repair provisions.
- Distinguish repair from replacement, improvement and initial repair.
- Use other specific deduction and denial provisions supplied in the relevant law and authorities.
- Integrate deductions, capital allowances and CGT in Marty's business-property problem.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: specific deductions must be tested independently of s 8-1

A common mistake is to stop after finding that expenditure is capital under s 8-1. Tax law contains specific provisions that can grant deductions despite capital character or

can deny deductions that would otherwise satisfy the general rule. The student should therefore move systematically through the specific deduction and denial provisions identified in this chapter.

Borrowing expenses — s 25-25

Borrowing expenses are not the same as interest. Interest is a recurrent cost of using borrowed money and usually turns on nexus; borrowing expenses are capital costs of obtaining finance and are spread under s 25-25 subject to the statutory period and thresholds. A worked answer separates loan establishment fees, legal costs, valuation fees, stamp duty or mortgage costs rather than assuming every finance-related amount is “interest”.

Repairs — s 25-10

Repairs restore something to its former efficiency without reconstructing or replacing the entirety or producing a substantial capital improvement. Students should identify the relevant property, the defect, whether the work restores or improves, whether it is an initial repair and whether a different capital regime applies.

Tax-related expenses and deduction denials

Section 25-5 can specifically recognise costs of managing tax affairs, but its exclusions and later reforms must be checked for the relevant income year. Deduction-denial provisions must be treated as independent statutory rules: satisfying s 8-1 does not guarantee deductibility if Parliament has specifically denied the amount.

> **In plain English**
> Specific deductions are targeted exceptions. Always identify what the money bought: the use of borrowed money, the loan itself, a repair, an improvement, tax advice, a discharged mortgage, or something else. Characterisation determines the provision.

Key language

interest | borrowing expenses | mortgage discharge | repair | initial repair | improvement | replacement | s 25-25 | s 25-30 | s 25-10 | tax affairs | bad debt | loss by theft | gift | related party | deduction denial | capital allowance | cost base | apportionment | specific deduction

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

10.1 Specific deductions: why the analysis continues after s 8-1

Tax students often learn s 8-1 first and then try to force every outgoing through it. That is a mistake. The ITAA97 contains many specific deduction provisions designed for expenditure that may fail s 8-1 because it is capital or because Parliament wants a particular timing rule. Section 8-5 recognises specific deductions, while s 8-10 prevents double deductions.

A disciplined approach is: (1) identify the outgoing; (2) test s 8-1 where appropriate; (3) identify any specific deduction; (4) check specific denials; (5) coordinate with CGT and capital allowances.

10.2 Interest: trace the use of borrowed money

Interest is ordinarily revenue rather than capital. Under s 8-1, deductibility generally depends on the use to which the borrowed funds are put. *Steele v DFCT* confirms the importance of purpose/use and that interest can be deductible even before income begins where nexus remains sufficiently strong. *FCT v Munro* teaches that the security offered for the loan does not determine deductibility.

Therefore, a loan secured over a rental property can produce non-deductible interest if the borrowed funds are spent privately. Conversely, interest on money secured over a private home can be deductible if the borrowed funds are actually used in an income-producing business or investment, subject to the detailed facts.

Where one borrowing is used for mixed purposes, interest must be apportioned. Tracing and later redraws can make this technically complex. Students should follow the actual use of each borrowed amount rather than the name of the loan account.

10.3 Interest and CGT cost base

Section 110-25(4) can include certain non-capital ownership costs in the CGT cost base. But amounts already deducted can be excluded from cost base by provisions such as s 110-45(1B). The policy is straightforward: the taxpayer should not obtain both an income-tax deduction and a second tax benefit by adding the same outgoing to cost base where the statute prevents it.

In a property problem, ask both questions: “Is the interest deductible under s 8-1?” and “If not deducted, can it enter cost base?” The answers can differ by period and use.

10.4 Borrowing expenses — s 25-25

Costs of obtaining finance—loan establishment fees, legal costs of negotiating the loan, valuation fees required by the lender and broker commissions—are generally capital because they secure access to the borrowed funds. They are not the same as ongoing interest for use of the money. Section 25-25 therefore provides a specific deduction where borrowed money is used for income-producing purposes.

Broadly, qualifying borrowing expenses are deducted over the shorter of five years or the loan term. Where the borrowing starts part-way through an income year, the deduction is apportioned by the relevant period. If total borrowing expenses are $100 or less, s 25-25(6) permits immediate deduction. If the loan is repaid early, remaining undeducted qualifying borrowing expenses can generally be brought forward in accordance with the provision.

The cost-base interaction must also be checked. Section 110-35(9) can recognise certain borrowing costs as incidental costs, but s 110-45(1B) prevents double benefit for amounts already deducted.

10.5 Mortgage discharge expenses — s 25-30

Mortgage discharge fees are capital in nature and ordinarily fail s 8-1. Section 25-30 provides a specific deduction where the mortgage secured money borrowed, or

property acquired, for producing assessable income. This chapter identifies both lender-finance and vendor-finance situations.

If the underlying borrowing or property had mixed income-producing/private use, the discharge-cost deduction must be apportioned. The fact that a fee is charged at the end of the investment does not prevent deduction where the specific provision applies.

10.6 Repairs — s 25-10

Section 25-10 allows deductions for repairs to premises or depreciating assets held or used for the purpose of producing assessable income, subject to its limits. A repair restores function or condition without changing the essential character of the thing repaired. Capital improvements, replacement of an entirety and initial repairs can fall outside the provision.

TR 97/23 is a principal ATO ruling for this topic. It should be used alongside cases such as *W Thomas & Co Pty Ltd v FCT*, *Lindsay v FCT* and *Western Suburbs Cinemas Ltd v FCT* .

10.7 Repair versus improvement

A repair makes good defects, damage or deterioration. An improvement provides a greater, more efficient or fundamentally different asset than existed before. Replacing worn roof sheets with comparable material can be a repair; replacing an old shed with a much larger permanent steel structure is likely an improvement/capital work.

The use of modern materials does not automatically make work an improvement if the result merely restores functionality using contemporary equivalents. The practical question is whether the work restores the asset or improves it beyond its former condition.

10.8 Replacement of an entirety

Even work described as “repair” can be capital if it replaces the whole of a separately identifiable asset or entirety. *Lindsay v FCT* and *Western Suburbs Cinemas* help identify the unit of property. The correct unit is not always the taxpayer's entire premises; a component can be an entirety if it is functionally distinct and separately identifiable.

This is a fact-sensitive question. Students should state what they say the relevant entirety is and explain why.

10.9 Initial repairs

Expenditure remedying defects that existed when property was acquired can be capital because it forms part of the cost of acquiring the asset in a usable condition, even if the work looks like an ordinary repair. TR 97/23 discusses initial repairs. The key is when the deterioration arose and whether the purchase price/condition reflects pre-existing defects.

By contrast, deterioration arising through the taxpayer's own income-producing use after acquisition is much more likely to support a repair deduction if the work otherwise restores rather than improves.

10.10 Other specific deduction and denial provisions

This chapter surveys a range of provisions because real tax practice requires students to research beyond s 8-1. Examples include tax-related expenses under s 25-5, bad debts, subscriptions, gifts, superannuation and other specific deductions, as well as specific denials such as s 26-20 for HELP/FEE-HELP repayments, s 26-35 for excessive payments to related entities and other provisions indexed through s 13-1.

Section 26-35 is an integrity provision. Where a taxpayer pays an associated person more than a reasonable amount for services, only the reasonable amount may be deductible. The recipient can still be assessable on the amount actually received, producing an intentionally asymmetric result.

10.11 Proposed negative-gearing reforms and current law

This chapter discusses policy proposals concerning negative gearing. Students must distinguish a proposal, Bill or Budget announcement from enacted law. The current-law answer for the stated income year must be based on legislation in force. A proposed reform can be noted separately where the assessment asks for policy or future-law awareness.

10.12 Core provision map

Provision / authority	What it does	Use
s 8-1; *Steele*; *Munro*	Interest deductibility follows use of funds and nexus.	Loans, mixed-purpose borrowings.
s 25-25	Specific deduction for qualifying borrowing expenses.	Loan fees/legal/valuation/ broker costs.

s 25-30	Mortgage discharge expense deduction.	Ending income-producing mortgage.
s 25-10; TR 97/23	Repairs to income-producing premises/assets.	Restore vs improve; initial repairs; entirety.
W Thomas	Repair concept and restoration.	Ordinary repairs.
Lindsay; *Western Suburbs Cinemas*	Replacement of entirety / capital improvement principles.	Major replacements.
s 26-35	Limits deduction for excessive payments to associates.	Family/related-party services.
ss 110-25, 110-35, 110-45	CGT cost-base interaction.	Avoid double benefit.

10.13 Application masterclass — Marty

Marty owns commercial premises used for an electric-bike business. He replaces an old deteriorated timber shed with a larger permanent steel building, installs a removable CCTV system, repairs 15% of a corroded roof, later sells the premises and sells the CCTV separately. This is an integrated problem testing s 25-10, Div 40, Div 43 and CGT.

New steel storage building

The old shed could have been repaired for about $5,000, but Marty demolishes it and constructs a substantially larger steel building for $40,000. This is not merely restoration of the old shed. It creates a new and improved structural asset. Section 25-10 should therefore be rejected. Division 43 is the natural next inquiry for qualifying capital works.

CCTV system

The cameras, monitor and recorder operate as an integrated security system, are removable without material damage and have a four-year effective life. That points strongly to a Div 40 depreciating asset rather than structural capital works. Calculate decline in value from when the system is first used, applying Marty's chosen diminishing-value method and 100% business use. On sale, calculate the balancing adjustment using termination value and adjustable value.

Roof work

The roof was sound when acquired. Corrosion develops during Marty's ownership and business use. Only about 15% of sheeting is replaced and the remainder is

untouched. Those facts strongly support repair rather than replacement of the entirety or initial repair. Apply s 25-10 and TR 97/23, while checking whether the work materially improved the roof beyond restoration.

Sale of premises

The land/buildings disposal triggers CGT analysis. The original acquisition price, stamp duty and legal fees must be classified into the appropriate cost-base elements. Division 43 deductions can affect cost-base calculations under the CGT coordination rules. Apply event A1 timing, capital proceeds, cost base and the s 102-5 method, including any prior-year capital loss. The problem directs students to ignore Div 152 small-business concessions.

10.14 HD integrated IRAC

I — Issue

For each item: immediate repair deduction, Div 40 decline in value, Div 43 capital works, balancing adjustment or CGT?

R — Rule

State s 25-10/TR 97/23 and the repair cases; then Div 40 or Div 43 as applicable; finally CGT provisions for disposals.

A — Application

Identify the relevant asset/entirety. Compare old and new function. Explain why CCTV is removable plant while the shed is structural. Show calculations separately.

C — Conclusion

Give the deduction for each item and the final net capital gain. Do not net all amounts together without showing their separate statutory routes.

10.15 Plain-English summary

Specific deductions exist because some useful expenses are capital or require special timing. Interest is about use of borrowed money; borrowing costs are spread under s 25-25; discharge fees have s 25-30; repairs have s 25-10. If an “expense” actually creates or improves a capital asset, move to Div 40, Div 43 and CGT rather than trying to force an immediate deduction.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Specific deductions: general deduction analysis does not end the inquiry

A strong tax answer identifies the most specific applicable provision. Some expenses are deductible under a specific section even when capital or timing features make s 8-1 difficult; other provisions deny or spread deductions. The method is therefore classify first, test s 8-1 where relevant, then search for specific deduction/conferral/denial rules.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

The chapter’s core provisions include s 25-10 repairs, s 25-25 borrowing expenses, s 25-30 mortgage discharge expenses, s 25-5 tax-related expenses, capital allowance rules and cost-base interactions.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The cases do not replace statutory wording. They interpret concepts such as repair, entirety, improvement and capital character, and should be attached to that precise proposition.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The

strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot legal fees, finance establishment fees, valuation, discharge costs, repairs, replacements, asset acquisitions and mixed-purpose expenditure as separate items.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Use an item-by-item deduction schedule: cash amount; legal character; primary provision; denial/spreading rule; current-year deduction; future balance.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Repairs: restoration versus replacement or improvement

A repair restores efficiency or function without changing the character of the property. Replacement of an entirety or substantial improvement is capital. An “initial repair” remedying defects present when an income-producing asset was acquired can also be capital because the cost is part of putting the asset into the condition necessary for income production.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Section 25-10 allows qualifying repairs to premises/depreciating assets held or used for income-producing purposes, but excludes capital expenditure. Capital expenditure may instead form cost base, Div 40 cost or Div 43 construction expenditure.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

W Thomas & Co is a leading Australian repair authority; Western Suburbs Cinemas shows substantial reconstruction/improvement can be capital; Lindsay and related cases help identify the entirety. These authorities explain why replacing a whole roof/ structure differs from patching deterioration.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot what physical thing is the entirety, condition at acquisition, whether materials/ design/efficiency are improved, whether only worn parts are replaced, and whether work is part of a larger reconstruction.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact

provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

For Marty, separate roof work into restorative components and improvement/replacement components if the facts permit. Then route capital portions to the correct regime.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Borrowing expenses and interest must be separated

Interest is the recurrent cost of using borrowed money and is generally analysed under s 8-1 by tracing use. Borrowing expenses are costs of obtaining the finance itself and can be spread under s 25-25. Loan principal is not deductible merely because borrowed funds are used for business. Valuation/legal/establishment fees must be classified according to the statutory borrowing-expense rules and any exclusions.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second,

connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use s 8-1 for interest and s 25-25 for qualifying borrowing expenses. Section 25-30 can apply to certain mortgage discharge costs. CGT cost-base rules may apply to amounts not otherwise deducted.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Munro/Steele guide interest nexus, while the statutory provisions govern borrowing-cost spreading. The Week 13 bus-loan facts are an integrated application.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot term of loan, date borrowing begins, purpose/use of funds, establishment fee, legal fee, valuation fee and any early discharge/refinancing.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Create a finance schedule separating principal, annual interest and capital borrowing costs. Apply the statutory spread to the qualifying borrowing-cost pool.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Asset sale: coordinate Div 40, Div 43 and CGT

When business property is sold, one transaction can engage several regimes. Land/building may produce CGT consequences; a depreciating asset can produce a Div 40 balancing adjustment; capital works deductions can affect CGT cost base. Students should not calculate one global “profit on sale”.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply the relevant CGT event to land/building, Div 40 balancing adjustment to depreciating assets, Div 43 historical deductions/cost-base adjustments, and anti-overlap rules.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The Marty problem is structured precisely to teach this coordination through sale of premises and CCTV.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot sale-price allocation among land, building and equipment; adjustable value; capital works deductions; incidental selling costs; acquisition costs.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Prepare separate disposal worksheets for each tax asset, then bring only the legally relevant gain/income amounts into the final taxable-income reconciliation.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Marty — property expenditure and disposal schedule

Step / item	Tax-law treatment	Number / working
New storage building	Structural capital works	Div 43 rather than immediate s 8-1 repair deduction
CCTV	Separate depreciating asset	Div 40 decline in value and balancing adjustment on sale
Roof work	Classify repair/restoration versus improvement/replacement of entirety	s 25-10 current deduction only to qualifying repair extent
Borrowing/ finance costs	Separate interest from cost of obtaining finance	s 8-1 versus s 25-25
Sale of premises	Land/building CGT event	capital proceeds/cost base + Div 43 interactions
Sale of CCTV	Div 40 termination value	balancing adjustment; coordinate with CGT exclusions/overlap

The problem is designed to make students allocate one commercial property transaction across several statutory regimes. A global “profit on sale” is not a tax calculation.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally

Martin (“Marty”) has qualifications in bicycle mechanics and electric mobility systems. Marty purchased commercial premises (land and building) in Southport on 1 July 2022 for $2,600,000 with the intention of operating an electric bike sales and repair business as a sole trader. Marty turned his attention straight away to setting up the premises for the business, and he commenced trading on 1 September 2022. Stamp duty on the purchase was $130,000 and legal fees were $10,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
The building was constructed by the previous owner with construction expenditure amounting to $800,000 (which does not include the old timber shed - see below). Construction of the building was originally completed on 1 June 2015.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
In January 2025, Marty discovered that the existing timber storage shed out the back of the premises had deteriorated significantly due to age and weather exposure. The shed was used to store spare parts and bicycles awaiting repair. A builder advised that the damaged sections of the shed could be repaired for approximately $5,000.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Rather than repairing the existing shed, Marty decided to demolish it and construct a new steel storage building in its place. The new storage building had a roof, walls and lockable doors. It was permanently affixed to the land by concrete footings, and was substantially larger in its storage capacity than the original shed. It also required less ongoing maintenance than the original shed. Construction commenced on 15 March 2025 and was completed on 1 July 2025 at a cost of $40,000. Marty used the new building straight away to store trading stock, spare parts and customer bicycles awaiting repair.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
On 1 May 2025, Marty purchased and installed a CCTV security system for $10,000 at the Southport property and started to use it in the business straight away. The system was comprised of cameras, a monitor and a digital recorder, which operated together as an integrated security system. It was attached by screws and brackets and it was removable without material damage to the premises. If relevant, the effective life of all components of the CCTV system was 4 years and the system was used solely for business purposes.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

In October 2025, following several periods of heavy rainfall, water entered the premises through a number of locations in the roof. At the time Marty acquired the premises in 2022, the roof was in good working condition. Corrosion had developed during Marty's ownership and business use of the premises. Marty engaged a roofing contractor who removed and replaced approximately 15% of the roof sheeting that had become corroded and who carried out associated work to eliminate the leaks. The remainder of the roof was left untouched. The work was completed and paid for on 1 December 2025 at a cost of $15,000. Marty had forgotten to renew his building insurance policy so the works were uninsured.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
By 2026, Marty's Southport property had increased significantly in value due to continued development in the area and increasing demand for commercial property on the Gold Coast. Marty also concluded that the next stage of his business would be better suited to Burleigh Heads, where he believed he could attract a larger number of higher-income customers interested in premium electric bicycles and servicing packages.	This is a finance trigger. Trace the use of borrowed funds, separate interest from borrowing costs/ principal, and test any mixed use.

On 1 June 2026, Marty entered into a contract to sell the Southport premises (land and buildings only - not the business) for $3,600,000. Settlement occurred on 30 June 2026, and Marty continued to operate the business right up until this time.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
When Marty agreed to sell the premises, the CCTV security system was excluded from the sale as the purchaser wanted to install a more advanced security system. On 20 June 2026, Marty sold all components of his CCTV security system to one buyer through an online auction for $3,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
If relevant, Marty has an unapplied net capital loss from the 2024-25 income year of $30,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Marty always claims deductions available to him and he always prefers to use the diminishing value method of depreciation;	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
ignore the capital allowance regime for small business entities in Subdiv 328-D ITAA97; and	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
assume Marty is not eligible for any CGT small business concessions in Div 152 ITAA 97.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.

Advise Marty of the deductions he can claim for the 2025-26 income year, and the legal basis for doing so. Provide a reason for any exclusions. Support your answer with reference to relevant legislation and case law. Show all workings.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
Calculate Marty's net capital gain for the 2025-26 income year pursuant to s 102-5 ITAA97. Explain your calculation with reference to relevant legislation, and show all workings.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
How would your answer to question 2 change, if at all, if Marty had borrowed money to buy the Southport property and the total interest he had incurred while owning the property was $150,000, which includes $30,000 for the period from 1 July 2025 to 30 June 2026? Explain your answer with reference to relevant legislation and case law.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
(If time permits) Would your answer your question 1 change if a building inspection report obtained by Marty before he purchased the Southport property on 1 July 2022 had identified extensive corrosion in the roof? Why? Support your answer with reference to relevant legislation and case law. You do not need to calculate the quantum of any changes.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: See the relevant authority which explains the test for the deductibility of interest under s 8-1 ITAA97 as confirmed by the High Court in Steele v DFCT 99 ATC 4242. Interest is also not normally a capital expense.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Can interest form part of the CGT cost base or reduced cost base: s 110-25(4) ITAA97? What happens to the CGT cost base if interest has already been deducted under s 8-1 ITAA97? When and how does s 110-45(1B) ITAA97 apply?

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Costs incurred in arranging or securing borrowed funds are generally regarded as capital expenses and therefore are not ordinarily deductible under s 8-1 ITAA97. An exception may arise where borrowing money forms part of the taxpayer’s regular business activities (eg a bank).

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 25-25 ITAA97 provides a specific deduction for borrowing expenses (not interest), where borrowed funds are used for income-producing purposes (and apportionment is required if the funds are used partly for those purposes). The borrowing expenses are generally deductible over the shorter of the period of the loan term or 5 years, with the deduction period commencing on the date the loan is entered into.

Borrowing expenses

Separate costs of obtaining finance from interest and principal. Apply the statutory spreading period and exclusions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Accordingly, if a loan has a term longer than 5 years, the borrowing expenses are spread evenly over the first 5 calendar years from the date of borrowing. Where the loan begins part-way through an income year, the deduction for both the first and last years must be apportioned to account for the fact that the expenses are only deductible for part of those income years.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: However, a different rule applies where the total borrowing expenses incurred are $100 or less. In that case, the full amount is deductible in the income year in which it is incurred: s 25-25(6) ITAA97.

Borrowing expenses

Separate costs of obtaining finance from interest and principal. Apply the statutory spreading period and exclusions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Notice that borrowing expenses under s 25-25 ITAA97 may constitute an incidental cost of a CGT asset and be included under the cost base 2nd element: s 110-35(9) ITAA97. However, what if the borrowing cost has already been deducted: can it be included in the CGT cost base? Consider s 110-45(1B) ITAA97.

Borrowing expenses

Separate costs of obtaining finance from interest and principal. Apply the statutory spreading period and exclusions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What is Liam's s 25-25 ITAA97 deduction for the 2025-26 income year? And what are his deductions for each of the remaining years of the loan?

Borrowing expenses

Separate costs of obtaining finance from interest and principal. Apply the statutory spreading period and exclusions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If Liam repaid the entire loan on 20 June 2027, what is his s 25-25 ITAA97 deduction for the 2026-27 income year?

Borrowing expenses

Separate costs of obtaining finance from interest and principal. Apply the statutory spreading period and exclusions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 25-30 ITAA97 allows a taxpayer to deduct costs incurred in discharging (removing) a mortgage where the mortgage relates to money borrowed or property acquired for the purpose of producing assessable income.

Mortgage discharge

Use for qualifying costs of discharging a mortgage securing income-producing borrowing, subject to the statutory conditions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 25-30 applies to discharges of mortgages that secured a loan from a lender: s 25-30(1). It also applies to a mortgages that secured the purchase price owed to the seller (that is, a vendor finance situation): s 25-30(2). Such costs are capital outgoings and are not deductible under s 8-1 ITAA97, so a specific deduction is needed to provide the deduction.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Example: Jane owns a rental property secured by a mortgage. When Jane sells the property, the bank charges her a $450 mortgage discharge fee. Because the property was used solely to derive rental income, the $450 mortgage discharge fee is deductible under s 25-30 ITAA97.

Mortgage discharge

Use for qualifying costs of discharging a mortgage securing income-producing borrowing, subject to the statutory conditions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Can mortgage discharge fees be included in the 2nd element of the CGT cost base? See s 110-35(9) ITAA97? What if they’ve already been deducted? See s 110-45(1B).

Incidental CGT costs

Test legal fees, stamp duty, brokerage, agent fees and other disposal/acquisition costs against the statutory list and timing requirements.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Elements of section 25-10 of the 1997 Act.

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Repair for the most part is occasional and partial. It involves restoration of the efficiency of function of the property being repaired without changing its character and may include restoration to its former appearance, form, state or condition. A repair merely replaces a part of something or corrects something that is already there and has become worn out or dilapidated. Works can fairly be described as 'repairs' if they are done to make good damage or deterioration that has occurred by ordinary wear and tear, by accidental or deliberate damage or by the operation of natural causes (whether expected or unexpected) during the passage of time.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: To repair property improves to some extent the condition it was in immediately before repair. A minor and incidental degree of improvement, addition or alteration may be done to property and still be a repair. If the work amounts to a substantial improvement, addition or alteration, it is not a repair and is not deductible under section 25-10.”

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: “What is a 'repair' for the purposes of section 25-10 is a question of fact and degree in each case having regard to the appearance, form, state and condition of the particular property at the time the expenditure is incurred and to the nature and extent of the work done to the property.

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If work done to property goes beyond what is a 'repair' in terms of section 25-10, any expenditure for the work is not deductible. The work may go beyond 'repairs' in terms of the section if it:

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: “Work done partly to remedy or make good defects, damage or deterioration does not cease to be a repair if it is also done partly - even largely - to prevent or anticipate defects, damage or deterioration (in a mechanical or physical sense) in property or in rectifying defects in their very early stages. Repairs are not confined to rectifying defects, damage or deterioration that have already become serious. Work done to property not in need of repair, however, is not repair work and any expenditure for the work in these circumstances is not deductible under section 25-10.

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Some kinds of maintenance work are 'repairs' in terms of section 25-10, for example, painting plant or business premises to rectify existing deterioration and to prevent further deterioration. Other kinds of maintenance work, such as oiling, brushing or cleaning something that is otherwise in good working condition and only requires attention to prevent the possibility of its going wrong in the future, are not 'repairs' in terms of the section . Expenditure on the latter kind of maintenance work may be an allowable deduction under section 8-1."

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates "to the extent" of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: "Elle Bashful uses her truck for income producing purposes. She replaces the truck's worn out petrol engine with a diesel engine with a much greater economy of operation. The engine is not an entirety but a subsidiary part of truck. However, the costs relate to an improvement of the truck because the replacement of the engine involved a significantly greater efficiency in the truck's function. The engine is a major and important part of the truck and is a new and better engine with considerable advantages over the old one, including the advantage that it reduces the likelihood of future repair bills. The costs are of a capital nature and are not deductible under section 25-10: cf (1953) 3 CTBR (NS) Case 82. A deduction for depreciation…may be allowable."

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: "Mary Fabrica owns a factory in which the bitumen floor laid on a gravel base needs repairing. She replaces it with a new floor consisting of an

underlay of concrete topped with granolith (a paving stone of crushed granite and cement). The new floor, from a functional efficiency (rather than an appearance) point of view, is not superior in quality to the old floor. The new floor performs precisely the same function as the old and is no more satisfactory. In fact, the new floor is more expensive to repair than the old. Because the new floor is not a substantial improvement, it is a repair and its cost is deductible under section 25-10: Case T75 (1968) 18 TBRD 377; (1968) 14 CTBR (NS) Case 40."

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: "Sam Tabernarius, a shopkeeper, decides to replace the awning of his shop with a more modern and aesthetic equivalent. The awning is in good condition before the work is done; there is nothing to be restored, no decayed or worn out parts to be renewed and nothing loose or detached which requires fixing. The expenditure involved is not for repairs - the awning being in good repair before the work was done - and no deduction is allowable under section 25-10 of the ITAA 1997."

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A repair involvers the replacement or renewal of a subsidiary part of an entirety (or whole).

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Mr Fermier is entitled to claim a deduction for the cost of repairing his fencing under section 25-10. The entirety is the total fencing so replacing the fences on the northern boundary is a replacement of a subsidiary part of the whole fencing: cf (1963) 11 CTBR (NS) Case 44.

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: However, Mr Agricola's expenditure is not deductible under section 25-10 because the whole fencing was replaced, making it a reconstruction of the entirety. The total fencing is not a subsidiary part of the rural property or of anything else. To replace entire fencing with new fencing is to replace one capital asset with another capital asset. The cost is therefore of a capital nature: cf (1962) 10 CTBR (NS) Case 58. Mr Agricola's fences are depreciable 'plant'…"

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: "[A] taxpayer's beachside apartment may have deteriorated over several years due to wear and tear arising from its use for private purposes. If the taxpayer arranges to 'rent' the apartment to his or her adult child for, say, a month and during that month incurs expenditure to repair and paint the apartment, a deduction may not be allowable, in our view, under section 25-10 for the repair and painting costs. We would take the view in appropriate circumstances that no deduction is allowable either because:

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part IVA of the ITAA 1936 may apply to the arrangement [that is, the general anti-avoidance provisions - which we will discuss in a later chapter],"

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Capital expenditure is not deductible under section 25-10 (see section 25-10(3)).

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The expenditure incurred in these circumstances to fix the white ant problem existing at the date of purchase is also of a capital nature. It is therefore not deductible under section 25-10. The fact that William was unaware of the problem when he purchased the house, and the fact that he would have paid a lower purchase price if he had known of the need for repairs, do not alter the capital nature of the expense: Case 64 (1944) 11 TBRD (OS) 202 and the W Thomas & Co case."

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: See section 25-10(2).

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: “Josephine Telefix, a television repairer, owns a station wagon that is used for 70% business and 30% private purposes during the taxation year. Repair costs of $10,000 are incurred on the front panels, engine and computer system in the station wagon following a car accident during the running of the business. The full amount of the repair costs of $10,000 is not deductible under section 25-10. Because Josephine uses the station wagon for private and for business purposes, subsection 25-10(2) limits the amount of her deduction to that part of the expenditure that reasonably relates to the use of the station wagon for business purposes, namely, $7,000.”

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: “Assume the facts [above involving Josephine Telefix] are unchanged except that the accident occurs while Josephine is using the station wagon driving to Church, i.e., for private purposes. We reject the view that no part of the repair costs is deductible under section 25-10. Because Josephine uses the station wagon for private and for business purposes, subsection 25-10(2) limits the amount of her deduction to that part of the expenditure that reasonably relates to the use of the station wagon for business purposes, namely, $7,000.”

Repairs

Identify the relevant entirety and ask whether the work restores it or replaces/ improves it. Capital and initial repairs are outside the current deduction.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: What is the relationship between section 25-10 and section 8-1? The ATO provides a summary of this issue in TR 97/23 (at para 74):

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: “Generally speaking, section 8-1 produces the same result as section 25-10 in relation to the deductibility of repair costs. Section 8-1 has its own tests for deductibility. There may be occasions, however, where section 8-1 allows a deduction for repair expenditure that would otherwise not be deductible under section 25-10. Section 8-1 might allow a deduction, for example, after a taxpayer ceases to hold, etc., property for income purposes even though section 25-10 would not allow a deduction (see Placer Pacific Management Pty Ltd v FC of T 95 ATC 4459; (1995) 31 ATR 253).”

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Repairs of a revenue nature may be included in the 3rd element of the CGT cost base: s 110-25(4)(b); but not to the extent they have already been deducted: s 110-45(1B).

Cost-base elements

Assign each amount to the correct statutory cost-base element; accounting book value is not the legal cost base.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If a repair is capital in nature, then consider if the expenditure satisfies the test in the 4th element of the CGT cost base (in s 110-25(5)) so that it may be included under that element? Then, if it can, does Div 43 ITAA97 provide a capital work deduction for the cost in the meantime? If Div 43 applies, do the deductions claimed under that Division need to be removed from the CGT cost base when CGT event A1 happens when the property is disposed? When and how does s 110-45(2) apply?

Cost-base elements

Assign each amount to the correct statutory cost-base element; accounting book value is not the legal cost base.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Tax related expenses (section 25-5)

Tax affairs expenses

Identify whether the expense is incurred in managing tax affairs and whether any exclusion/spreading rule applies.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Borrowing expenses (section 25-25) - see above

Borrowing expenses

Separate costs of obtaining finance from interest and principal. Apply the statutory spreading period and exclusions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Expenses of discharging a mortgage (section 25-30) - see above

Mortgage discharge

Use for qualifying costs of discharging a mortgage securing income-producing borrowing, subject to the statutory conditions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Bad debts (section 25-35)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Loss by theft etc. (section 25-45)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Travel between workplaces (section 25-100)

Travel between workplaces

Use only after identifying two income-producing activities/workplaces and testing the statutory conditions; ordinary home-to-work travel remains a different issue.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Gifts (section 30-15)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Tax losses (Division 36)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Project amounts (section 40-830) - See the relevant authority

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Business Related Costs (section 40-880) - See the relevant authority

Business-related capital expenditure

Use only after confirming the expenditure is capital and is not dealt with by another provision. Then work through the business connection and exclusions and spread qualifying expenditure over five years.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Penalties (section 26-5)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Leave payments (section 26-10)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: HECS and student assistance (section 26-20)

HELP/education debt repayment denial

Distinguish the underlying self-education cost from repayment of a HELP-type debt; the repayment itself is not made deductible merely because the original study cost had an income nexus.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Relative’s travel expenses (section 26-30)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Bribes to foreign public officials (section 26-52)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Bribes to public officials (section 26-53)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Expenditure relating to illegal activities (section 26-54)

Illegal activity expenditure denial

After applying s 8-1, check the specific denial for expenditure connected with illegal activities as required by the provision.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Entertainment expenditure (see Division 32 of the 1997 Act)

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 51AH of the 1936 Act - no deduction allowed where expenses incurred by an employee are reimbursed.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Consider the situations in which section 26-35 might apply (ie amounts paid to related entities). Some issues:

Payments to related persons

Where a payment is made to an associated person, identify any statutory limit to a reasonable amount and the consequence of excess payment.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Legislation giving effect to this proposal has been implemented, and the core provision is s 26-155 ITAA97. These reforms are mentioned for your awareness only; you will not be tested on the negative gearing changes in session 262.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: See: Treasury Laws Amendment (Tax Reform No. 1) Act 2026, Sch 2, and the Explanatory Memorandum to the related Bill.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: ignore any Div 43 ITAA97 and CGT consequences relating to the old timber shed;

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: ignore the capital allowance regime for small business entities in Subdiv 328-D ITAA97; and

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: assume Marty is not eligible for any CGT small business concessions in Div 152 ITAA 97.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Calculate Marty's net capital gain for the 2025-26 income year pursuant to s 102-5 ITAA97. Explain your calculation with reference to relevant legislation, and show all workings.

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: See the relevant authority which explains the test for the deductibility of interest under s 8-1 ITAA97 as confirmed by the High Court in Steele v DFCT 99 ATC 4242. Interest is also not normally a capital expense.
interest incurred before income commences can be deductible where the borrowing is sufficiently committed to a future income-producing project

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Students are encouraged to read Taxation Ruling TR 97/23: Income tax: deductions for repairs.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The ATO summarises the meaning of ‘repairs’ in TR 97/23 as follows (at paras 13 to 16):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: And at paras 21 and 22 of TR 97/23, the ATO says:
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Can maintenance work be a repair? On this issue, the ATO says in TR 97/23:
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at para 164):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at para 172): This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: "Mary Fabrica owns a factory in which the bitumen floor laid on a gravel base needs repairing. She replaces it with a new floor consisting of an underlay of concrete topped with granolith (a paving stone of crushed granite and cement). The new floor, from a functional efficiency (rather than an appearance) point of view, is not superior in quality to the old floor. The new floor performs precisely the same function as the old and is no more satisfactory. In fact, the new floor is more expensive to repair than the old. Because the new floor is not a substantial improvement, it is a repair and its cost is deductible under section 25-10: Case T75 (1968) 18 TBRD 377; (1968) 14 CTBR (NS) Case 40."
professional/sporting activities and associated exploitation can amount to business/ income where the activities become commercially organised

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at para 162): This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *Lindsay v FCT (1961) 106 CLR 377
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer's position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at paras 165 to 167):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Western Suburbs Cinema Ltd (1952) 86 CLR 102
substantial reconstruction/improvement can be capital rather than a repair

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at paras 171):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: According to the Commissioner in TR 97/23, you can only deduct repair expenditure if the relevant property was held or used for bona fide income producing purposes.
deduction for interest depends on real income-producing nexus and purpose; disproportionate tax-driven arrangements require close analysis

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: An example of the circumstances where this might be an issue is in TR 97/23 (at para 72):

This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at para 171):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *W Thomas & Co Pty Ltd v FCT (1965) 115 CLR 58.
repair restores efficiency/function and must be distinguished from replacement of an entirety or improvement

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at paras 177 to 179):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at para 186):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: The following Example is extracted from TR 97/23 (at para 187): This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: What is the relationship between section 25-10 and section 8-1? The ATO provides a summary of this issue in TR 97/23 (at para 74):
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: "Generally speaking, section 8-1 produces the same result as section 25-10 in relation to the deductibility of repair costs. Section 8-1 has its own tests for deductibility. There may be occasions, however, where section 8-1 allows a deduction for repair expenditure that would otherwise not be deductible under section 25-10. Section 8-1 might allow a deduction, for example, after a taxpayer ceases to hold, etc., property for income purposes even though section 25-10 would not allow a deduction (see Placer Pacific Management Pty Ltd v FC of T 95 ATC 4459; (1995) 31 ATR 253)."
post-cessation expenditure can remain deductible where the occasion of the liability is found in the former business operations

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.

- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. Review the Week 9 readings, then PTL [12.310]; [23.00]–[23.150]; [23.160]; [23.260]–[23.310]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) ("PTL"). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Specific deduction provisions matter because the general deduction rule is not the end of the analysis. Parliament sometimes allows deductions for amounts that would otherwise be capital, spreads the deduction over time, or denies amounts that would otherwise have a sufficient nexus. The student must therefore classify the expenditure precisely before selecting the provision.

Borrowing illustrates the distinction. Interest is the recurring cost of using borrowed money and is generally analysed under s 8-1 by tracing use of the funds. Borrowing expenses are costs of obtaining the loan itself and are capital in character, but s 25-25 provides a specific deduction spread over the statutory period. Mortgage discharge expenses are dealt with separately again under s 25-30.

Repairs require the same discipline. Section 25-10 can deduct revenue repairs, but not capital improvements or initial repairs. The cases distinguish restoration of a subsidiary part from replacement of an entirety, and restoration of function from improvement of the asset.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA97 s 8-1 — interest	Interest generally takes its character from the use to which the borrowed funds are put.	Trace each borrowing/ redraw/refinance to its use and apportion mixed use.

ITAA97 s 25-25	Specific deduction for qualifying borrowing expenses, generally spread over the shorter of five years or the loan term; amounts of $100 or less may be immediately deductible under the identified subsection.	Calculate the first and last income-year apportionment where the loan commences part-way through a year.
ITAA97 s 110-35(9) and s 110-45(1B)	Borrowing costs may interact with CGT cost base, but deductions can prevent double recognition.	Use when an asset is later sold and the same finance cost might otherwise be both deducted and included in cost base.
ITAA97 s 25-30	Specific deduction for mortgage discharge expenses within its scope.	Use on refinancing/sale where the lender charges discharge costs.
ITAA97 s 25-10	Specific deduction for repairs to premises or depreciating assets used for income-producing purposes, excluding capital expenditure.	Identify the thing repaired, its condition, and whether work restores or improves it.
ITAA97 s 25-5, s 25-100, Div 36 and s 40-880	Examples of further specific deduction provisions covered by this chapter.	Use as a checklist after s 8-1.
ITAA97 deduction-denial provisions including s 26-5 and s 26-35	Parliament specifically denies penalties and can limit excessive payments to related entities to a reasonable amount.	Always check for a denial provision after finding a positive deduction rule.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it

Steele v DCT 99 ATC 4242	Confirms the use/purpose approach to interest and that interest is not ordinarily capital merely because borrowed funds relate to a capital asset.	Use for interest during development/pre-income periods.
W Thomas & Co; Western Suburbs Cinemas and repair authorities	Distinguish repair from improvement/reconstruction and replacement of the entirety.	Use to identify whether s 25-10 applies or capital allowance treatment is required.
Initial repair authorities	Expenditure remedying defects existing at acquisition can be capital because it forms part of the cost of putting the asset into usable condition.	Use where the defect existed when the taxpayer acquired the property.

Worked application — fact-by-fact reasoning map

Marty — new storage building
A new building is not a “repair”. Analyse Div 43 capital works and any cost-base consequences.

CCTV system
Identify whether it is a separate depreciating asset under Div 40, its cost/start time/effective life and any taxable-use apportionment.

Roof work
Separate genuine restoration from improvement or replacement of an entirety. The description “repair” on an invoice is not conclusive.

Sale of premises
Coordinate Div 43/repair deductions with CGT cost base and any statutory reductions for amounts already deducted.

Sale/disposal of CCTV
Apply the Div 40 balancing adjustment rather than treating proceeds as a simple capital gain without checking the depreciation regime.

Borrowing and discharge costs
Calculate s 25-25 deductions over time and apply s 25-30 separately to discharge expenditure.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 10 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. Under s 25-10, a "repair" is deductible where it involves:

1. Any change to an asset's appearance
2. Restoration of the efficiency of function of an asset without changing its character, as opposed to an improvement
3. Replacement of the entire asset
4. Only work costing less than $300

Q2. W Thomas & Co Pty Ltd v FCT held that replacing a damaged part of a larger asset (rather than the whole asset) is more likely to be treated as:

1. A capital improvement in every case
2. A deductible repair, since only part of the entire asset was addressed
3. Trading stock
4. A CGT event

Q3. FCT v Western Suburbs Cinemas Ltd held that replacing a damaged ceiling with newer, better material was:

1. A deductible repair because the ceiling needed fixing
2. An improvement rather than a repair, because it went beyond mere restoration and changed the character/quality of the asset
3. Always deductible regardless of materials used
4. A capital works deduction under Division 43 automatically

Q4. Borrowing expenses (the costs of obtaining a loan itself, such as loan establishment fees) are:

1. Deductible in full immediately under s 8-1
2. Generally capital in character, but specifically made deductible (often spread over the loan period or five years) under s 25-25
3. Never deductible
4. Deductible only for business loans, never for investment property loans

Q5. Interest on a loan, as distinct from the cost of obtaining the loan, is generally analysed under:

1. Section 25-25 exclusively
2. Section 8-1, by tracing the use of the borrowed funds
3. Division 40 exclusively
4. The CGT provisions

Q6. "Notional repairs" — restoring an asset to a condition it never actually had while owned by the current taxpayer — are:

1. Always deductible as repairs
2. Generally not deductible as a repair; the relevant condition is the one at the time the taxpayer's ownership/use began
3. Deductible only if the previous owner agrees
4. Automatically capital works

Q7. Payments to a trade, business or professional association for membership are treated as:

1. Admission/joining fees may be capital, while ongoing annual membership fees are generally deductible under a specific provision connected to producing assessable income
2. Always fully deductible regardless of type
3. Never deductible
4. Only deductible for sole traders

Q8. Steele v DFCT and FCT v Munro are both relevant to this chapter's treatment of:

1. CGT small business concessions
2. Interest deductibility principles (timing and tracing) as applied to specific deduction scenarios
3. Fringe benefits tax
4. The constitutional definition of taxation

Q9. When classifying an outgoing under this chapter's specific deduction provisions, the student must first:

1. Assume s 8-1 always applies
2. Classify the expenditure precisely (e.g. repair vs improvement, borrowing cost vs interest) before selecting the correct specific provision
3. Apply the CGT discount
4. Check only the amount involved

Q10. Placer Pacific Management Pty Ltd v FCT **(also relevant here) illustrates that a specific deduction connected to a former business activity:**

1. Can remain available where the liability is genuinely a recurrent one traceable to the earlier income-producing operations
2. Is never available once a business changes hands
3. Requires the same owner to still hold the asset
4. Only applies to companies

Chapter 10 Mastery Quiz — Answers and Explanations

A1. Answer: B

A repair restores efficiency of function without changing the asset's character, unlike an improvement.

A2. Answer: B

W Thomas treats replacement of part of a larger asset as more likely a deductible repair.

A3. Answer: B

Western Suburbs Cinemas found the newer, better ceiling material was an improvement, not a repair.

A4. Answer: B

Borrowing expenses are capital but specifically made deductible, often spread, under s 25-25.

A5. Answer: B

Interest is analysed under s 8-1 by tracing fund use, separately from borrowing costs.

A6. Answer: B

Notional repairs restore a condition never actually held during the taxpayer's ownership and are generally not deductible.

A7. Answer: A

Joining fees may be capital; ongoing membership fees are generally deductible.

A8. Answer: B

Steele and Munro are relevant to interest timing and tracing principles.

A9. Answer: B

Precise classification of the expenditure type comes before selecting the specific provision.

A10. Answer: A

Placer Pacific shows a recurrent liability traceable to former operations can remain deductible.

Chapter 10 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Explain the distinction between a "repair" (s 25-10) and an "improvement", using W Thomas and Western Suburbs Cinemas.

SA2. Explain why interest and borrowing expenses are treated under two different provisions, despite both relating to the same loan.

SA3. Explain what a "notional repair" is and why it is not deductible under s 25-10.

SA4. Explain the tax treatment of joining fees versus ongoing membership fees for a professional association.

SA5. A landlord replaces a worn carpet in a rental property with a similar-quality carpet, and separately installs a swimming pool. Classify each item of expenditure and explain the applicable provisions.

Chapter 10 Short-Answer Questions — Model Answers

Model Answer SA1

A repair under s 25-10 restores the efficiency of function of an asset to what it was, without changing its essential character — as in W Thomas, where replacing part of a larger asset (the ship's underpinning) with a modern equivalent remained a repair. An improvement goes beyond mere restoration, changing the character or quality of the asset — as in Western Suburbs Cinemas, where replacing a damaged ceiling with newer, better material was held to be an improvement because it upgraded rather than merely restored the asset.

Model Answer SA2

Interest is the ongoing cost of using borrowed money over time and is analysed under the general deduction provision (s 8-1) by tracing the use to which the borrowed funds were put. Borrowing expenses are the one-off costs of obtaining the loan itself (such as establishment fees, legal fees for the loan documents, and mortgage registration fees) — these are treated as capital in nature (since they relate to acquiring the loan facility, an enduring arrangement) but are specifically made deductible under s 25-25, generally spread over the loan term or five years, because Parliament chose to allow them despite their capital character.

Model Answer SA3

A notional repair (or "initial repair") is work that brings an asset up to a standard or condition it did not actually have during the current taxpayer's period of ownership or use — for example, fixing damage that existed at the time of purchase. It is not deductible under s 25-10 because the relevant comparison point for "repair" is the condition of the asset since the taxpayer's ownership began, not some earlier or hypothetical condition; work restoring a pre-existing defect is treated as capital expenditure improving the asset from the taxpayer's perspective, not repairing wear and tear that occurred during their ownership.

Model Answer SA4

A one-off joining or admission fee to a trade, business, or professional association is often treated as capital, because it secures an enduring right or status (membership) rather than being incurred in the day-to-day production of income. The ongoing annual membership fee, by contrast, is generally deductible because it is a recurring cost connected with maintaining the professional status or access needed to continue producing assessable income.

Model Answer SA5

The carpet replacement, if of similar quality and simply restoring the property's existing standard, is a deductible repair under s 25-10 — it restores function without upgrading the asset's character. The swimming pool installation is a new capital asset, not a repair (there is nothing being "restored" — it did not exist before), so it is capital expenditure, potentially eligible for capital works deductions under Division 43 (or Division 40 for any depreciating asset components, such as pool equipment) rather than an immediate deduction under s 8-1 or s 25-10.

Chapter 10 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: If I replace an old, worn part with a modern equivalent, is that still a repair?

Q: I bought a rundown rental property. Can I deduct the cost of fixing it up before renting it out?

Q: Can I deduct the whole loan establishment fee in the year I take out the loan?

Q: Is a one-off joining fee for a professional body deductible?

Q: What if a repair happens at the same time as an unrelated improvement?

Chapter 10 — Frequently Asked Questions: Suggested Answers

FAQ 1

Usually yes, provided the replacement restores function without significantly improving the character or quality of the whole asset beyond mere restoration — using a modern equivalent material for a like-for-like part replacement (as in W Thomas) is generally still a repair.

FAQ 2

Generally no as an immediate repair deduction — this is treated as a "notional" or "initial" repair (bringing the property up to a standard it did not have when you acquired it), which is capital in nature rather than a deductible repair, since the relevant baseline condition is the one at the time your ownership began.

FAQ 3

Not necessarily — borrowing expenses under s 25-25 are often required to be spread over the shorter of the loan term or five years, rather than deducted entirely upfront.

FAQ 4

Often not, as it can be treated as capital (securing a lasting right to membership), while the recurring annual membership fee is more likely deductible as connected to maintaining income-producing professional status.

FAQ 5

Each item of work should be classified separately according to its own character — a genuine repair remains deductible even if carried out alongside separate capital improvement work, provided the two can be distinguished.

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does borrowing expenses mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Interest mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Repair mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does Mortgage mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does tax-related expense mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does Baddebt mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does Theft mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Gifts mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does borrowing expenses mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Costs of obtaining finance potentially deductible under s 25-25. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

2. What does Interest mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Cost of using borrowed funds generally tested under s 8-1. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

3. What does Repair mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Restoration deductible under s 25-10 where statutory conditions are met. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

4. What does Mortgage mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Discharge expenses potentially covered by s 25-30. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

5. What does tax-related expense mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Tax-related expense potentially deductible under s 25-5. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

6. What does Baddebt mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Specific deduction category under s 25-35. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

7. What does Theft mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Specific deduction provision for certain losses by theft. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

8. What does Gifts mean, why does it matter in Chapter 10, and how should a student use it in a problem question?

Deductibility depends on Division 30 requirements. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define borrowing expenses and explain why it matters to the Chapter 10 analysis.
2. Define Interest and explain why it matters to the Chapter 10 analysis.
3. Define Repair and explain why it matters to the Chapter 10 analysis.
4. Define Mortgage and explain why it matters to the Chapter 10 analysis.

5. Define tax-related expense and explain why it matters to the Chapter 10 analysis.
6. Define Baddebt and explain why it matters to the Chapter 10 analysis.
7. What role does s 8-1 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 25-25 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does s 25-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does s 25-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does s 25-30 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 8-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 8-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Steele v DCT 99 ATC 4242 illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does Steele v DFCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does FCT v Munro illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does W Thomas & Co Pty Ltd v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Lindsay v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Marty borrows $800,000 for an income-producing property and incurs $5,000 borrowing costs on a 10-year loan beginning 1 January. During the year he pays $9,000 to repair storm damage, $40,000 to replace an entire defective structural system with a superior…
20. What should a strong Chapter 10 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

Costs of obtaining finance potentially deductible under s 25-25. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

2. Answer

Cost of using borrowed funds generally tested under s 8-1. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

3. Answer

Restoration deductible under s 25-10 where statutory conditions are met. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

4. Answer

Discharge expenses potentially covered by s 25-30. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

5. Answer

Tax-related expense potentially deductible under s 25-5. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

6. Answer

Specific deduction category under s 25-35. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

7. Answer

Specific deduction provisions often rescue expenditure that is capital or otherwise outside s 8-1. A disciplined answer checks the general provision first, then asks whether a more specific rule applies.

8. Answer

Calculate deductions for borrowing expenses under s 25-25.

9. Answer

Section 25-10 allows deductions for repairs to premises or depreciating assets held or used for the purpose of producing assessable income, subject to its limits. A repair restores function or condition without changing the essential character of the thing repaired. Capital improvements, replacement of an entirety and initial repairs can fall outside the provision.

10. Answer

Section 25-5 can specifically recognise costs of managing tax affairs, but its exclusions and later reforms must be checked for the relevant income year. Deduction-denial provisions must be treated as independent statutory rules: satisfying s 8-1 does not guarantee deductibility if Parliament has specifically denied the amount.

11. Answer

Mortgage discharge fees are capital in nature and ordinarily fail s 8-1. Section 25-30 provides a specific deduction where the mortgage secured money borrowed, or property acquired, for producing assessable income. The Forum identifies both lender-finance and vendor-finance situations.

12. Answer

Tax students often learn s 8-1 first and then try to force every outgoing through it. That is a mistake. The ITAA97 contains many specific deduction provisions designed for expenditure that may fail s 8-1 because it is capital or because Parliament wants a particular timing rule. Section 8-5 recognises specific deductions, while s 8-10 prevents double deductions.

13. Answer

Tax students often learn s 8-1 first and then try to force every outgoing through it. That is a mistake. The ITAA97 contains many specific deduction provisions designed for expenditure that may fail s 8-1 because it is capital or because Parliament wants a particular timing rule. Section 8-5 recognises specific deductions, while s 8-10 prevents double deductions.

14. Answer

Confirms the use/purpose approach to interest and that interest is not ordinarily capital merely because borrowed funds relate to a capital asset.

15. Answer

Interest is ordinarily revenue rather than capital. Under s 8-1, deductibility generally depends on the use to which the borrowed funds are put. Steele v DFCT confirms the importance of purpose/use and that interest can be deductible even before income begins where nexus remains sufficiently strong. FCT v Munro teaches that the security offered for the loan does not determine deductibility.

16. Answer

Interest is ordinarily revenue rather than capital. Under s 8-1, deductibility generally depends on the use to which the borrowed funds are put. Steele v DFCT confirms the importance of purpose/use and that interest can be deductible even before income begins where nexus remains sufficiently strong. FCT v Munro teaches that the security offered for the loan does not determine deductibility.

17. Answer

TR 97/23 is the principal ATO ruling in the course. It should be used alongside cases such as W Thomas & Co Pty Ltd v FCT , Lindsay v FCT and Western Suburbs Cinemas Ltd v FCT .

18. Answer

TR 97/23 is the principal ATO ruling in the course. It should be used alongside cases such as W Thomas & Co Pty Ltd v FCT , Lindsay v FCT and Western Suburbs Cinemas Ltd v FCT .

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 8-1 in this chapter?

1. s 25-25
2. s 8-1
3. s 25-10
4. s 25-5

2. Which provision is the relevant statutory reference for the rule or method associated with s 25-25 in this chapter?

1. s 8-1
2. s 25-10
3. s 25-5
4. s 25-25

3. Which provision is the relevant statutory reference for the rule or method associated with s 25-10 in this chapter?

1. s 8-1
2. s 25-25
3. s 25-10
4. s 25-5

4. Which provision is the relevant statutory reference for the rule or method associated with s 25-5 in this chapter?

1. s 25-5
2. s 8-1
3. s 25-25
4. s 25-10

5. Which provision is the relevant statutory reference for the rule or method associated with s 25-30 in this chapter?

1. s 8-1
2. s 25-25
3. s 25-30
4. s 25-10

6. Which provision is the relevant statutory reference for the rule or method associated with s 8-5 in this chapter?

1. s 8-5
2. s 25-25
3. s 8-1
4. s 25-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 8-10 in this chapter?

1. s 8-1
2. s 25-10
3. s 8-10
4. s 25-25

8. Which provision is the relevant statutory reference for the rule or method associated with s 110-25(4) in this chapter?

1. s 8-1
2. s 25-10
3. s 25-25
4. s 110-25(4)

9. Which authority is connected with this proposition: Confirms the use/purpose approach to interest and that interest is not ordinarily capital merely because borrowed funds relate to a capital asset.

1. FCT v Munro
2. Steele v DFCT
3. Steele v DCT 99 ATC 4242
4. W Thomas & Co Pty Ltd v FCT

10. Which authority is connected with this proposition: Interest is ordinarily revenue rather than capital. Under s 8-1, deductibility generally depends on the use to which the borrowed funds are put. Steele v DFCT confirms the…

1. FCT v Munro
2. W Thomas & Co Pty Ltd v FCT
3. Steele v DCT 99 ATC 4242
4. Steele v DFCT

11. Which authority is connected with this proposition: Interest is ordinarily revenue rather than capital. Under s 8-1, deductibility generally depends on the use to which the borrowed funds are put. Steele v DFCT confirms the…

1. W Thomas & Co Pty Ltd v FCT
2. Steele v DCT 99 ATC 4242
3. Steele v DFCT
4. FCT v Munro

12. Which authority is connected with this proposition: TR 97/23 is the principal ATO ruling in the course. It should be used alongside cases such as W Thomas & Co Pty Ltd v FCT , Lindsay v FCT and Western Suburbs Cinemas Ltd v FCT .

1. Steele v DCT 99 ATC 4242
2. FCT v Munro
3. Steele v DFCT
4. W Thomas & Co Pty Ltd v FCT

13. Which authority is connected with this proposition: TR 97/23 is the principal ATO ruling in the course. It should be used alongside cases such as W Thomas & Co Pty Ltd v FCT , Lindsay v FCT and Western Suburbs Cinemas Ltd v FCT .

1. Steele v DCT 99 ATC 4242
2. FCT v Munro
3. Steele v DFCT
4. Lindsay v FCT

14. Which authority is connected with this proposition: TR 97/23 is the principal ATO ruling in the course. It should be used alongside cases such as W Thomas & Co Pty Ltd v FCT , Lindsay v FCT and Western Suburbs Cinemas Ltd v FCT .

1. Steele v DCT 99 ATC 4242
2. Steele v DFCT
3. Western Suburbs Cinemas Ltd v FCT
4. FCT v Munro

15. Which taxation-law term or authority best matches this description: Costs of obtaining finance potentially deductible under s 25-25.

1. Repair
2. borrowing expenses
3. Mortgage
4. Interest

16. Which taxation-law term or authority best matches this description: Cost of using borrowed funds generally tested under s 8-1.

1. Interest
2. Repair
3. tax-related expense
4. Mortgage

17. Which taxation-law term or authority best matches this description: Restoration deductible under s 25-10 where statutory conditions are met.

1. Repair
2. Baddebt
3. tax-related expense
4. Mortgage

18. Which taxation-law term or authority best matches this description: Discharge expenses potentially covered by s 25-30.

1. tax-related expense
2. Mortgage
3. Baddebt
4. Theft

19. Which taxation-law term or authority best matches this description: Tax-related expense potentially deductible under s 25-5.

1. Theft
2. tax-related expense
3. Baddebt
4. Gifts

20. Which taxation-law term or authority best matches this description: Specific deduction category under s 25-35.

1. Entertainment
2. Gifts
3. Theft
4. Baddebt

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. B. s 8-1

Specific deduction provisions often rescue expenditure that is capital or otherwise outside s 8-1. A disciplined answer checks the general provision first, then asks whether a more specific rule applies.

2. D. s 25-25

Calculate deductions for borrowing expenses under s 25-25.

3. C. s 25-10

Section 25-10 allows deductions for repairs to premises or depreciating assets held or used for the purpose of producing assessable income, subject to its limits. A repair restores function or condition without changing the essential character of the thing repaired. Capital improvements, replacement of an entirety and initial repairs can fall…

4. A. s 25-5

Section 25-5 can specifically recognise costs of managing tax affairs, but its exclusions and later reforms must be checked for the relevant income year. Deduction-denial provisions must be treated as independent statutory rules: satisfying s 8-1 does not guarantee deductibility if Parliament has specifically denied the amount.

5. C. s 25-30

Mortgage discharge fees are capital in nature and ordinarily fail s 8-1. Section 25-30 provides a specific deduction where the mortgage secured money borrowed, or property acquired, for producing assessable income. The Forum identifies both lender-finance and vendor-finance situations.

6. A. s 8-5

Tax students often learn s 8-1 first and then try to force every outgoing through it. That is a mistake. The ITAA97 contains many specific deduction provisions designed for expenditure that may fail s 8-1 because it is capital or because Parliament wants a particular timing rule. Section 8-5 recognises specific deductions, while s 8-10 prevents…

7. C. s 8-10

Tax students often learn s 8-1 first and then try to force every outgoing through it. That is a mistake. The ITAA97 contains many specific deduction provisions designed for expenditure that may fail s 8-1 because it is capital or because Parliament wants a particular timing rule. Section 8-5 recognises specific deductions, while s 8-10 prevents…

8. D. s 110-25(4)

Section 110-25(4) can include certain non-capital ownership costs in the CGT cost base. But amounts already deducted can be excluded from cost base by provisions such as s 110-45(1B). The policy is straightforward: the taxpayer should not obtain both an income-tax deduction and a second tax benefit by adding the same outgoing to cost base where…

9. C. Steele v DCT 99 ATC 4242

Confirms the use/purpose approach to interest and that interest is not ordinarily capital merely because borrowed funds relate to a capital asset.

10. D. Steele v DFCT

Interest is ordinarily revenue rather than capital. Under s 8-1, deductibility generally depends on the use to which the borrowed funds are put. Steele v DFCT confirms the importance of purpose/use and that interest can be deductible even before income begins where nexus remains sufficiently strong. FCT v Munro teaches that the security offered…

11. D. FCT v Munro

Interest is ordinarily revenue rather than capital. Under s 8-1, deductibility generally depends on the use to which the borrowed funds are put. Steele v DFCT confirms the importance of purpose/use and that interest can be deductible even before income begins where nexus remains sufficiently strong. FCT v Munro teaches that the security offered…

12. D. W Thomas & Co Pty Ltd v FCT

TR 97/23 is the principal ATO ruling in the course. It should be used alongside cases such as W Thomas & Co Pty Ltd v FCT , Lindsay v FCT and Western Suburbs Cinemas Ltd v FCT .

13. D. Lindsay v FCT

TR 97/23 is the principal ATO ruling in the course. It should be used alongside cases such as W Thomas & Co Pty Ltd v FCT , Lindsay v FCT and Western Suburbs Cinemas Ltd v FCT .

14. C. Western Suburbs Cinemas Ltd v FCT

TR 97/23 is the principal ATO ruling in the course. It should be used alongside cases such as W Thomas & Co Pty Ltd v FCT , Lindsay v FCT and Western Suburbs Cinemas Ltd v FCT .

15. B. borrowing expenses

borrowing expenses: Costs of obtaining finance potentially deductible under s 25-25.

16. A. Interest

Interest: Cost of using borrowed funds generally tested under s 8-1.

17. A. Repair

Repair: Restoration deductible under s 25-10 where statutory conditions are met.

18. B. Mortgage

Mortgage: Discharge expenses potentially covered by s 25-30.

19. B. tax-related expense

tax-related expense: Tax-related expense potentially deductible under s 25-5.

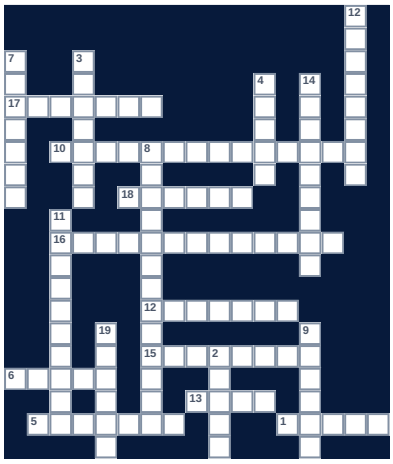
20. D. Baddebt

Baddebt: Specific deduction category under s 25-35.

20-CLUE CROSSWORD

Crossword - Chapter 10: Specific Deductions, Borrowing Costs, Repairs and Deduction Denials

Launch Chapter 10 Active Crossword to type directly into the grid and check your answers.



Across

1. Deductibility depends on Division 30 requirements.
2. Generally non-deductible under s 26-5.
3. Authority linking interest deductibility to use of borrowed funds.
4. Repairs/improvement authority.
5. Expenditure relating to illegal activities may be denied by s 26-54.
6. Student-assistance repayments denied under s 26-20.
7. Discharge expenses potentially covered by s 25-30.
8. Required where borrowed funds or expenditure have mixed purposes.
9. Repairs authority.
10. Authority relevant to interest deductions.

Down

1. Specific deduction provision for certain losses by theft.
2. Specific deduction category under s 25-35.
3. Public-official bribes specifically denied.
4. Payments to relatives or associates may be limited by s 26-35.
5. Generally subject to denial rules in Division 32.
6. Restoration deductible under s 25-10 where statutory conditions are met.
7. Tax-related expense potentially deductible under s 25-5.
8. Cost of using borrowed funds generally tested under s 8-1.
9. Costs of obtaining finance potentially deductible under s 25-25.
10. Authority distinguishing repair from capital improvement.

CROSSWORD ANSWERS

Crossword Answers - Chapter 10

1 Across - GIFTS	5 Across - PENALTY
6 Across - MUNRO	10 Across - WESTERNSUBURBS
12 Across - ILLEGAL	13 Across - HECS
15 Across - MORTGAGE	16 Across - APPORTIONMENT
17 Across - LINDSAY	18 Across - STEELE
2 Down - THEFT	3 Down - BADDEBT
4 Down - BRIBE	7 Down - RELATED
8 Down - ENTERTAINMENT	9 Down - REPAIR
11 Down - TAXEXPENSE	12 Down - INTEREST
14 Down - BORROWING	19 Down - THOMAS

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Borrowing costs and repair programme

Problem

Marty borrows $800,000 for an income-producing property and incurs $5,000 borrowing costs on a 10-year loan beginning 1 January. During the year he pays $9,000 to repair storm damage, $40,000 to replace an entire defective structural system with a superior system and $1,200 to discharge an old mortgage. Identify and calculate the deductions available in the first income year where possible.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Borrowing costs and repair programme

Issue. The loan establishment costs, storm repairs, structural replacement and mortgage discharge cost each engage different specific provisions.

Rule / Law. Interest on an income-producing borrowing is ordinarily considered under s 8-1. Borrowing expenses are deductible under s 25-25 over the statutory period (generally the shorter of five years and the loan term), with apportionment for part-years. Repairs may be deductible under s 25-10, while replacement/improvement of an entirety is capital. Mortgage discharge expenses may fall under s 25-30 where its requirements are met.

Application and calculation. The $5,000 establishment costs on a 10-year loan are spread under s 25-25 over five years. For a loan beginning 1 January, the first income year contains six months; the precise first-year deduction should be apportioned by the statutory day-count method rather than simply claimed as $1,000 if the provision requires day apportionment. The $9,000 storm repair restores damage and is likely deductible under s 25-10 if it is not an improvement or replacement of an entirety. The $40,000 superior structural system is an improvement/replacement of an entirety and is capital, with Div 40 or Div 43 considered depending on the nature of the asset. The $1,200 mortgage discharge cost should be tested under s 25-30 and apportioned if the mortgage secured both income-producing and private purposes.

Conclusion. Borrowing costs are spread, ordinary storm repairs are likely immediate, the superior system is capital, and mortgage discharge costs follow s 25-30 if its conditions are met.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Specific denial provisions

Problem

Jordan’s plumbing business pays a daughter $7,500 for work worth about $3,000, incurs client entertainment, pays a statutory fine and spends money connected with unlawful conduct. Determine which amounts require s 26-35 or

other deduction-denial analysis and explain how much may remain deductible and assessable to the recipient.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Specific denial provisions

Issue. A positive s 8-1 nexus is not enough where a specific denial applies.

Rule / Law. ITAA97 s 26-35 restricts deductions for payments to relatives/associated persons to a reasonable amount. Division 32 generally denies entertainment. Statutory fines and penalties are specifically non-deductible under the relevant denial provision. Expenditure connected with unlawful activity must be tested under any specific denial (including s 26-54 where applicable) after s 8-1.

Application. The daughter is paid $7,500 for work worth about $3,000. Section 26-35 limits the business's deduction to the reasonable value, approximately $3,000 on the facts, even though the full payment may be income to the daughter depending on her circumstances. Client entertainment is denied unless an exception in Div 32 applies. A statutory fine is not deductible. Unlawful-conduct expenditure must be identified precisely and tested against the relevant specific denial; it cannot be claimed merely because it arose in the business.

Conclusion. Deduct only the reasonable related-party remuneration, deny entertainment/fine amounts unless a specific exception exists, and apply the unlawful-activity denial to the relevant expenditure.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 11. TAX PLANNING, TAX AVOIDANCE, INTEGRITY RULES AND PART IVA

tax planning • avoidance • evasion • integrity rules • prepayments • market-value rules • Part IVA

Tax planning is lawful; tax evasion is not. Tax avoidance sits between them and may be defeated by specific integrity rules or the general anti-avoidance rule in Part IVA. The analysis is structured, not intuitive.

LEARNING OUTCOMES

- Distinguish tax planning, avoidance and evasion.
- Identify specific integrity rules such as Div 6AA, related-party deduction limits and prepayment rules.
- Identify a Part IVA scheme, tax benefit and purpose.
- Apply the statutory purpose factors rather than relying on moral labels.
- Explain the Commissioner's determination power under s 177F.
- Apply Part IVA to personal-exertion income channelled through a company and income diverted to associates.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: tax planning, avoidance and evasion are legally different categories

Lawful tax planning uses choices that the law permits. Evasion involves illegality, concealment or false statements. Avoidance occupies the space in which an arrangement may comply with the literal operation of specific rules yet produce a tax

benefit that an integrity rule can cancel. The legal analysis therefore depends on the relevant specific provision and, where necessary, Part IVA.

Part IVA step by step

Identify the “scheme” under s 177A. Identify the “tax benefit” under s 177C and work through the alternative postulate/counterfactual requirements, including s 177CB where relevant. Then apply the objective dominant-purpose test in s 177D by examining the statutory factors. If Part IVA applies, s 177F gives the Commissioner the power to make the necessary determination. Each step should be separately reasoned.

Specific integrity rules

Part IVA is not the only integrity mechanism. The relevant law and authorities also use market-value substitution, associated-person payment limitations, minors’ rules, prepayment rules and other provisions. In an exam, apply a specific integrity provision first where it directly addresses the transaction, then consider whether the general anti-avoidance rule remains relevant.

In plain English
Part IVA is not triggered simply because tax was reduced. Work through the statutory steps: scheme, tax benefit, purpose, then consequence. Specific integrity rules may apply before Part IVA is even reached.

Key language

tax planning | tax avoidance | tax evasion | income splitting | Div 6AA | associated person | market value substitution | prepayment | scheme | tax benefit | dominant purpose | Part IVA | s 177A | s 177C | s 177D | s 177F | personal services | company | dividend | integrity

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

11.1 Tax planning, tax avoidance and tax evasion are not the same thing

Tax law permits taxpayers to arrange their affairs with tax consequences in mind. Legitimate tax planning uses choices and concessions made available by Parliament. Tax evasion, by contrast, involves unlawful conduct such as concealing income, creating false records or deliberately misstating facts. Between those ideas sits tax avoidance: arrangements that may comply with the literal operation of particular provisions but attract specific or general anti-avoidance rules because of their tax-driven structure.

Students should avoid moral labels. The legal question is whether a statutory integrity rule applies. This chapter begins with judicial responses, then specific anti-avoidance provisions, and finally Part IVA ITAA36—the general anti-avoidance rule.

11.2 Judicial limits and ordinary provisions come first

Before applying Part IVA, ask whether the taxpayer's claimed treatment is available under ordinary provisions. *Ure v FCT* and *Fletcher v FCT* illustrate how s 8-1 itself can limit deductions where the claimed outgoing is disproportionate to income-producing use or where the arrangement has significant private/tax purposes. If the ordinary provision already denies the deduction, Part IVA may be unnecessary.

This sequencing matters in exams: ordinary tax law → specific integrity rule → Part IVA. Part IVA is not a substitute for analysing the substantive tax provisions.

11.3 Specific integrity rules

Australian tax legislation contains many targeted rules dealing with known avoidance techniques. This chapter uses several examples:

- Division 6AA ITAA36 imposes special rates on certain unearned income of minors, limiting simple income-splitting strategies.

- Section 21A ITAA36 addresses non-cash business benefits that might otherwise escape ordinary-income treatment because of convertibility issues.
- Section 26-35 ITAA97 restricts deductions for excessive amounts paid to related persons.
- CGT market-value substitution rules, including ss 116-30 and 112-20, prevent gifts or nominal-price transfers from avoiding recognition at market value in relevant circumstances.
- Prepayment rules in the ITAA36 can spread deductions that a taxpayer might otherwise accelerate into an earlier income year.

These rules are often self-executing. They do not necessarily require the Commissioner to prove a dominant tax-avoidance purpose. Their operation depends on objective statutory conditions.

11.4 Division 6AA: income splitting with minors

Division 6AA is designed to impose penal rates on certain “eligible taxable income” of minors, especially passive income such as interest, rent and dividends. “Excepted” income—including categories such as employment or some business income—is treated differently. The policy is to reduce the benefit of shifting investment income to children who would otherwise have low marginal tax rates.

In this chapter's Susan/Victor example, the taxpayer tries to place $100,000 in a 15-year-old child's account so that investment interest is taxed at the child's rate. A complete answer identifies whether the interest is eligible taxable income, whether any excepted category applies, and then the special rate schedule.

11.5 Section 26-35: excessive payments to related entities

Section 26-35 limits a payer's deduction where an amount paid to a related person exceeds a reasonable amount for the services or work. The provision does not necessarily reduce the recipient's assessable income to the reasonable amount; the recipient can remain assessable on the full amount received. That asymmetry is deliberate integrity design.

In this chapter's plumbing example, a daughter is paid $750 per day for simple delivery duties when market evidence suggests $300. Analyse the payer's deduction and the daughter's income separately. Do not assume the excessive part disappears from the tax system.

11.6 Prepayments

Prepayment provisions target the timing benefit obtained when a taxpayer pays expenditure in advance to accelerate a deduction. This chapter locates the relevant

regime in the ITAA36 and explains that statutory apportionment can replace immediate deductibility over the “eligible service period”. The rules can apply without proving subjective avoidance purpose.

When confronted with prepaid insurance, interest or service fees, first establish whether the outgoing is otherwise deductible. Then apply the prepayment regime and any available exception. Do not treat payment date alone as controlling the deduction year.

Prepayment apportionment - ss 82KZL, 82KZM, 82KZMA and 82KZMD ITAA36

Identify the eligible service period under the statutory definitions and determine which prepayment rule applies. Where s 82KZMD ITAA36 applies, the deduction for each income year containing all or part of the eligible service period is:

Expenditure × (number of days of the eligible service period in that income year / total number of days of the eligible service period).

The regime is a timing rule: it can spread an otherwise deductible outgoing over the service period rather than allowing the whole deduction merely because cash was paid in advance. Check the small/medium business rules and exceptions before applying the formula.

11.7 Part IVA — the general anti-avoidance rule

Part IVA ITAA36, broadly ss 177A–177R, is the general income-tax anti-avoidance regime. It is not a criminal evasion provision. It allows the Commissioner to neutralise a tax benefit obtained in connection with a scheme where the statutory dominant-purpose test is satisfied.

This chapter reduces Part IVA to four principal analytical stages:

1. identify a scheme under s 177A;
2. identify a tax benefit under s 177C and the appropriate alternative postulate/ counterfactual;
3. apply the dominant purpose inquiry under s 177D, using the statutory factors; and
4. identify the Commissioner's determination under s 177F that cancels the tax benefit and permits consequential adjustment.

11.8 Step 1: identify the scheme — s 177A

Section 177A(1) defines “scheme” very broadly to include agreements, arrangements, understandings, promises, undertakings, plans, proposals, actions, courses of action and courses of conduct. Section 177A(3) confirms that a scheme can be unilateral.

The breadth of the definition does not mean scheme identification is unimportant. The way the scheme is framed influences the tax-benefit counterfactual and purpose analysis. Avoid artificially narrow or excessively broad descriptions. Identify the concrete steps that produced the alleged tax advantage.

11.9 Step 2: tax benefit and the alternative postulate — s 177C

A Part IVA answer must explain what tax result was obtained compared with what would reasonably be expected to have occurred without the scheme. This is commonly expressed through an alternative postulate or counterfactual. The relevant tax benefit can include an amount not included in assessable income, a deduction, a capital loss or another tax advantage specified by the legislation.

FCT v Hart and *FCT v Spotless Services Ltd* are leading High Court authorities illustrating Part IVA's operation and the importance of objective commercial/tax features. Modern statutory amendments must always be read with the cases rather than assuming the historical wording is unchanged.

The counterfactual must be reasonable. It is not simply “the taxpayer would have paid more tax”. Identify the commercial objective and ask what arrangement would reasonably have been used to achieve it in the absence of the impugned scheme.

11.10 Step 3: dominant purpose — s 177D

The purpose inquiry is objective. Section 177D directs attention to specified matters concerning the manner in which the scheme was entered into, its form and substance, timing, tax result, changes in financial position, consequences for connected persons and the nature of relationships. The question is whether, having regard to those matters, it would be concluded that a person entered into or carried out the scheme or part of it for the dominant purpose of enabling the taxpayer to obtain the tax benefit.

“Dominant” means ruling, prevailing or most influential purpose. A transaction can have real commercial effects and still satisfy Part IVA if the tax-avoidance purpose is dominant. Conversely, a tax advantage does not itself prove the statutory purpose.

11.11 Step 4: Commissioner's determination — s 177F

Part IVA does not simply rewrite the taxpayer's return automatically. The Commissioner makes a determination under s 177F to cancel the relevant tax benefit, and consequential assessment adjustments can follow. Note that Part IVA therefore requires ATO intervention, unlike many self-executing specific integrity rules.

Amendment periods and associated penalties can also become relevant. This chapter directs attention to ss 170 and 177G ITAA36 in the Part IVA context.

11.12 The cases: what students should learn

Authority	Teaching proposition	Use
Ure v FCT	Ordinary deduction provisions can limit artificially large interest deductions before Part IVA.	Apply s 8-1 first.
Fletcher v FCT	Purpose and overall arrangement can affect s 8-1 where outgoings are disproportionate to assessable returns.	Deduction scheme facts.
FCT v Spotless Services Ltd	Commercial transaction can still attract Part IVA; tax purpose and commerciality are not mutually exclusive.	Dominant-purpose analysis.
FCT v Hart	Important authority on scheme, tax benefit and purpose in structured borrowing.	Part IVA method and counterfactual.

11.13 Application masterclass — Noah and Pipewise Plumbing Pty Ltd

Noah moves his plumbing business into a company. He remains the key licensed worker and relationship-holder. The company pays him salary and retains some after-tax profits at the lower company rate. In the following year, shares are issued to his fiancée Mia shortly before a profitable contract, and the company later distributes unfranked dividends according to the new shareholding.

The worked problem directs students to consider Part IVA separately for each income year and expressly assumes the personal-services-income attribution rules in Divs 84–87 do not apply because the company qualifies as a personal services business. Do not ignore that assumption or import excluded regimes such as Div 7A.

2025–26: incorporation and retained profits

Possible scheme: the incorporation, salary setting and retention of profits generated substantially by Noah's personal efforts. Possible tax benefit: an amount that would otherwise reasonably have been included in Noah's taxable income is instead taxed to the company at 25% and retained. The critical difficulty is the counterfactual: would Noah reasonably have continued as a sole trader, paid himself a higher salary, or still incorporated for genuine asset-protection/expansion reasons? The documented commercial rationale matters.

For purpose, consider form/substance, salary just below the top-rate threshold, retained profits, genuine working-capital needs, and the absence of contemporaneous forecasts or board documentation. None of these facts alone decides the case. Apply the s 177D factors objectively.

2026–27: share issue to Mia and dividend split

Possible scheme: issue of 40% of shares for nominal consideration shortly before a profitable contract, followed by dividend distribution. Possible tax benefit: diversion of income generated substantially through Noah's personal exertion to Mia, who has little other income. The counterfactual might be continued sole ownership or a market-value transaction, but it must be the most reasonable alternative in the circumstances.

Purpose facts include timing, nominal consideration, Mia's limited role, absence of valuation, the impending contract and use of dividends for shared household/ wedding costs. Against that, a genuine intention to share ownership or contribute to the business may be relevant if supported by evidence.

11.14 HD Part IVA IRAC

I — Issue

State the alleged scheme, taxpayer, income year and tax benefit. Deal with each year separately.

R — Rule

Set out s 177A scheme, s 177C tax benefit/alternative postulate, s 177D objective dominant-purpose factors and s 177F determination. Use *Spotless* and *Hart* for principle.

A — Application

First construct a reasonable counterfactual. Quantify the tax advantage if possible. Then work through the s 177D factors using actual facts—timing, form/substance, financial changes, relationships and commercial reasons. Address the strongest argument on both sides.

C — Conclusion

Give a reasoned conclusion on Part IVA for each year and explain the possible s 177F consequence. Avoid saying an arrangement is “avoidance” merely because it saves tax.

11.15 Plain-English summary

Integrity law is layered. First apply the ordinary tax provisions. Then apply any specific anti-avoidance rule. Only then use Part IVA. For Part IVA, remember four words: scheme → tax benefit → purpose → determination. The hardest step is usually identifying a reasonable alternative to what actually happened.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Tax planning, avoidance and evasion are legally different

A taxpayer may arrange affairs to reduce tax within the law. Tax evasion involves unlawful concealment or non-compliance. Tax avoidance commonly describes arrangements that comply with the literal operation of provisions but are vulnerable to

specific or general integrity rules. The legal task is not moral labelling; it is identifying the provision that changes the tax outcome.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Start with the primary income/deduction rules. Then apply specific integrity provisions where relevant. Part IVA ITAA36, ss 177A–177R, is the general anti-avoidance regime and ordinarily operates through Commissioner determination.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Ure and Fletcher are important at the boundary of deduction analysis and tax-motivated financing. They show that ordinary provisions can themselves limit deductions before Part IVA is considered.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot income splitting, related parties, circular/contrived steps, deductions disproportionate to commercial return, prepayments, market-value substitutions and arrangements producing a tax benefit without corresponding economic change.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact

provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Always calculate the ordinary-law result first. Only then quantify the alleged tax benefit under the integrity rule.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Part IVA step 1: identify the scheme precisely

Part IVA analysis becomes vague if the scheme is described too broadly or too narrowly. Section 177A defines scheme expansively, including agreements, arrangements, understandings, promises, plans, proposals, actions and courses of conduct. The chosen scheme must correspond to the tax benefit and purpose analysis.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

ITAA36 s 177A is the starting point. Specific anti-avoidance rules apply before Part IVA where relevant.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Spotless and Hart demonstrate that commercial transactions can still fall within Part IVA where the statutory conditions, including purpose, are satisfied. A transaction does not escape Part IVA merely because it has legal form or some commercial feature.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Describe who did what, when, and which steps are included. Avoid merely writing “the company structure is the scheme” without identifying the relevant conduct.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Diagram the actual arrangement with parties, cash flows, ownership and tax outcomes. This makes the next two steps—tax benefit and purpose—much clearer.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Part IVA step 2: tax benefit and the alternative postulate

A tax benefit is determined by comparison. The analysis asks what would or might reasonably be expected to have happened if the scheme had not been entered into or carried out. The alternative must be a reasonable counterfactual grounded in the facts, not an artificial scenario selected simply to maximise tax.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Section 177C identifies tax benefits; s 177CB provides rules for the alternative-postulate inquiry. The exact statutory form must be applied to the particular benefit alleged.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Spotless and Hart are important because the High Court focused on the statutory comparison and objective features rather than accepting the taxpayer's legal form as the only possible world.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

For Noah/Pipewise, compare the actual incorporated/retained-profit/dividend arrangement with reasonable alternatives such as continuing the sole-trader activity or paying remuneration, but justify why the alternative is commercially realistic.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Quantify the benefit numerically: actual assessable income/deductions/tax versus counterfactual. State the difference that constitutes the alleged tax benefit.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add

any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Part IVA step 3: dominant purpose is objective

Section 177D requires an objective conclusion from statutory factors about purpose. A taxpayer’s statement that the arrangement had a business purpose is relevant evidence but not decisive. Commercial and tax purposes can coexist; the question is whether, having regard to the statutory matters, the dominant purpose criterion is met.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply s 177D factor by factor: manner, form/substance, timing, tax result, changes in financial position and relationships, together with the statutory text currently in force.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Spotless and Hart are the key authorities showing that an arrangement can be commercially explicable and still have the requisite dominant tax purpose. They should be used to explain reasoning, not as a substitute for the statutory factors.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Write a factor table with facts supporting tax purpose and facts supporting commercial purpose. Weigh them expressly.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Conclude only after the factors. If Part IVA applies, move to s 177F and state the Commissioner's cancellation/determination consequence and consequential assessment adjustments.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as "it depends" unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Part IVA — actual versus reasonable alternative postulate

Step / item	Tax-law treatment	Number / working
Actual arrangement	Map entities, cash flows, income/ deductions and tax paid	Actual tax result

Scheme	Define steps under s 177A	Specific conduct, not a label
Alternative postulate	What would/might reasonably have occurred without scheme	Commercially realistic counterfactual
Tax benefit	Compare actual and counterfactual under s 177C/177CB	Quantify omitted income, deduction, loss, offset etc
Purpose	Apply s 177D factors objectively	Evidence for commercial purpose vs tax purpose
Determination	s 177F	Cancel benefit and make consequential adjustment
2025–26 Pipewise	Profits generated by Noah's exertion retained in company	Compare company/ Noah tax with reasonable alternative
2026–27 share issue/ dividend	$60,000 paid to Mia on 40% shareholding in worked problem facts	separately identify alleged diversion/tax benefit and purpose

A Part IVA answer without a numerical or at least clearly identified tax benefit is incomplete. Work ordinary provisions first, then integrity rules.

Worked application — fact-by-fact legal significance

Worked problem fact / instruction	Why it matters legally

Noah is a licensed plumber. For several years, he operated his plumbing business as a sole trader under the name “Pipewise Plumbing”. In that period, the business income was returned directly by Noah in his personal tax return.	This fact bears on whether an activity is a business and/or how the business tax rules apply. Treat formal registrations as evidence, not conclusive proof of business character.
2025-26 income year	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
From 1 July 2025, Noah restructured the business and began operating it through Pipewise Plumbing Pty Ltd (“PP”). Noah is the sole director and sole shareholder of PP. PP is a base rate entity.	This fact bears on whether an activity is a business and/or how the business tax rules apply. Treat formal registrations as evidence, not conclusive proof of business character.
Noah's accountant had advised that incorporation would provide greater asset protection in relation to building defect claims and would facilitate future expansion through the engagement of additional licensed plumbers.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
PP is generally engaged on fixed-price contracts for each stage of work, rather than on an hourly or daily rate. PP is required to provide the necessary tools and equipment and is liable to rectify defective work at its own cost.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.

For the 2025-26 income year, PP had gross business income from clients of $300,000. PP paid Noah $189,000 in salary during the year. That amount had been selected so that Noah remained just below the top marginal tax rate threshold. After claiming a deduction for Noah's salary and other business expenses, PP reported taxable income of $61,000 for the 2025-26 income year, which was taxed at the 25% company tax rate. PP was liable for income tax of $15,250 (25% x $61,000), leaving after-tax profits of $45,750, which PP retained in the company.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.
Noah says the retained after-tax profits for the 2025-26 income year were needed by PP for working capital, insurance, possible defect claims and future equipment purchases. However, PP had not prepared any cash-flow forecasts, equipment quotes, board minutes or documented expansion plans before the end of the income year.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
2026-27 income year	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.

On 1 July 2026, Noah arranged for PP to issue ordinary shares in PP to his fiancée, Mia, for nominal consideration so that Mia thereafter had a 40% shareholding in the company and Noah had 60%. No independent valuation was obtained. The share issue occurred shortly before PP was expecting to sign a very profitable contract with a major residential builder.	This is an asset trigger. Determine revenue versus capital character, identify any CGT event or Div 40/43 treatment, and construct the relevant cost base/adjustable value.
Mia is not a plumber, does not hold a plumbing licence and does not attend building sites. She occasionally assists from home by checking invoices and responding to emails, but has no formal employment contract and is not paid a market salary for that work. Mia is studying nursing part-time and has no significant income other than amounts received from PP.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
During the 2026-27 income year, Noah continued to perform nearly all of the plumbing work personally for PP and remained responsible for PP's key builder relationships.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
PP derived gross business income for the 2026-27 income year of $520,000. After paying Noah a salary of $189,000 and other business expenses of $131,000, PP had taxable income of $200,000 for the 2026-27 income year. PP was liable for income tax of $50,000 (25% x $200,000), leaving after-tax profits for the year of $150,000.	The amount is a calculation input, but only after its legal character is established. Place it in the correct income, deduction, CGT, asset, loss or administration workpaper.

Rather than retaining its 2026-27 profits, on 30 June 2027, PP declared and paid unfranked dividends of $150,000. Noah received $90,000 on his 60% shareholding, and Mia received $60,000 on her 40% shareholding. Mia used most of the dividend to pay for household expenses, rent, and wedding costs shared with Noah. (As you will study the imputation system in the Taxation of Business Entities course, assume the company preferred to pay unfranked dividends and so do not consider the impact of any franking credits if franked dividends were paid instead.)	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
The Commissioner enters the picture!	This is an administration trigger. Identify the type of ATO act/ document, its statutory effect, deadline, burden and available objection/review or ruling protection.
The ATO subsequently conducts an audit of Noah and PP’s tax affairs.	This is an administration trigger. Identify the type of ATO act/ document, its statutory effect, deadline, burden and available objection/review or ruling protection.
The Commissioner contends that, in the 2025-26 income year, the arrangement involved profits generated from Noah’s personal exertion being derived and retained by PP, resulting in those profits being taxed at the lower company tax rate rather than at Noah’s marginal tax rates.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.

For the 2026-27 income year, the Commissioner further contends that the effect of the share issue and dividend payment was to divert income generated by Noah's personal exertion to Mia, who was taxed at a lower marginal rate.	This is a receipt/derivation trigger. Ask why the amount was received, which provision includes or excludes it, and in which income year it is derived.
The Commissioner considers that Part IVA of the ITAA 1936 is likely to apply to cancel any tax benefits obtained in the above circumstances.	This is an administration trigger. Identify the type of ATO act/ document, its statutory effect, deadline, burden and available objection/review or ruling protection.
Advise Noah and PP whether Part IVA ITAA36 applies in the circumstances above for the 2025-26 and 2026-27 income years.	This states the task. Break it into sub-issues, identify the exact statutory rules and show calculations separately from legal characterisation.
In your answer, consider separately for each income year whether:	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
Noah, PP, or another taxpayer obtained a tax benefit in connection with the scheme within the meaning of s 177C (in doing so, explain the most reasonable alternative postulate);	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.

having regard to the matters in s 177D, it would be concluded that a person entered into or carried out the scheme, or any part of it, for the dominant purpose of enabling a taxpayer to obtain that tax benefit; and	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.
if Part IVA applies, what determination the Commissioner may make under s 177F.	This is an administration trigger. Identify the type of ATO act/ document, its statutory effect, deadline, burden and available objection/review or ruling protection.
Support your answer with reference to relevant legislation, case law and any relevant ATO guidance.	This is an administration trigger. Identify the type of ATO act/ document, its statutory effect, deadline, burden and available objection/review or ruling protection.
Assume PP qualifies as a personal services business, so the personal services income attribution rules in Divisions 84 to 87 of the ITAA 1997 do not apply, and you need not consider them.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
For the purposes of question 1, you need only consider the general anti-avoidance provisions in Part IVA. Also do not consider other tax issues such as CGT, value shifting, Division 7A, and the superannuation guarantee, and also do not consider any company law issues.	Use this fact only if it affects an element of the governing provision, the comparison with an authority, the calculation or the remedy. Strong answers explain relevance rather than retelling the scenario.

(If time permits) Assume the facts of Ure v FCT 81 ATC 4100 occurred today. The Commissioner argues that the excessive interest deduction should be denied under s 8-1 ITAA97. In the alternative, the Commissioner argues that, if the full deduction is otherwise available, Part IVA ITAA36 applies.	This is an exam boundary. Respect the assumption and do not spend time analysing an excluded regime; use it to narrow the legal issues.
How would Part IVA apply to the arrangement? In your answer, identify the scheme, the tax benefit, the most reasonable alternative postulate, and whether the dominant purpose test in s 177D is satisfied. Support your answer by reference to relevant legislation, case law and any relevant ATO guidance.	This is an administration trigger. Identify the type of ATO act/ document, its statutory effect, deadline, burden and available objection/review or ruling protection.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: Eg: Division 6AA ITAA36: Tax rates for minors - See Chapter 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The tax rates on the “eligible taxable income” of an Australia tax resident child (aged under age 18 on 30 June 2026) under Div 6AA ITAA36:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: However, if the child's income is "excepted" taxable income, then the ordinary resident individual tax rates apply to that part of income. Examples of excepted taxable income include:

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In the absence of Div 6AA, what outcome was Susan hoping to achieve? What is the outcome due to Div 6AA ITAA36?

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Convertibility issues and s 21A ITAA36

Non-cash business benefits

First identify the benefit as connected with business; then apply the statutory valuation/inclusion machinery. Do not use valuation to create income where no inclusion rule exists.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The FBT Act and former s 26(e) ITAA36 - valuation issues

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Eg: Reducing deductions for amounts paid to related entities: section 26-35 of the 1997 Act. Recall the following example from this chapter 10 notes:

Payments to related persons

Where a payment is made to an associated person, identify any statutory limit to a reasonable amount and the consequence of excess payment.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Jeff purchased a block of land in January 2006 for $200,000 near where he lives. He wants to help his adult daughter build a house to live in on the land. On 1 June 2026, Jeff gifts the land to his daughter (meaning for nil consideration). The market value of the land on 1 June 2026 is $800,000. What is Jeff's capital proceeds (consider s 116-30)? What if instead he transferred the land to his daughter for $1? What is his daughter's cost base (consider s 112-20)?

Market value substitution – cost base

Use where the statutory conditions substitute market value for what was actually paid/received in a non-arm's-length or no-consideration setting.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The prepayment provisions (in Pt 3, Subdiv 3-H ITAA36) are an example of a specific anti-avoidance or integrity regime because they target a defined tax planning technique: the use of prepayments to accelerate deductions into an earlier income year. The provisions replace immediate deductibility with statutory apportionment over the eligible service period in some situations.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Recall: What is the meaning of “incurred” in s 8-1 ITAA97? See Chapter 9 Notes.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The prepayment provisions in s 82KZL, s 82KZM, s 82KZMA and s 82KZMD ITAA36:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: were enacted to adjust the timing of deductions that would otherwise be available under s 8-1 ITAA97 in certain circumstances. So, the prepaid expense must first meet the nexus requirements in s 8-1 ITAA97.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: operate to defer the timing of a deduction otherwise available under s 8-1 ITAA 1997 where the provisions apply, so the expenditure is not deductible in full when incurred This means that the prepayment provisions link with s 8-1 via the 4th negative limb to alter the s 8-1 result that would otherwise apply.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Where expenditure satisfies the ordinary deductibility requirements in s 8-1, the effect of s 82KZM ITAA36 is that a taxpayer may still be entitled to an immediate deduction for a prepayment where:

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: a “small business entity” (s 328-110 ITAA97), or a medium business entity (s 82KZM(1A) ITAA36), who has chosen not to spread the deduction over the eligible services period.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In other cases, provided the expenditure is otherwise deductible under s 8-1 ITAA97, the deduction is not available in full in the year the amount is incurred. Instead, the deduction is spread over the eligible service period according to the statutory apportionment formula:

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For the purposes of the prepayment rules, s 82KZL ITAA36 defines “excluded expenditure” to include expenditure that:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: PART IVA OF THE 1936 ACT: THE GENERAL ANTI-AVOIDANCE PROVISIONS

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Specific anti-avoidance provisions apply before Part IVA.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part IVA ITAA36 (ss 177A to 177R ITAA36) is Australia's general anti-avoidance rule for income tax. Practitioners commonly refer to the provisions as "Part IVA".

Part IVA scheme

Define the scheme precisely. The definition is broad, but the scheme selected must connect coherently with the alleged tax benefit and purpose analysis.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part IVA is designed to counter schemes that, while technically compliant with the tax law, are entered into or carried out for the dominant purpose of obtaining a tax benefit. Where Part IVA applies, the Commissioner may cancel the relevant tax benefit and make consequential adjustments, including issuing amended assessments.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In broad terms, Part IVA requires the identification of a "scheme", a "tax benefit" obtained in connection with that scheme, and an objective conclusion that a person entered into or carried out the scheme, or part of it, for the dominant purpose of enabling the taxpayer to obtain that tax benefit. The provisions operate as a safeguard against artificial or contrived arrangements and are central to the integrity of the Australian income tax system.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part IVA requires the intervention of the ATO before it can operate (meaning that the ATO needs to make a Determination). Compare this with many legislative responses to tax avoidance, including those above, which are "self activating".

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For a Part IVA matter, the ATO can generally amend a taxpayer's assessment within 4 years after the day on which the Commissioner gives a notice of assessment to the taxpayer, subject to any applicable extension or exception: ss 170 and 177G ITAA36.

Amendment period

Identify taxpayer/category and calculate the statutory amendment period from the relevant assessment date, subject to exceptions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Part IVA can only operate where a person has entered into or carried out a scheme for the sole or dominant purpose of enabling a taxpayer to obtain a tax benefit in connection with the scheme.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 177A(1) defines a “scheme” to mean:

Part IVA scheme

Define the scheme precisely. The definition is broad, but the scheme selected must connect coherently with the alleged tax benefit and purpose analysis.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A scheme includes a unilateral scheme: s 177A(3). For example, an action taken solely by the trustee of a discretionary trust: PSLA 2005/24, at para 56.

Part IVA scheme

Define the scheme precisely. The definition is broad, but the scheme selected must connect coherently with the alleged tax benefit and purpose analysis.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In FCT v Hart [2004] HCA 26, the High Court confirmed that a scheme need not comprise the whole transaction or arrangement. It may consist of

part of a wider arrangement and, in some circumstances, may be confined to a single step.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The concept of a tax benefit is identified through s 177C and s 177CB ITAA36. Examples of types of tax benefits include:

Part IVA tax benefit

Identify the tax benefit by comparing the actual result with what would or might reasonably be expected absent the scheme, subject to the statutory framework.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: However, a tax benefit does not arise if the benefit is attributable to the making of a declaration, agreement, election, selection or choice, the giving of a notice or the exercise of an option by any person expressly provided for under the ITAA36 or ITAA97. But, this carve out does not apply where a scheme was implemented to put the taxpayer into a position to make such an election, choice, etc, to be made: s 177C(2).

Part IVA tax benefit

Identify the tax benefit by comparing the actual result with what would or might reasonably be expected absent the scheme, subject to the statutory framework.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The tax benefit must be determined by having regard to s 177CB. This provision prevents taxpayers from arguing there was no tax benefit because they otherwise would have done nothing.

Alternative postulate rules

Construct a reasonable counterfactual grounded in commercial facts; do not invent an artificial alternative solely to maximise the tax difference.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Under ss 177CB(2) and 177CB(3), the “would have” test requires consideration of what in fact occurred, disregarding the scheme (called the “annihilation approach”). By contrast, the “might reasonably be expected to have” test requires the identification of a reasonable alternative postulate, assessed by reference to the scheme but excluding its tax consequences (called the “reconstruction approach”).

Alternative postulate rules

Construct a reasonable counterfactual grounded in commercial facts; do not invent an artificial alternative solely to maximise the tax difference.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 177D(1)

Dominant purpose

Apply the statutory objective factors. Weigh commercial and tax features; taxpayer assertions are not decisive.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 177A(5) - dominant purpose

Part IVA scheme

Define the scheme precisely. The definition is broad, but the scheme selected must connect coherently with the alleged tax benefit and purpose analysis.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 177D(b) relevant factors - have regard to the following matters:

Dominant purpose

Apply the statutory objective factors. Weigh commercial and tax features; taxpayer assertions are not decisive.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Section 177F

Commissioner determination

If Part IVA applies, identify the determination/cancellation needed to eliminate the tax benefit and the consequential assessment effect.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Compensating adjustments - section 177F(3)

Commissioner determination

If Part IVA applies, identify the determination/cancellation needed to eliminate the tax benefit and the consequential assessment effect.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Amendment of assessments - section 177G.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Case studies concerning the application of Part IVA

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner considers that Part IVA of the ITAA 1936 is likely to apply to cancel any tax benefits obtained in the above circumstances.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Advise Noah and PP whether Part IVA ITAA36 applies in the circumstances above for the 2025-26 and 2026-27 income years.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: there is a scheme within the meaning of s 177A;

Part IVA scheme

Define the scheme precisely. The definition is broad, but the scheme selected must connect coherently with the alleged tax benefit and purpose analysis.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Noah, PP, or another taxpayer obtained a tax benefit in connection with the scheme within the meaning of s 177C (in doing so, explain the most reasonable alternative postulate);

Part IVA tax benefit

Identify the tax benefit by comparing the actual result with what would or might reasonably be expected absent the scheme, subject to the statutory framework.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: having regard to the matters in s 177D, it would be concluded that a person entered into or carried out the scheme, or any part of it, for the dominant purpose of enabling a taxpayer to obtain that tax benefit; and

Dominant purpose

Apply the statutory objective factors. Weigh commercial and tax features; taxpayer assertions are not decisive.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: if Part IVA applies, what determination the Commissioner may make under s 177F.

Commissioner determination

If Part IVA applies, identify the determination/cancellation needed to eliminate the tax benefit and the consequential assessment effect.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For the purposes of question 1, you need only consider the general anti-avoidance provisions in Part IVA. Also do not consider other tax issues such as CGT, value shifting, Division 7A, and the superannuation guarantee, and also do not consider any company law issues.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: (If time permits) Assume the facts of Ure v FCT 81 ATC 4100 occurred today. The Commissioner argues that the excessive interest deduction should be denied under s 8-1 ITAA97. In the alternative, the Commissioner argues that, if the full deduction is otherwise available, Part IVA ITAA36 applies.

General deduction

Work through a positive limb, then every relevant negative limb, and apportion because the provision operates “to the extent” of the income-producing connection.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: How would Part IVA apply to the arrangement? In your answer, identify the scheme, the tax benefit, the most reasonable alternative postulate, and whether the dominant purpose test in s 177D is satisfied. Support your answer by reference to relevant legislation, case law and any relevant ATO guidance.

Dominant purpose

Apply the statutory objective factors. Weigh commercial and tax features; taxpayer assertions are not decisive.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: *Ure v FCT 81 ATC 4100
deduction for interest depends on real income-producing nexus and purpose; disproportionate tax-driven arrangements require close analysis

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Fletcher & Ors v FCT 91 ATC 4950
where expected assessable income is small relative to outgoings and tax motives are significant, the objective connection/purpose can affect the deductible extent

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Cooke & Sherden 80 ATC 4140
non-convertible non-cash benefits illustrate why inclusion and valuation are separate questions; modern s 21A must then be considered for business benefits

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: In FCT v Hart [2004] HCA 26, the High Court confirmed that a scheme need not comprise the whole transaction or arrangement. It may consist of part of a wider arrangement and, in some circumstances, may be confined to a single step.
Part IVA focuses on scheme, tax benefit/counterfactual and objective purpose rather than legal form alone

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: *FCT v Spotless Services Ltd 96 ATC 5201
commerciality does not prevent Part IVA; objective statutory purpose can still be dominant tax purpose

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: FCT v Hart & Anor 2004 ATC 4599

Part IVA focuses on scheme, tax benefit/counterfactual and objective purpose rather than legal form alone

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: (If time permits) Assume the facts of Ure v FCT 81 ATC 4100 occurred today. The Commissioner argues that the excessive interest deduction should be denied under s 8-1 ITAA97. In the alternative, the Commissioner argues that, if the full deduction is otherwise available, Part IVA ITAA36 applies.
deduction for interest depends on real income-producing nexus and purpose; disproportionate tax-driven arrangements require close analysis

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. Review the Week 10 readings, then PTL [24.00]–[24.620]. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) (“PTL”). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Tax planning, tax avoidance and tax evasion must be distinguished. Lawful planning uses choices deliberately left by the legislation. Evasion involves illegality such as concealment or false statements. Avoidance generally refers to arrangements that seek tax advantages through legal form but may be defeated by specific integrity provisions or the general anti-avoidance rule in Part IVA.

The correct method is layered. First apply the ordinary substantive provisions. Secondly apply any specific anti-avoidance/integrity rule. Only then ask whether Part IVA applies. Part IVA is not a moral label and is not triggered merely because tax is reduced. It requires a statutory scheme, a tax benefit connected with the scheme, and the objective dominant-purpose conclusion under s 177D, followed by a Commissioner determination under s 177F.

The worked problem on Pipewise Plumbing is designed to force comparison between an ordinary commercial incorporation/profit-retention arrangement and later steps that may have a stronger income-splitting purpose. The alternative postulate is central: a tax benefit cannot be identified without a reasonable counterfactual.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
ITAA36 Div 6AA	Special rate/integrity regime for certain income of minors, with exceptions for excepted income/taxable income.	Use where family income is directed to children.
ITAA97 / ITAA36 related-party payment rules including s 26-35	Limits deductions for excessive payments to related entities to a reasonable amount in the circumstances.	Use where a family member is paid above-market wages/ fees.
ITAA97 ss 116-30 and 112-20	CGT market-value substitution rules can prevent value shifting through non-arm’s-length transfers.	Use for gifts/related-party asset transfers.
ITAA36 Pt III Subdiv H prepayment rules	Can spread deductions for prepaid expenditure rather than allowing an immediate full deduction, subject to statutory exceptions.	Use where insurance, interest or services are prepaid across income years.
ITAA36 s 177A	Defines scheme broadly and includes unilateral schemes.	Identify the arrangement with sufficient precision; avoid defining it so broadly that the purpose analysis becomes meaningless.

ITAA36 s 177C	Identifies the tax benefit by comparing the actual result with the most reasonable alternative postulate/ counterfactual.	State what would reasonably have happened absent the scheme and quantify the tax effect.
ITAA36 s 177D	Requires an objective dominant-purpose conclusion using the statutory factors.	Work factor by factor where the facts are contested; do not substitute subjective assertions.
ITAA36 s 177F	Empowers the Commissioner to cancel the tax benefit and make consequential determinations.	State the adjustment that follows if Part IVA applies.
ITAA36 ss 170 and 177G	The materials identify amendment-period consequences for Part IVA matters.	Use in the administrative consequences portion of an avoidance problem.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Ure v FCT 81 ATC 4100	Used to demonstrate ordinary deduction analysis and the kinds of arrangements later tested under general anti-avoidance concepts.	Apply s 8-1 first; then consider the Part IVA counterfactual/purpose analysis on the assumed modern facts.
Fletcher v FCT 91 ATC 4950	Shows how disproportionate tax-driven arrangements can affect the character/apportionment of deductions under ordinary provisions before GAAR analysis.	Use to emphasise that ordinary provisions come first.
Part IVA authorities identified in Chapter 11	This chapter uses the statutory framework and explanatory examples to teach annihilation/ reconstruction alternative postulates and dominant purpose.	Use cases/ATO guidance to support, not replace, the statutory steps.

Worked application — fact-by-fact reasoning map

2025–26 incorporation of Pipewise
Identify commercial reasons for incorporation, who earns the income, salary paid to Noah and profits retained. Apply ordinary income/company rules before asking Part IVA.

Tax benefit
Compare the actual tax result with a reasonable alternative in which Noah continued as sole trader or received different remuneration, depending on the facts. Explain why the chosen alternative is reasonable.

Dominant purpose
Use the s 177D factors objectively: manner, form/substance, timing, tax result, financial changes and relationships. Commercial advantages can coexist with tax advantages; the statutory question is dominant purpose.

2026–27 share issue to fiancée and dividends
Analyse whether the later income split has a stronger tax-driven character and whether the alternative postulate would have left the economic benefit with Noah.

s 177F consequence
State which tax benefit the Commissioner could cancel and how the assessment may be adjusted.

Ure alternative problem
Identify scheme, tax benefit, counterfactual and purpose separately. Do not merely say “Part IVA applies because interest was excessive”.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 11 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. Before considering Part IVA, a student should first check whether:

1. The taxpayer is a company
2. A specific anti-avoidance rule already applies to deny the claimed tax treatment under the ordinary provisions
3. The scheme involves more than $1 million
4. The ATO has issued a private ruling

Q2. Part IVA applies where there is a "scheme", a "tax benefit", and:

1. The taxpayer entered the scheme with the dominant purpose of obtaining that tax benefit, assessed against the eight statutory factors in s 177D
2. The taxpayer is a foreign resident
3. The scheme involves real property
4. The ATO has previously audited the taxpayer

Q3. Ure v FCT and Fletcher v FCT illustrate that s 8-1 itself can already limit a deduction where:

1. The arrangement has significant private or tax-driven purposes disproportionate to the assessable income it can produce, meaning Part IVA may not even need to be reached
2. The taxpayer is under audit
3. The loan is unsecured
4. The scheme lasted less than 12 months

Q4. The "alternative postulate" in a Part IVA analysis refers to:

1. What the taxpayer would have done, or what would reasonably be expected to have occurred, if the scheme had not been entered into
2. An alternative tax rate
3. A different taxpayer
4. The ATO's preferred outcome

Q5. FCT v Spotless Services Ltd confirms that a scheme can attract Part IVA even where:

1. It also has a genuine commercial or economic purpose, provided obtaining the tax benefit was still the dominant purpose objectively assessed
2. No tax benefit was actually obtained
3. The taxpayer is a not-for-profit entity
4. The scheme is illegal under other laws

Q6. If Part IVA applies, the consequence under s 177F is that the Commissioner may:

1. Cancel the tax benefit and make a compensating adjustment
2. Automatically imprison the taxpayer
3. Void the entire scheme under contract law
4. Refer the matter to the Federal Court without further steps

Q7. The eight factors in s 177D used to assess "dominant purpose" include:

1. The manner in which the scheme was entered into, its form and substance, the timing, and the result it would achieve for the taxpayer, among others
2. Only the taxpayer's age
3. Only the amount of tax saved
4. The taxpayer's nationality

Q8. A scheme is not automatically caught by Part IVA merely because it:

1. Results in a tax benefit — Part IVA requires a dominant purpose of obtaining that benefit, objectively assessed against the statutory factors
2. Involves related parties
3. Is complex
4. Was implemented by an accountant

Q9. The typical order of analysis in an integrity/avoidance problem is:

1. Part IVA first, then specific provisions
2. Ordinary provisions and any specific anti-avoidance rule first; then Part IVA as a general backstop if a tax benefit still survives
3. Always apply both simultaneously with no order
4. Skip straight to remedies

Q10. Genuine tax planning that takes advantage of concessions Parliament intended to be available is:

1. Always caught by Part IVA
2. Not necessarily caught by Part IVA — the focus is on whether the dominant purpose was obtaining a tax benefit in a way not contemplated by the provision relied upon
3. Illegal in all circumstances
4. Irrelevant to Part IVA analysis

Chapter 11 Mastery Quiz — Answers and Explanations

A1. Answer: B

Check whether a specific anti-avoidance rule already denies the treatment before reaching the general Part IVA backstop.

A2. Answer: A

Part IVA requires a scheme, a tax benefit, and a dominant purpose assessed against the s 177D factors.

A3. Answer: A

Ure and Fletcher show s 8-1 can already limit deductions for disproportionate, tax-driven arrangements before Part IVA is even reached.

A4. Answer: A

The alternative postulate is what would reasonably be expected to have occurred absent the scheme.

A5. Answer: A

Spotless Services confirms a genuine commercial purpose does not exclude Part IVA if the dominant purpose was still obtaining the tax benefit.

A6. Answer: A

Section 177F allows the Commissioner to cancel the tax benefit and make a compensating adjustment.

A7. Answer: A

The eight factors include manner, form and substance, timing, and result achieved, among others.

A8. Answer: A

A tax benefit alone is not enough — dominant purpose must be objectively established.

A9. Answer: B

Ordinary provisions and specific rules are checked first; Part IVA is the general backstop.

A10. Answer: B

Genuine tax planning within Parliament's intended concessions is not necessarily caught.

Chapter 11 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Explain why a student should check the ordinary provisions and any specific anti-avoidance rule before reaching Part IVA.

SA2. Explain what a "tax benefit" and an "alternative postulate" are, and how they relate to each other in a Part IVA analysis.

SA3. Using Spotless Services, explain why a scheme with a genuine commercial purpose can still attract Part IVA.

SA4. List four of the eight factors in s 177D relevant to assessing dominant purpose.

SA5. A taxpayer restructures a straightforward business sale through a series of unusually complex, circuitous transactions that produce no genuine commercial benefit other than a significantly reduced tax outcome. Identify the issue, apply the relevant framework, and reach a conclusion on whether Part IVA is likely to apply.

Chapter 11 Short-Answer Questions — Model Answers

Model Answer SA1

Part IVA is a general anti-avoidance backstop, intended to apply only where the ordinary provisions and any specific anti-avoidance rule do not already produce the correct result. If a specific rule (such as s 26-54's denial of drug-trafficking-related deductions) already denies the claimed treatment, or if s 8-1 itself limits the deduction on its own terms (as in Fletcher), there may be no surviving "tax benefit" left for Part IVA to operate on, or the analysis is more efficiently resolved without it.

Model Answer SA2

A "tax benefit" is an amount not included in assessable income, an allowable deduction, a capital loss, or a foreign tax offset that the taxpayer obtained (or would have obtained) because of the scheme, that would not have been obtained, or might reasonably be expected not to have been obtained, if the scheme had not been entered into. The "alternative postulate" is the reasonable hypothesis of what would have happened absent the scheme — it is used to identify and quantify the tax benefit by comparing the actual outcome to this hypothetical baseline.

Model Answer SA3

In Spotless Services, the taxpayer invested funds offshore through an arrangement that had a genuine, if modest, commercial rationale (obtaining a return on surplus funds), but the arrangement was structured in an unusual, indirect way specifically to secure a much larger tax benefit than could be achieved by a straightforward domestic investment. The High Court held that the presence of a commercial purpose did not prevent a finding that, viewed objectively against the s 177D factors (including the unusual manner and form of the scheme), the dominant purpose was obtaining the tax benefit — confirming that a scheme need not lack all commercial purpose to still be caught by Part IVA.

Model Answer SA4

Four of the eight s 177D factors: (1) the manner in which the scheme was entered into or carried out; (2) the form and substance of the scheme; (3) the timing of the scheme; and (4) the result that would be achieved by the scheme for the taxpayer under the ordinary operation of the Act — each is assessed objectively, not by reference to the taxpayer's subjective state of mind.

Model Answer SA5

Issue: whether Part IVA applies to deny the tax benefit obtained through the complex restructuring. Rule: s 177D requires a scheme, a tax benefit, and an objectively assessed dominant purpose of obtaining that benefit. Application: the unusual complexity and circuitous nature of the transactions, when a straightforward sale was readily available, together with the absence of any genuine commercial benefit beyond the tax saving, point strongly toward the manner and form of the scheme (two of the s 177D factors) indicating a dominant tax purpose — similar in character to the reasoning in Spotless Services. Conclusion: on these facts, Part IVA is likely to apply, and the Commissioner could reasonably cancel the tax benefit and assess the taxpayer based on the alternative postulate of a straightforward sale.

Chapter 11 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Is all tax planning illegal?

Q: Does a scheme need to be secretive or dishonest to attract Part IVA?

Q: If my accountant recommended the arrangement, am I protected from Part IVA?

Q: What happens if Part IVA applies to my arrangement?

Q: Can a scheme have both a genuine business purpose and still attract Part IVA?

Chapter 11 — Frequently Asked Questions: Suggested Answers

FAQ 1

No — legitimate tax planning that uses concessions and structures in the way Parliament intended is not caught by Part IVA. The focus is on schemes entered into with the dominant purpose of obtaining a tax benefit in a manner not contemplated by the relevant provisions.

FAQ 2

No — Part IVA can apply to a fully disclosed, legally valid arrangement; it does not require dishonesty or concealment, only an objectively assessed dominant purpose of obtaining a tax benefit.

FAQ 3

No — Part IVA applies to the scheme and the tax benefit obtained, regardless of who recommended or implemented it; professional advice does not itself exclude the operation of Part IVA.

FAQ 4

Under s 177F, the Commissioner can cancel the tax benefit obtained and make a compensating adjustment, effectively taxing the arrangement as if the scheme had not been entered into (based on the alternative postulate).

FAQ 5

Yes — Spotless Services confirms that the presence of a genuine commercial purpose does not automatically exclude Part IVA if, viewed objectively against the s 177D factors, obtaining the tax benefit was still the dominant purpose.

Frequently Asked Questions

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income included by a specific provision under s 6-10. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

An amount subtracted from assessable income under a deduction-conferral provision. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define TAX and explain why it matters to the Chapter 1 analysis.
2. Define Equity and explain why it matters to the Chapter 1 analysis.

3. Define Progressive and explain why it matters to the Chapter 1 analysis.
4. Define taxable income and explain why it matters to the Chapter 1 analysis.
5. Define assessable income and explain why it matters to the Chapter 1 analysis.
6. Define ordinary income and explain why it matters to the Chapter 1 analysis.
7. What role does s 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 4-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does ss 4-1, 4-5, 4-10 and 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does ss 6-5, 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does ss 4-1, 4-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Matthews v Chicory Marketing Board illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does MacCormick v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does FCT v Myer Emporium Ltd illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does Zobory v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Federal Coke Co Pty Ltd v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Emma earns $92,000 salary with $20,000 PAYG withheld. She receives a $600 birthday voucher from her employer, $12,000 of Uber receipts (stated exclusive of GST), $24,000 rent, $1,200 bank interest and a $10,000 lottery prize. Her deductible Uber costs are…
20. What should a strong Chapter 1 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. Answer

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. Answer

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. Answer

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. Answer

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. Answer

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

8. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

9. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

10. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

11. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

12. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

13. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

14. Answer

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

15. Answer

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

16. Answer

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

17. Answer

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

18. Answer

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 4-15 in this chapter?

1. s 4-15
2. ss 4-1, 4-5, 4-10 and 4-15
3. ss 6-5, 6-10
4. s 4-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 4-10 in this chapter?

1. s 4-10
2. ss 6-5, 6-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-15

3. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5, 4-10 and 4-15 in this chapter?

1. ss 4-1, 4-5, 4-10 and 4-15
2. ss 6-5, 6-10
3. s 4-10
4. s 4-15

4. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5, 6-10 in this chapter?

1. s 4-15
2. ss 6-5, 6-10
3. s 4-10
4. ss 4-1, 4-5, 4-10 and 4-15

5. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5 in this chapter?

1. s 4-15
2. s 4-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. ss 4-1, 4-5

6. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 4-15
2. s 6-5
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-10 in this chapter?

1. s 4-10
2. s 4-15
3. s 6-10
4. ss 4-1, 4-5, 4-10 and 4-15

8. Which provision is the relevant statutory reference for the rule or method associated with ss 6-15, 6-20, 6-23 in this chapter?

1. ss 6-15, 6-20, 6-23
2. ss 4-1, 4-5, 4-10 and 4-15
3. s 4-10
4. s 4-15

9. Which authority is connected with this proposition: Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

1. MacCormick v FCT
2. FCT v Myer Emporium Ltd
3. Zobory v FCT
4. Matthews v Chicory Marketing Board

10. Which authority is connected with this proposition: Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

1. Zobory v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. MacCormick v FCT

11. Which authority is connected with this proposition: A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

1. FCT v Myer Emporium Ltd
2. Matthews v Chicory Marketing Board
3. MacCormick v FCT
4. Zobory v FCT

12. Which authority is connected with this proposition: Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

1. MacCormick v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. Zobory v FCT

13. Which authority is connected with this proposition: Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

1. Matthews v Chicory Marketing Board
2. MacCormick v FCT
3. Federal Coke Co Pty Ltd v FCT
4. FCT v Myer Emporium Ltd

14. Which authority is connected with this proposition: Non-cash benefits not convertible into money were not ordinary income on the facts.

1. MacCormick v FCT
2. FCT v Cooke & Sherden
3. Matthews v Chicory Marketing Board
4. FCT v Myer Emporium Ltd

15. Which taxation-law term or authority best matches this description: A compulsory exaction by public authority for public purposes.

1. taxable income
2. TAX
3. Equity
4. Progressive

16. Which taxation-law term or authority best matches this description: Tax-system criterion concerned with fairness.

1. Equity
2. Progressive
3. taxable income
4. assessable income

17. Which taxation-law term or authority best matches this description: Rate structure in which the average rate rises as income rises.

1. assessable income
2. Progressive
3. taxable income
4. ordinary income

18. Which taxation-law term or authority best matches this description: Assessable income less deductions under s 4-15.

1. assessable income
2. ordinary income
3. statutory income
4. taxable income

19. Which taxation-law term or authority best matches this description: Income brought into the statutory tax base.

1. statutory income
2. Deduction
3. assessable income
4. ordinary income

20. Which taxation-law term or authority best matches this description: Income according to ordinary concepts under s 6-5.

1. ordinary income
2. tax loss
3. Deduction
4. statutory income

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. A. s 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

2. A. s 4-10

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

3. A. ss 4-1, 4-5, 4-10 and 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

4. B. ss 6-5, 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

5. D. ss 4-1, 4-5

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

6. B. s 6-5

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

7. C. s 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

8. A. ss 6-15, 6-20, 6-23

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

9. D. Matthews v Chicory Marketing Board

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

10. D. MacCormick v FCT

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

11. A. FCT v Myer Emporium Ltd

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

12. D. Zobory v FCT

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

13. C. Federal Coke Co Pty Ltd v FCT

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

14. B. FCT v Cooke & Sherden

Non-cash benefits not convertible into money were not ordinary income on the facts.

15. B. TAX

TAX: A compulsory exaction by public authority for public purposes.

16. A. Equity

Equity: Tax-system criterion concerned with fairness.

17. B. Progressive

Progressive: Rate structure in which the average rate rises as income rises.

18. D. taxable income

taxable income: Assessable income less deductions under s 4-15.

19. C. assessable income

assessable income: Income brought into the statutory tax base.

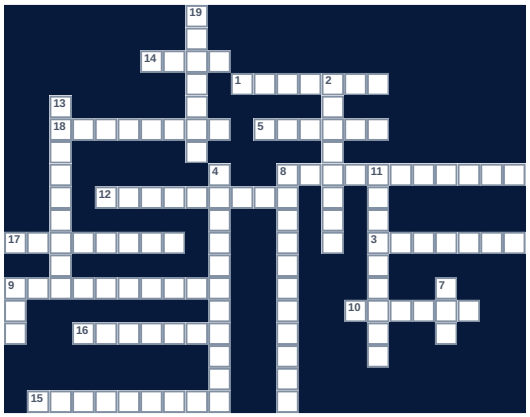
20. A. ordinary income

ordinary income: Income according to ordinary concepts under s 6-5.

20-CLUE CROSSWORD

Crossword - Chapter 11: Tax Planning, Tax Avoidance, Integrity Rules and Part IVA

Launch Chapter 11 Active Crossword to type directly into the grid and check your answers.



Across

1. Tax benefit identified under the general anti-avoidance rule.
2. Illegal concealment or falsification.
3. Broad concept central to Part IVA.
4. Timing/integrity rules may spread prepaid deductions.
5. Provision containing the core Part IVA purpose test.
6. Division 6AA integrity rules for certain income of minors.
7. Arrangement seeking tax advantage that may attract integrity rules.
8. High Court authority on Part IVA purpose analysis.
9. Economic and legal reality assessed alongside form.
10. General anti-avoidance regime in ITAA36.
11. Lawful arranging of affairs within the tax law.
12. High Court authority showing commerciality and tax purpose can coexist.

Down

1. Authority concerning disproportionate deductions and tax-motivated arrangements.
2. Substitution rules protecting the tax base in non-arm's-length dealings.
3. Authority concerning interest, associated arrangements and income nexus.
4. Provision empowering cancellation of a tax benefit.
5. Personal services income rules restricting income splitting.
6. Rules designed to protect the intended operation of the tax base.
7. Related-person payment rules can limit deductions.
8. Objective dominant-purpose inquiry under Part IVA.

CROSSWORD ANSWERS

Crossword Answers - Chapter 11

1 Across - BENEFIT	3 Across - EVASION
5 Across - SCHEME	6 Across - PREPAYMENT
8 Across - SECTION177D	10 Across - MINORS
12 Across - AVOIDANCE	14 Across - HART
15 Across - SUBSTANCE	16 Across - PARTIVA
17 Across - PLANNING	18 Across - SPOTLESS
2 Down - FLETCHER	4 Down - MARKETVALUE
7 Down - URE	8 Down - SECTION177F
9 Down - PSI	11 Down - INTEGRITY
13 Down - ASSOCIATE	19 Down - PURPOSE

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Professional services through a company

Problem

Noah incorporates Pipewise Plumbing Pty Ltd and causes most of his personal labour income to be paid to the company. The company pays Noah a low salary, retains profits and issues shares to his fiancée who receives dividends despite doing no work. The arrangement is promoted primarily as reducing Noah's tax. Identify personal-services-income and general anti-avoidance issues and explain the role of Part IVA.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Professional services through a company

Issue. The arrangement raises both the specific personal-services-income regime and, if a tax benefit remains after specific rules, Part IVA.

Rule / Law. Divisions 84–87 ITAA97 identify personal services income and can attribute income earned mainly from an individual's personal efforts or skills unless the personal-services-business tests are satisfied. Part IVA then requires a scheme (s 177A), a tax benefit (s 177C/177CB) and the objective dominant-purpose inquiry in s 177D, with cancellation/determination consequences under s 177F.

Application. Plumbing income generated mainly by Noah's personal labour is likely PSI. The company must test whether it satisfies a personal-services-business test; if not, the attribution and deduction-limitation rules can prevent income splitting. Paying Noah a deliberately low salary, retaining profits and distributing dividends to a non-working fiancée produces an apparent tax benefit if the economic return to Noah's labour is shifted to lower-taxed entities/persons. Even if the specific PSI rules do not fully neutralise the outcome, those artificial features, the lack of commercial reason for the fiancée's return and the promotion of tax reduction strongly support Part IVA purpose analysis.

Conclusion. Apply the PSI regime first. Any residual income-splitting tax benefit is vulnerable to Part IVA where the objective facts show a dominant tax-avoidance purpose.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Prepayment and non-arm’s-length dealing

Problem

A taxpayer prepays three years of service fees to an associate, transfers an asset to a family entity at well below market value and claims deductions producing a large tax benefit. Explain the specific integrity rules that should be checked before Part IVA and then outline the scheme, tax-benefit and purpose analysis under ss 177A-177F.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Prepayment and non-arm’s-length dealing

Issue. Specific timing/market-value/associate rules must be applied before the general anti-avoidance rule.

Rule / Law. Prepayments to associates may be subject to the prepayment rules including s 82KZM and related provisions. Non-arm's-length asset transfers can trigger market-value substitution rules such as ITAA97 ss 112-20 or 116-30 depending on the transaction. Payments to relatives/associates can engage s 26-35. Part IVA then requires a scheme (s 177A), tax benefit (ss 177C/177CB), dominant purpose determined from s 177D factors, and a determination under s 177F.

Application. The three-year prepayment should not be deducted in full merely because cash was paid: apply the statutory spread/timing rule. The below-market asset transfer requires market-value substitution and any associated CGT consequences. Any excessive related-party payment is limited by specific provisions. Only after those rules establish the ordinary tax outcome should the remaining arrangement be tested under Part IVA. The coordinated prepayment, undervalue transfer and large deduction-driven tax benefit form a scheme; compare the actual tax result with the counterfactual absent the scheme and assess the commercial explanation against the s 177D factors.

Conclusion. Specific integrity rules may already neutralise much of the benefit. Part IVA remains a backstop where the objective dominant purpose is obtaining the residual tax benefit.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 12. TAX ADMINISTRATION: RETURNS, ASSESSMENTS, PENALTIES, OBJECTIONS, RULINGS AND ATO POWERS

returns • assessments • amendments • GIC/SIC • penalties • objections • ART/ Federal Court • rulings • ATO powers

Tax administration is the machinery that makes substantive tax law work. Students need to understand how a return becomes an assessment, how the Commissioner changes it, what happens when tax is unpaid, and how a taxpayer challenges an ATO decision.

LEARNING OUTCOMES

- Understand self-assessment, lodgment and assessment.
- Distinguish original, deemed, default and amended assessments.
- Identify collection powers, interest charges and penalties.
- Use the objection, ART review and Federal Court appeal pathways in the correct order.
- Understand public, private and other rulings and when they bind the Commissioner.
- Recognise the ATO's information-gathering powers and taxpayer safeguards.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: procedure determines whether a substantive tax argument can be used effectively

Tax Administration is not merely an end-of-course procedural topic. A correct substantive tax position must still be lodged, assessed, paid, amended, objected to or reviewed through the statutory machinery. Students should be able to move from the tax return to assessment, amended assessment, interest, penalties, objection, ART review or Federal Court appeal.

Returns and assessments

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal ascertainment of liability rather than merely the paper notice.

Amendment periods

Section 170 is highly fact-sensitive. Identify the type of taxpayer, whether the affairs are complex, whether Part IVA is relevant, and whether fraud or evasion is alleged. Do not simply state “two years” or “four years” without connecting the relevant item of the statutory table to the taxpayer.

Interest, penalties and remedies

GIC and SIC are interest charges serving different periods and purposes. Administrative penalties are separate again and depend on the relevant conduct, base penalty amount and possible remission. If the taxpayer disputes the underlying assessment, identify the objection right under Part IVC, the burden in review or appeal, and the available chapter. If uncertainty exists before lodgment, explain the role and protection of public or private rulings.

In plain English
Tax administration is procedural law with real consequences. A strong answer knows the deadline, the decision-maker, the burden of proof and the next review step—not just the substantive tax position.

Key language

self-assessment | return | assessment | default assessment | amended assessment | notice of assessment | GIC | SIC | recovery | garnishee | director penalty | objection | ART | Federal Court | public ruling | private ruling | information notice | audit | penalty | remission

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/outgoing and the precise tax question. Break mixed facts into separate sub-issues.

R — Rule
Start with the exact statutory provision. Set out each limb, exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
State the procedural consequence, amount/penalty where relevant, time limit, objection/review pathway and any discretion to remit or amend.

12.1 Tax administration is substantive law in practice

A tax lawyer does more than calculate taxable income. The system must decide who lodges, how assessments are made, when the Commissioner can amend them, how tax is collected, what happens when a taxpayer disagrees, when penalties arise and what protection is available from ATO advice. These rules are not an administrative afterthought; they determine whether a taxpayer can practically enforce the correct legal position.

The Commissioner's general administration functions arise under provisions including s 8 ITAA36, s 1-7 ITAA97 and s 3A of the *Taxation Administration Act 1953 (Cth)* (TAA53). Australia operates substantially on self-assessment: taxpayers are

responsible for lodging correct information, while the ATO uses review, audit, information-gathering and enforcement powers.

12.2 Returns and lodgments

Section 161 ITAA36 requires a person to lodge a return where required by the Commissioner's legislative instrument for the relevant year. Section 161A requires the return to be in the approved form. Failure to lodge information required under a taxation law can attract both administrative and offence consequences, including s 8C TAA53 in appropriate circumstances.

Businesses can also have BAS/IAS obligations for GST, PAYG withholding, PAYG instalments, FBT instalments and other indirect taxes. The procedural form depends on the taxpayer's registrations and liabilities. Costs of managing tax affairs can be deductible under s 25-5 ITAA97.

12.3 Assessments — ss 166, 166A and 167 ITAA36

Under s 166 ITAA36, the Commissioner makes an assessment of taxable income, tax payable and relevant offset refunds using the return and other available information. Section 6(1) defines “assessment”. *R v DCT; Ex parte Hooper* establishes that an assessment is the Commissioner's formal ascertainment of liability, not merely the piece of paper communicating it.

Section 166A deals with full self-assessment taxpayers such as companies and complying superannuation funds: the law can deem an assessment to have been made on lodgment in accordance with the return. Section 167 allows a default assessment where a return has not been lodged, the Commissioner is dissatisfied with it, or has reason to believe taxable income was derived.

Default assessments are important because the taxpayer can carry a significant evidentiary burden when challenging them. The relevant rules include TAA53 ss 14ZZK and 14ZZO concerning the burden of proving an assessment excessive or otherwise incorrect and establishing the correct amount.

12.4 Notices and conclusiveness

Section 174 ITAA36 concerns service of a notice of assessment. Section 175 provides that non-compliance with a provision of the Act does not automatically invalidate an assessment. TAA53 Sch 1 s 350-10 contains evidentiary rules giving assessment documents significant conclusiveness, subject to the Pt IVC review/ appeal process.

The practical lesson is that taxpayers usually challenge the substantive amount through the statutory objection and review system rather than trying to invalidate an assessment collaterally.

12.5 Amended assessments and limitation periods

The Commissioner can amend assessments within statutory amendment periods under s 170 ITAA36, with different periods and exceptions depending on taxpayer type, complexity, fraud/evasion and other circumstances. Students must use the period specified in the problem rather than assume every taxpayer has two or four years.

Where Part IVA is involved, the relevant rules also include special amendment consequences including s 177G. Always identify the assessment date because amendment and objection periods are calculated from statutory starting points.

12.6 Collection, due dates and interest

Once assessed, tax becomes a debt due to the Commonwealth under the tax-administration framework. Failure to pay on time can attract the general interest charge (GIC) and collection action. Taxpayers may seek payment arrangements, remission of interest in appropriate cases and review of some decisions. In a problem, distinguish liability for the underlying tax from administrative interest/penalty consequences.

12.7 Administrative penalties — TAA53 Sch 1 Pt 4-25

The uniform administrative penalty regime in TAA53 Sch 1 Pt 4-25 applies across taxation laws, subject to statutory detail. The relevant rules identify penalties for failures to lodge, false or misleading statements, positions that are not reasonably arguable, scheme shortfalls and failures to meet other tax obligations.

For statement penalties involving shortfall amounts, culpability matters. TAA53 Sch 1 s 284-90 provides the core base-penalty table:

Conduct / position	Base penalty
Intentional disregard of a taxation law causing a shortfall	75% of the shortfall amount
Recklessness as to the operation of a taxation law causing a shortfall	50% of the shortfall amount
Failure to take reasonable care causing a shortfall	25% of the shortfall amount

No reasonably arguable position where the statutory conditions apply	25% of the relevant shortfall amount

Where a false or misleading statement does not produce a shortfall, the corresponding s 284-90 table uses penalty units: intentional disregard 60 penalty units, recklessness 40 penalty units, and failure to take reasonable care 20 penalty units. Increases can apply for hindrance or repeated conduct, and reductions can apply for qualifying voluntary disclosure; apply the relevant provisions to the facts rather than mechanically adding percentages.

For offences committed on or after 1 July 2026, the Crimes (Amount of a Penalty Unit) Instrument 2026, made under Crimes Act 1914 (Cth) s 4AA(1A), sets one penalty unit at $364. For offences committed from 7 November 2024 to 30 June 2026 the amount was $330. Always use the value applicable on the date of the conduct.

TAA53 Sch 1 s 298-10 requires written notice of an administrative penalty and reasons. Remission, assessment and review provisions must then be considered. Administrative penalties can coexist conceptually with offence provisions, although legislation coordinates the consequences where criminal prosecution is commenced.

12.8 Objections — Pt IVC TAA53

Part IVC creates the main tax dispute pathway. A dissatisfied taxpayer generally lodges a taxation objection in the approved form, within the applicable time limit and stating the grounds relied upon. Section 14ZW contains time-limit rules. For many individual/small-business assessments the relevant rules identify a two-year period, while more complex matters can involve four years; amended assessments have special timing rules.

The Commissioner must make an objection decision under s 14ZY. Section 14ZYA provides a mechanism under which a taxpayer can require a decision and, after the statutory period, obtain a deemed disallowance if no decision is made. This prevents an objection from remaining unresolved indefinitely.

12.9 Review and appeal — ART and Federal Court

After an objection decision, s 14ZZ TAA53 permits the taxpayer to choose the appropriate review/appeal route in accordance with the statutory framework. An application for merits review in the Administrative Review Tribunal must comply with the statutory time and procedural requirements, including s 14ZZC. A Federal Court appeal must also be commenced within the relevant period under provisions including s 14ZZN.

The distinction is important. The ART can undertake merits review within its jurisdiction; the Federal Court exercises judicial power and focuses on legal rights and questions within the appeal structure. Further appeals from ART decisions can be available on questions of law under the *Administrative Review Tribunal Act 2024 (Cth)*.

Sections 14ZZK and 14ZZO are crucial: the taxpayer generally bears the burden of proving the assessment excessive or otherwise incorrect and of establishing what the correct assessment should be. A student should not write merely “the taxpayer can appeal”. Explain what must be proved.

12.10 Public rulings, private rulings and oral rulings

ATO rulings are central to practical tax advice. Div 357 TAA53 Sch 1 contains the general framework and taxpayer protection where a ruling applies and the taxpayer relies on it. If the Commissioner's published position is more favourable than the law ultimately proves to be, a binding ruling can protect the taxpayer from specified adverse consequences.

Public rulings under Div 358 state the Commissioner's view for entities generally or a class of entities. Private rulings under Div 359 apply to the applicant and the specified arrangement or question. Oral rulings for individuals about certain non-business matters are dealt with in Div 360.

A private ruling is not the same as informal ATO guidance, a website example or an edited private advice document. In professional practice, identify the legal status of the ATO material before telling a client they are “protected”.

Corporate board tax-risk advice - PS LA 2004/14

PS LA 2004/14 sets out the ATO's administrative concession concerning access to advice prepared for a corporate board on tax compliance risk. It does not remove the Commissioner's statutory information-gathering powers; rather, it explains the circumstances in which the ATO ordinarily limits access to qualifying board tax-risk advice and the exceptional circumstances in which protection may be lifted. Distinguish this administrative concession from legal professional privilege and from the statutory powers themselves.

12.11 Information-gathering powers

The Commissioner has broad statutory powers to obtain information and access premises for tax-administration purposes. TAA53 Sch 1 s 353-10 permits written

notices requiring information, attendance to give evidence and production of documents. Section 353-15 provides access powers, subject to requirements including production of authority when requested. Section 353-25 addresses offshore information in relevant circumstances.

Industrial Equity Ltd v DCT confirms the breadth of information-gathering in the audit context. *ANZ Ltd v Konza* is important for the requirement that a notice be sufficiently certain to enable the recipient to identify what is required. The practical balance is broad investigatory power constrained by statutory requirements, privilege and public-law principles.

12.12 Record keeping and confidentiality

Section 262A ITAA36 requires businesses to keep records explaining relevant transactions for the statutory period, generally five years subject to detailed rules. Good records are not merely a compliance burden; they are essential evidence if a deduction, cost base, objection or audit is later disputed.

TAA53 Sch 1 Div 355 imposes strict confidentiality obligations on taxation officers, with statutory exceptions. Section 355-15 and related provisions can extend obligations to persons performing functions for the ATO. Tax administration therefore combines strong compulsory powers with statutory secrecy duties.

12.13 Authority and procedure map

Topic	Key provisions / authority	Student use
Return	ITAA36 ss 161, 161A; TAA53 s 8C	Who must lodge and consequences of non-lodgment.
Assessment	ITAA36 ss 166, 166A, 167; *Ex parte Hooper*	Ordinary, self and default assessments.
Notice	ITAA36 ss 174, 175; TAA53 Sch 1 s 350-10	Communication/evidentiary effect.
Amendment	ITAA36 s 170	Check taxpayer category and time period.
Objection	TAA53 Pt IVC, ss 14ZW, 14ZY, 14ZYA	Time, grounds and objection decision.
Review/ appeal	ss 14ZZ, 14ZZC, 14ZZK, 14ZZN, 14ZZO	ART/Federal Court and burden of proof.

Rulings	Sch 1 Divs 357–360	Public/private/oral ruling status and protection.
Information	Sch 1 ss 353-10, 353-15, 353-25; *Industrial Equity*; *Konza*	ATO notices, access and certainty.
Penalties	Sch 1 Pt 4-25; s 298-10	Culpability, shortfalls, disclosure and notice.

12.14 Practical problem method

Tax-administration problems are easiest when put on a timeline. Write the dates of return lodgment, original assessment, amended assessment, objection, objection decision and proposed review/appeal. Then attach the statutory time limit to each date. This prevents procedural issues from becoming a mass of section numbers.

Next identify the status of every document the taxpayer relied on: legislation, public ruling, private ruling, edited private advice, website guidance or informal correspondence. Ask whether it binds the Commissioner and what protection it provides.

12.15 HD administrative-law IRAC

I — Issue

What decision or liability is challenged? Is the problem about assessment, amendment, penalty, objection, review, ruling or information notice?

R — Rule

Use the exact TAA53/ITAA36 provision. State the time limit, burden, form or statutory power. Cite *Hooper*, *Industrial Equity* or *Konza* only where their propositions are relevant.

A — Application

Put the facts on a timeline. Calculate expiry dates. Identify what evidence the taxpayer must produce and whether ATO material is binding.

C — Conclusion

State the procedural step available, deadline, burden of proof and likely consequence. If a penalty applies, separately consider remission/review.

12.16 Plain-English summary

Tax administration is the “how” of tax law. A taxpayer can be legally right about deductions but still lose a dispute by missing an objection deadline or failing to keep evidence. Learn the sequence: lodge → assess → amend → object → review/ appeal. Learn the status of ATO advice. And always know who bears the burden of proving the correct tax result.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Self-assessment: liability, assessment and payment are distinct concepts

Substantive tax law creates liability, but administration determines how the liability is reported, assessed, collected, amended and disputed. A tax return is information supplied by the taxpayer. An assessment is a statutory act determining taxable income/tax or other liability under the relevant framework. Payment due dates and interest operate separately. Keeping these concepts separate is essential in problem questions.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Chapter 12 identifies ITAA36 ss 161/161A for returns, ss 166/166A/167 for assessment mechanisms, ss 174/175 for notices/effect, and s 170 for amendment periods, together with TAA53 machinery.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Administrative cases such as Ex parte Ho are used to explain assessment concepts; the statutory scheme remains primary.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot what document/decision the taxpayer actually received: return obligation, original assessment, amended assessment, default assessment, penalty notice, objection decision or ruling.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Create an administration timeline with event date, statutory provision, deadline, consequence and available response.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that

genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Amendment periods and objections require date arithmetic

Tax procedure often turns on dates. Amendment periods differ according to taxpayer and circumstances. Objection periods can depend on the type of decision and notice. A legally strong answer calculates the final date rather than saying “the taxpayer may object within the statutory period”.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use ITAA36 s 170 for amendment periods and Part IVC TAA53, including s 14ZU and related provisions, for objections. The Jade/Skye examples model the date calculation.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The governing authority here is statutory. The learning value lies in applying exact dates, extensions and the effect of amended assessments.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot assessment date, service date, amendment date, taxpayer category, fraud/evasion or special extension facts, and objection lodgment date.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Write the dates in chronological order and calculate the last permissible day. Then state whether extension mechanisms are required.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Penalties and interest are separate from primary tax

An amended assessment can create additional primary tax, but that does not automatically answer interest or penalty. General interest charge, shortfall interest charge and administrative penalties have different functions and statutory bases. Penalty percentages depend on culpability, scheme treatment and other factors, and can be increased/reduced or remitted according to the legislation.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second,

connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

TAA53 Sch 1 Pt 4-25 includes penalties for false/misleading statements, failure to take reasonable care, recklessness, intentional disregard, scheme benefits and other failures. Chapter 12 also identifies penalty units and remission/adjustment concepts.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Cases are less central than statutory classification of conduct. ATO guidance can explain administrative practice but cannot replace the Schedule 1 tests.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot whether the issue is late lodgment, false statement, shortfall, no reasonably arguable position, scheme benefit or failure to comply. Identify culpability and disclosure timing.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Use an assessment ledger: primary tax shortfall; GIC/SIC period; base penalty rate/ units; increase/reduction; remission; total disputed amount.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the

legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Objection, ART review and Federal Court appeal

A taxpayer dissatisfied with an assessment or other reviewable tax decision ordinarily follows Part IVC. The objection must state grounds fully and in detail. If dissatisfied with the objection decision, the taxpayer may seek ART review or appeal to the Federal Court according to the statutory pathway. The taxpayer bears the statutory burden concerning excessiveness/incorrectness and the correct assessment.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

This chapter identifies ss 14ZZ, 14ZZC, 14ZZK, 14ZZO and 14ZZN TAA53. ART review can address facts and law; the Federal Court route identified in the materials is on a question of law. Administrative Review Tribunal Act 2024 (Cth) s 172 is identified for appeals from ART decisions on questions of law.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer,

reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The procedural rules themselves are the authority. Students should not treat judicial review, merits review and tax appeal as interchangeable labels.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot grounds omitted from the original objection, the 60-day periods identified in this chapter, the decision challenged and whether factual reconsideration is needed.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Write the remedy conclusion procedurally: lodge objection by X; if disallowed, choose ART/Federal Court on the stated basis; taxpayer bears burden; later appeal on question of law where available.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Rulings, PCGs and edited private advice have different legal effects

ATO materials differ in authority. Public rulings express the Commissioner’s view and can protect a taxpayer who relies on an applicable ruling under the statutory framework. Private rulings apply to the applicant and specified arrangement. Edited private advice published for other taxpayers is informative but not binding protection for another taxpayer. Practical Compliance Guidelines generally describe compliance/risk approaches rather than changing substantive law.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

TAA53 Sch 1 Div 357 contains general ruling rules; Div 358 public rulings; Div 359 private rulings. This chapter contrasts TR 2011/6 with edited private advice in Week 13.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The key reasoning is hierarchy: Act/case law determines law; a binding ruling can constrain the Commissioner in the statutory circumstances; other guidance may be persuasive/administrative only.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing

analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Whenever an exam gives an ATO document, identify its type before relying on it. Ask who it applies to, whether it is binding, and what protection follows.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

For FBC, TR 2011/6 can provide public-ruling protection if applicable and followed; edited private advice for someone else cannot. A private ruling under Div 359 is the route to arrangement-specific advice.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Tax administration — decision and deadline ledger

Step / item	Tax-law treatment	Number / working

Return	What must be lodged and by when	ss 161/161A and annual lodgment rules
Original/ default assessment	Identify assessment provision and notice date	ss 166/166A/167
Amendment	Identify taxpayer amendment period and exceptions	s 170
Primary shortfall	Difference in tax liability	separate from interest/ penalty
Interest	GIC/SIC as applicable	calculate period/rate under relevant regime
Administrative penalty	Culpability/scheme/failure category	base amount + increase/reduction/ remission
Objection	Grounds + time limit	Part IVC / s 14ZU etc
ART/Federal Court	Correct chapter, time and burden	ss 14ZZC/14ZZK/ 14ZZO/14ZZN
Ruling	Public/private/edited advice/PCG	Divs 357–359 and legal effect

Procedure is numerical as well as legal: write dates and amounts. Do not merge primary tax, interest and penalty into one unexplained “ATO debt”.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: The Commissioner has the general administration of the income tax laws: s 8 TAA36; s 1-7 ITAA97; and s 3A Taxation Administration Act 1953 (Cth) (“TAA53”).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Every person must, if required by the Commissioner by legislative instrument, give to the Commissioner a return for a year of income within the period specified in the instrument: s 161 ITAA36.

Return lodgment

Identify whether and how the taxpayer is required to lodge under the return/approved form framework for the relevant year.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Taxation Laws (Requirement to Lodge a Return for the 2026 Year) Instrument 2026 was made by the Commissioner and registered on 22 May 2026. The instrument sets out who must lodge a return for the 2025-26 income year. For example, it includes all employees who had PAYG withholding applied to their salary or wages for the 2025-26 year: s 6.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Returns must be lodged in the approved form: s 161A ITAA36. See this link to view the approved form for individual tax returns.

Return lodgment

Identify whether and how the taxpayer is required to lodge under the return/approved form framework for the relevant year.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Failure to lodge or provide required information may constitute an offence: s 8C TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Tax return preparation costs may be deductible: s 25-5 ITAA97.

Tax affairs expenses

Identify whether the expense is incurred in managing tax affairs and whether any exclusion/spreading rule applies.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: From tax returns and any other information available to the ATO, the Commissioner must make an assessment of (s 166 ITAA36):

Assessment mechanism

Identify whether the assessment is ordinary/self/default and the legal basis for the Commissioner's figure.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: See also the definition of an “assessment” in s 6(1) ITAA36. An assessment is the Commissioner’s formal ascertainment of liability, not merely the paper notice: R v DCT; Ex parte Hooper (1926) 37 CLR 368.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: When a company or complying superannuation fund (which are each an example of a “full self-assessment taxpayer”) lodges their return, the Commissioner is deemed to have made an assessment on the lodgment day in accordance with the information in the return, with the return itself becoming notice of the assessment: s 166A(3) ITAA36.

Assessment mechanism

Identify whether the assessment is ordinary/self/default and the legal basis for the Commissioner’s figure.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A default assessment may be made where: no return is provided to the ATO; the ATO is not satisfied with a return provided to it; or the ATO has reason to believe that any person who has not furnished a return has derived taxable income: s 167 ITAA36.

Assessment mechanism

Identify whether the assessment is ordinary/self/default and the legal basis for the Commissioner’s figure.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Default assessments may be based on estimates, data from third parties, or asset betterment analysis (eg comparing declared income with assets, spending, and lifestyle). If the taxpayer disagrees with the default assessment, they must prove the assessment was excessive or otherwise incorrect, and establish the correct amount: s 14ZZK and s 14ZZO TAA53.

Burden in tax review/appeal

State that the taxpayer must establish that the assessment is excessive/otherwise incorrect and what the correct assessment should be, according to the applicable provision.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: After making an assessment, the Commissioner must serve a notice of assessment on the taxpayer: s 174 ITAA36; which may be by post, delivery or electronic means.

Notice/effect of assessment

Distinguish validity/effect of the assessment from the taxpayer's right to challenge the amount through Part IVC.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: An assessment is not invalid merely because a provision of the tax law has not been complied with: s 175 ITAA36.

Notice/effect of assessment

Distinguish validity/effect of the assessment from the taxpayer's right to challenge the amount through Part IVC.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The production of a notice of assessment is conclusive evidence that the assessment was properly made and that the amount and particulars of the assessment are correct (unless there is a review or appeal underway under Pt IVC TAA53 relating to the assessment): s 350-10(1), TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner has the power to amend assessments within certain time periods: s 170 ITAA36.

Amendment period

Identify taxpayer/category and calculate the statutory amendment period from the relevant assessment date, subject to exceptions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The amendment period is 4 years after the day of giving the taxpayer a notice of assessment if they have more complex affairs (eg if Part IVA ITAA 36 applies) for other taxpayers with more complex affairs

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: See column 3 of the table in s 170(1) ITAA36 for an outline of what is regarded as “complex” tax affairs. Study s 170(1) ITAA36 carefully.

Amendment period

Identify taxpayer/category and calculate the statutory amendment period from the relevant assessment date, subject to exceptions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The applicable amendment period may also be extended in particular circumstances, including where a taxpayer seeks a further amendment to an amended assessment under s 170(3) ITAA36.

Amendment period

Identify taxpayer/category and calculate the statutory amendment period from the relevant assessment date, subject to exceptions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For many taxpayers, income tax is due 21 days after the relevant lodgment date or after notice of assessment, depending on the circumstances: s 5-5(5) ITAA97.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For companies and complying superannuation funds, income tax is generally due on the first day of the 6th month after income year-end: s 5-5(4) ITAA97.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Additional tax (and shortfall interest charge) under an amended assessment is generally due 21 days after service of the amended assessment: s 5-5(7) ITAA97.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: General interest charge (GIC) applies to late payment of certain tax liabilities: Pt IIA TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner may remit GIC in appropriate circumstances: s 8AAG TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: From 1 July 2025, deductions are no longer available for the GIC under s 25-5 ITAA97.

Tax affairs expenses

Identify whether the expense is incurred in managing tax affairs and whether any exclusion/spreading rule applies.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A taxpayer is liable to pay the shortfall interest charge (SIC) on an additional amount of income tax that they are liable to pay because the Commissioner amended their assessment for an income year: s 280-100 TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner may remit SIC in appropriate circumstances: s 280-160 TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: From 1 July 2025, deductions are no longer available for the SIC under s 25-5 ITAA97.

Tax affairs expenses

Identify whether the expense is incurred in managing tax affairs and whether any exclusion/spreading rule applies.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner may sue for and recover unpaid tax as a debt: s 255-5 TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner may continue recovery action despite an objection, review or appeal: s 14ZZM and s 14ZZR TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: As noted previously, a notice of assessment is generally conclusive evidence, which also applies in debt recovery proceedings: s 350-10 TAA53. Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and

consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner may require a third party owing money to, or holding money for, a tax debtor to pay the Commissioner: s 260-5 TAA53, Sch1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner may issue a departure prohibition order (DPO) where a tax debtor may leave Australia without discharging, or making satisfactory arrangements for, a tax liability: s 14S TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A taxpayer subject to a DPO may apply for a departure authorisation certificate: s 14U TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A person aggrieved by the making of a DPO may appeal to the Federal Court or a State Supreme Court against the making of the order: s 14V TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Administrative penalties are contained in Pt 4-25 TAA53, Sch 1 (see, especially, Divs 284, 286 and 288).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Reliance on a tax agent may assist only where the taxpayer provided all relevant information and the agent otherwise acted reasonably (eg s 284-75(6) TAA53, Sch 1).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Statement penalty remission is available under s 298-20 TAA53, Sch1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Directors may become personally liable for unpaid company amounts under the director penalty regime: Div 269, TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner must issue a director penalty notice before commencing recovery: s 269-25 TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Promoter penalties apply to promoters of tax exploitation schemes: Div 290 TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Tax offence provisions are contained in Pt III, TAA53 (ss 8A to 13CA).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Failure to lodge or provide information may be an offence: s 8C TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Failure to answer questions or produce documents when required may be an offence: s 8D TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Taxpayers may object to assessments and other reviewable decisions under Part IVC TAA53. See, for example, s 175A ITAA36.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A person making a taxation objection must (s 14ZU TAA53):

Taxation objection

State the objection grounds fully and in detail and calculate the statutory deadline.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: lodge it with the Commissioner within the required period (see below - as set out in s 14ZW TAA53); and

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If a taxation objection is made because a taxpayer is dissatisfied with their income tax assessment (pursuant to s 175A ITAA36), then they must lodge their taxation objection within the relevant amendment period that applies to the taxpayer under s 170(1) ITAA36: s 14ZW(1)(aa) TAA53.

Amendment period

Identify taxpayer/category and calculate the statutory amendment period from the relevant assessment date, subject to exceptions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: This means that the time limit for lodging an objections against an income tax assessment is generally 2 years after the day the Commissioner gave notice of the assessment on an individual (or a small or medium business entity). It will be 4 years from that date for taxpayers who have more complex tax affairs under s 170(1) ITAA36.

Amendment period

Identify taxpayer/category and calculate the statutory amendment period from the relevant assessment date, subject to exceptions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For amended assessments, if the Commissioner made the amendment and a 2-year or 4-year time limit would otherwise apply to their original assessment, the taxpayer must lodge their objection to the amended assessment by the later of (s 14ZW(1B) and s 14ZW(1BA) TAA53):

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If the taxation objection was lodged on time, the Commissioner must decide whether to (s 14ZY TAA53):

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A taxpayer can give the Commissioner written notice requiring them to make an objection decision. If the Commissioner has not made the objection decision within 60 days after being given the notice, then it results in a deemed decision by the Commissioner to disallow the taxation objection: s 14ZYA TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Jade is an individual taxpayer subject to the standard amendment period of 2 years in item 1 of the table in s 170(1) ITAA36.

Amendment period

Identify taxpayer/category and calculate the statutory amendment period from the relevant assessment date, subject to exceptions.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If the person is dissatisfied with the Commissioner's objection decision, they may either (s 14ZZ TAA53):

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: In either case, the taxpayer is limited to the grounds stated in their taxation objection. And the taxpayer has the burden of proving that the assessment is excessive or otherwise incorrect, and what the assessment should have been: s 14ZZK and s 14ZZO TAA53.

Burden in tax review/appeal

State that the taxpayer must establish that the assessment is excessive/otherwise incorrect and what the correct assessment should be, according to the applicable provision.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: An application to the ART for review of a taxation objection decision must be made in writing, within 60 days after the person making the application is served with notice of the objection decision by the ATO (unless leave to extend is granted): s 14ZZC TAA53. The application for ART review must also set out a statement of the reasons for the application.

ART review timing

Calculate the review application period from service of the objection decision and identify any extension mechanism.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: An appeal to the Federal Court against an objection decision must be lodged with the Court within 60 days after the person appealing is served with notice of the decision by the ATO: s 14 ZZN TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: If the taxpayer or the Commissioner is dissatisfied with the ART decision, they can appeal to the Federal Court on a question of law: s 172 Administrative Review Tribunal Act 2024 (Cth).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A tax ruling binds the Commissioner if it applies to the taxpayer and they follow it. If the taxpayer follows the ruling, and the law turns out to be less favourable than the ruling, the taxpayer is protected by the ruling from any adverse consequences: Div 357 TAA53, Sch 1.

Rulings framework

Separate the legal effect of rulings from the substantive tax law and identify the protection available where an applicable ruling is followed.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Public rulings are an expression of the ATO's opinion of the way in which the law applies to entities generally or a class of entities. See Div 358 TAA53, Sch 1. Taxpayers cannot object directly to a public ruling.

Public rulings

Identify whether the document is a public ruling, whether it applies to the taxpayer/ arrangement and the Commissioner-binding consequences.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Private rulings are issued under Div 359 TAA53, Sch 1, and they only apply to the applicant and the specific arrangement or issue identified.

Private rulings

Use for arrangement-specific advice to the applicant; distinguish published edited private advice, which does not bind the Commissioner for another taxpayer.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner can make oral rulings for individuals about non-business matters under Div 360 TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Businesses must keep records in English to explain transactions and support tax positions (generally for at least 5 years): s 262A ITAA36.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For the purposes of a taxation law, the Commissioner, or individual authorised by them (s 353-15 TAA53, Sch 1):

ATO information gathering

Identify the statutory notice/power, recipient obligation and any privilege/procedural issue raised by the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The authorised person must provide proof of their authority when requested: s 353-15(2) TAA53, Sch 1.

ATO information gathering

Identify the statutory notice/power, recipient obligation and any privilege/procedural issue raised by the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: An occupier of land premises or place commits an offence if all reasonable facilities and assistance for a valid exercise of the access power is not provided: s 353-15(3) TAA53, Sch 1.

ATO information gathering

Identify the statutory notice/power, recipient obligation and any privilege/procedural issue raised by the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the

numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For the purpose of the administration or operation of a tax law, the Commissioner may by written notice require a person to (s 353-10 TAA53, Sch 1):

ATO information gathering

Identify the statutory notice/power, recipient obligation and any privilege/procedural issue raised by the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Failing to comply with the notice can be an offence: s 8C or s 8D TAA53.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner may require the information or evidence to be given on oath/affirmation and orally or in writing: s 353-10(2) TAA53, Sch 1.

ATO information gathering

Identify the statutory notice/power, recipient obligation and any privilege/procedural issue raised by the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner can require offshore information or documents be provided: s 353-25 TAA53, Sch 1. The taxpayer generally has 90 days to comply, and non-compliance may prevent the taxpayer from later relying on the information in a dispute.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Taxation officers are subject to strict confidentiality obligations, unless excepted: Div 355 TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: External advisers engaged by the ATO may effectively be treated as taxation officers and subject to the same confidentiality requirements: s 355-15 TAA53, Sch 1.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A uniform administrative penalty regime applies to all “taxation laws” (unless specifically excluded) as defined in ITAA97 s 995-1(1) (TAA s 3AA). Uniform penalties apply irrespective of the type of tax involved, provided the tax is imposed under a relevant taxation law.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The main regime, TAA Sch 1 Pt 4-25, imposes penalties for:

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: A penalty unit is $364 for an offence committed on or after 1 July 2026 and $330 for an offence committed between 7 November 2024 and 30 June 2026 (Crimes Act 1914 s 4AA).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Unless otherwise specified, this is the percentage of the shortfall amount or, in the case of failure to make a statement, the percentage of the tax-related liability. The base penalty amount can be reduced under TAA Sch 1 s 284-224 to the extent that a taxation law was applied in an accepted way.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Penalties are doubled for significant global entities (SGEs), as well as group entities of applicable MNE groups in respect of penalties relating to the Minimum Tax law (s 284-90(1A) and (1C)).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: For SGE entering into tax avoidance and profit shifting schemes without a reasonably arguable position penalties are doubled (s 284-155(3): ¶29-180, ¶22-630).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The Commissioner is required to provide written notice of a penalty and the reasons why the taxpayer is liable to pay the penalty (TAA Sch 1 s 298-10).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: The rules relating to the recovery of income tax (¶25-510) also generally apply in relation to administrative penalties. Assessments of penalties and, with certain exceptions, decisions relating to the remission of penalties are reviewable in accordance with TAA Pt IVC (TAA Sch 1 s 298-30; Huang 2025 ATC ¶20-978; [2025] FCA 1314; ¶28-000, ¶29-410). The Commissioner's power to assess penalties under s 298-30(1) is not "spent" once exercised; the Commissioner can still amend the penalty after a notice of penalty assessment has been issued (Ziegler; Wellton Holdings Pty Ltd 2025 ATC ¶20-983; [2025] FCAFC 168).

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Circumstances that give rise to a liability for penalties may also constitute an offence. Failing to lodge a return or making a false or misleading statement are 2 examples. If a prosecution is initiated, the related administrative penalty is withdrawn under TAA s 8ZE (¶29-700). The remission of administrative penalties would be limited to where related criminal proceedings result in a conviction under proposed reforms noted below…

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: See also the definition of an “assessment” in s 6(1) ITAA36. An assessment is the Commissioner’s formal ascertainment of liability, not merely the paper notice: R v DCT; Ex parte Hooper (1926) 37 CLR 368.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Example (adapted from TR 2011/5, at para 123 to 125)
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner’s view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Industrial Equity Ltd v DCT (1990) 170 CLR 649 - the High Court held that the Commissioner can use the information gathering powers to collect information in a random audit.
This authority is relevant to the chapter topic. Use it only for the legal proposition it actually supports: state the material facts/issue, extract the rule or reasoning, compare the problem facts, and explain whether the authority supports or distinguishes the taxpayer’s position. Verify the current status and citation when preparing assessed work.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: A notice must be sufficiently certain to enable the recipient to identify what is required: ANZ Ltd v Konza [2012] FCAFC 127.

ATO information-gathering powers are broad but must be exercised according to statute; use in audit/information-notice problems

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.
- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. Review the Week 11 readings together with this chapter 12 administration materials and the statutory provisions identified in that chapter. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) (“PTL”). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

Tax administration is the machinery that turns substantive tax rules into enforceable liabilities. A student who can calculate taxable income but cannot identify the assessment, amendment, objection and review pathway does not yet understand the legal system as a whole. The chapter therefore treats procedure as substantive exam material.

Australia operates substantially on self-assessment. Taxpayers must lodge required returns in the approved form, keep records and take reasonable care. The Commissioner issues or is taken to make assessments under the statutory framework and may amend them within applicable periods. Penalties and interest can arise separately from the primary tax liability.

Part IVC of the TAA53 supplies the objection and review pathway. Deadlines matter. So does the burden of proof. Public and private rulings are administrative statements about how the Commissioner will apply the law; they can bind the Commissioner in the circumstances specified by the legislation but are not legislation themselves.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
TAA36 s 8; ITAA97 s 1-7; TAA53 s 3A	Identify the Commissioner's general administration of the tax laws.	Use to orient an administration problem, not as the source of the underlying income-tax liability.
ITAA36 ss 161 and 161A; TAA53 s 8C	Govern required returns/approved form and offences for failure to comply with specified obligations.	Check the annual lodgment instrument and the taxpayer's circumstances.
ITAA97 s 25-5	Provides a specific deduction for qualifying tax-affairs expenses.	Use where the taxpayer incurs return-preparation or tax-advice costs.
ITAA36 ss 166, 166A and 167	Assessment provisions, including ordinary/self-assessment and default assessment mechanisms.	Identify what assessment was made and on what basis.
ITAA36 ss 170, 174 and 175	Deal with amendment periods, notices and the legal effect of assessments/notices under the relevant provisions.	Calculate amendment/ objection timing carefully from the relevant notice/date.

TAA53 Sch 1 Pt 4-25	Administrative penalty regime for failures including false/misleading statements, lack of reasonable care, recklessness, intentional disregard, scheme benefits and other obligations.	Separate primary tax, administrative penalty and interest; consider remission where relevant.
TAA53 Pt IVC including ss 14ZU, 14ZZ, 14ZZC, 14ZZK, 14ZZO and 14ZZN	Provides objections, ART review, Federal Court appeal and burden/ time-limit rules identified in this chapter.	State the precise next step, deadline, permitted grounds and burden of proof.
TAA53 Sch 1 Divs 357, 358 and 359	General ruling framework, public rulings and private rulings.	Explain who is bound and the protection obtained by reliance.
ITAA36 s 262A and TAA information-gathering powers	Record keeping and Commissioner powers support audit/enforcement.	Use when facts concern records, notices to produce information or ATO audit.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Chapter 12 objection example / TR 2011/5 example	This book uses worked dates to show that amendment and objection deadlines are calculation questions, not merely descriptive law.	Write out the date arithmetic and identify any extension mechanism.
Administrative Review Tribunal Act 2024 (Cth) s 172	The materials identify appeals from ART decisions to the Federal Court on questions of law.	Use to complete the review hierarchy.
ATO rulings framework	The Commissioner can be bound by an applicable ruling when the taxpayer relies on it, even though the ruling is not itself the law.	Use to distinguish legal authority from administrative protection.

Worked application — fact-by-fact reasoning map

Identify the decision
Is the taxpayer challenging an original assessment, amended assessment, penalty, objection decision or ruling? The pathway and deadline depend on the decision.

Calculate time limits
State the relevant statutory period and compute the final date from service/notice. Do not write vague phrases such as “within time”.

Objection grounds
Set out all substantive grounds because later review/appeal is generally confined to the objection grounds unless leave is obtained.

Burden of proof
State that the taxpayer bears the statutory burden to show the assessment is excessive/otherwise incorrect and what the correct assessment should be.

ART or Federal Court
ART can review fact and law; the Federal Court pathway identified in the legal material is on a question of law. Explain the strategic/legal distinction without treating the chapters as interchangeable.

Public versus private ruling
A private ruling applies to the applicant’s specific arrangement. Edited private advice published for others is not binding protection for another taxpayer.

Penalties
Identify the culpability category, base penalty percentage/units, possible increases/reductions and voluntary-disclosure/remission considerations.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 12 Mastery Quiz — Multiple Choice

Work through every question before turning the page. Answers and explanations are on the following page.

Q1. R v DCT; Ex parte Hooper **establishes that an "assessment" is:**

1. Merely the piece of paper (notice) sent to the taxpayer
2. The Commissioner's formal act of ascertaining tax liability, distinct from the notice communicating it
3. A court order
4. Only relevant to companies

Q2. Under full self-assessment (s 166A), taxpayers such as companies:

1. Are assessed only by the Commissioner conducting an independent audit each year
2. Are treated as having been assessed on the basis of their own tax return, with the Commissioner able to later amend that assessment
3. Never need to lodge a return
4. Cannot be penalised for errors

Q3. If a taxpayer disagrees with an assessment, the correct first step is generally to:

1. Go straight to the Federal Court
2. Lodge an objection with the Commissioner
3. Refuse to pay any tax
4. Contact the Minister for Finance

Q4. If an objection decision is unfavourable, a taxpayer may generally seek external review by:

1. The Administrative Review Tribunal (ART) or an appeal to the Federal Court
2. The High Court only
3. The State Ombudsman
4. A private arbitrator

Q5. The General Interest Charge (GIC) is imposed:

1. Only on companies
2. On unpaid tax debts, to compensate the Commonwealth for late payment
3. Only where fraud is proven
4. As a criminal penalty

Q6. An administrative penalty for a false or misleading statement generally depends on:

1. The taxpayer's age
2. The taxpayer's degree of culpability — for example, whether reasonable care was taken, or whether the conduct was reckless or intentionally disregarded the law
3. Whether the taxpayer used an accountant
4. The size of the taxpayer's business only

Q7. A private binding ruling gives a taxpayer:

1. Legal certainty and protection from penalties/interest if they rely on it and the facts match, even if the ruling is later found to be wrong in law
2. No legal effect at all
3. Automatic exemption from all future tax
4. The right to ignore the legislation

Q8. The Commissioner's general power to amend an assessment is subject to:

1. No time limits whatsoever
2. Statutory time limits, which can vary depending on factors such as the taxpayer's category and whether fraud or evasion is involved
3. Only the taxpayer's consent
4. Approval from the Treasurer for every amendment

Q9. Industrial Equity Ltd v DCT is relevant to this chapter's coverage of:

1. The Commissioner's administrative powers and their limits
2. The CGT discount
3. Fringe benefits tax
4. The constitutional definition of income

Q10. The correct administrative sequence, from lodging a return to final resolution of a dispute, is generally:

1. Objection, then return, then assessment, then review
2. Return → assessment → (if disputed) objection → review/appeal → possible further appeal
3. Review, then objection, then assessment
4. There is no fixed sequence

Chapter 12 Mastery Quiz — Answers and Explanations

A1. Answer: B

An assessment is the Commissioner's formal act of ascertaining liability, distinct from the notice.

A2. Answer: B

Under full self-assessment, the taxpayer is treated as assessed based on their own return, subject to later Commissioner amendment.

A3. Answer: B

The first step is lodging an objection with the Commissioner.

A4. Answer: A

External review is generally to the Administrative Review Tribunal or by appeal to the Federal Court.

A5. Answer: B

The GIC compensates the Commonwealth for late payment of unpaid tax debts.

A6. Answer: B

Administrative penalties depend on the taxpayer's degree of culpability.

A7. Answer: A

A private ruling gives legal certainty and protects reliant taxpayers from penalties/interest even if later found wrong.

A8. Answer: B

Amendment powers are subject to statutory time limits, which vary by category and circumstance.

A9. Answer: A

Industrial Equity Ltd v DCT is relevant to the Commissioner's administrative powers and their limits.

A10. Answer: B

The sequence is return, assessment, objection (if disputed), then review/appeal.

Chapter 12 Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Explain the significance of R v DCT; Ex parte Hooper's distinction between an "assessment" and the notice of assessment.

SA2. Explain how full self-assessment under s 166A changes the practical starting point for a dispute, compared to a Commissioner-issued assessment.

SA3. Set out the correct sequence of steps a taxpayer should follow if they disagree with an assessment.

SA4. Explain the difference between the General Interest Charge (GIC) and an administrative penalty for a false or misleading statement.

SA5. Explain the protection a taxpayer receives from relying on a private binding ruling, even if the ruling later turns out to be legally incorrect.

Chapter 12 Short-Answer Questions — Model Answers

Model Answer SA1

R v DCT; Ex parte Hooper establishes that the "assessment" is the Commissioner's formal act of ascertaining a taxpayer's tax liability — an administrative act of calculation and determination. The notice of assessment is simply the document that communicates the result of that act to the taxpayer. This distinction matters because rights and time limits (such as objection periods) generally run from specific statutory events tied to the assessment or its notification, and confusion between the underlying act and its communication can affect procedural questions such as when an assessment is validly made.

Model Answer SA2

Under full self-assessment (s 166A), the Commissioner is taken to have made an assessment based on the figures in the taxpayer's own lodged return, without the Commissioner necessarily reviewing or actively calculating the liability first. This means the starting point for a company is its own self-reported figure, rather than waiting for the Commissioner to issue an original assessment — but the Commissioner retains the power to later audit and amend that self-assessment within the applicable statutory time limits, so the taxpayer bears greater responsibility for the accuracy of what they lodge.

Model Answer SA3

The correct sequence is: (1) lodge a formal objection to the assessment with the Commissioner, setting out the grounds of disagreement within the statutory time limit; (2) if the objection is disallowed or only partly allowed, the taxpayer may seek external review by applying to the Administrative Review Tribunal (a merits review) or appealing to the Federal Court (a review on legal grounds); (3) further appeal rights may be available (e.g. to the Full Federal Court) depending on the outcome and the issues involved.

Model Answer SA4

The General Interest Charge (GIC) is a compensatory charge that accrues on unpaid tax debts, applying generally regardless of the taxpayer's fault, simply to compensate the Commonwealth for the time value of money owed but not yet paid. An administrative penalty for a false or misleading statement, by contrast, is punitive in nature and is scaled according to the taxpayer's degree of culpability — for example, whether the taxpayer took reasonable care, was merely careless, was reckless, or intentionally disregarded a taxation law — with higher culpability attracting a higher penalty percentage.

Model Answer SA5

A taxpayer who obtains a private binding ruling and genuinely relies on it, where their actual facts match the facts and arrangement described in the ruling, is protected from having to pay any shortfall in tax, penalties, or interest for the period of reliance — even if the ruling is later found to have incorrectly stated the law. This protection exists to give taxpayers certainty when they act in good faith on the Commissioner's own stated position, though the Commissioner can generally withdraw or revise the ruling for future periods once the error is identified, at which point ongoing reliance would no longer be protected.

Chapter 12 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: Can I go straight to court if I disagree with my tax assessment?

Q: Is there a time limit for the ATO to amend my assessment?

Q: If I follow a private ruling and it's later found to be wrong, am I penalised?

Q: Does the GIC apply even if I made an honest mistake?

Q: What does "self-assessment" actually mean in practice?

Chapter 12 — Frequently Asked Questions: Suggested Answers

FAQ 1

No — you generally must first lodge a formal objection with the Commissioner. Only after receiving an objection decision can you seek external review, typically through the Administrative Review Tribunal or the Federal Court.

FAQ 2

Yes — amendment periods are generally limited by statute, though the applicable period can vary (and can be extended, or removed entirely, in cases of fraud or evasion).

FAQ 3

Generally no — if you genuinely relied on a private binding ruling and your facts matched those covered by the ruling, you are protected from penalties and interest for that period, even if the ruling is later found to have been legally incorrect (though the underlying tax may still need to be paid going forward once the error is identified).

FAQ 4

Yes — the GIC compensates the Commonwealth for the time value of unpaid tax and generally applies regardless of fault, unlike administrative penalties, which are based on the taxpayer's degree of culpability.

FAQ 5

It means the Commissioner is taken to have made an assessment based on the taxpayer's own return as lodged, without necessarily reviewing it first — the Commissioner retains the power to later check and amend that assessment within the applicable statutory time limits.

FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Write a short answer before turning to the answer page.

FAQ ANSWERS

Frequently Asked Questions - Suggested Answers

1. What does TAX mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. What does Equity mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. What does Progressive mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. What does taxable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. What does assessable income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. What does ordinary income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. What does statutory income mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

Income included by a specific provision under s 6-10. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

8. What does Deduction mean, why does it matter in Chapter 1, and how should a student use it in a problem question?

An amount subtracted from assessable income under a deduction-conferral provision. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

20 SHORT QUIZ QUESTIONS

Chapter Mastery Quiz

1. Define TAX and explain why it matters to the Chapter 1 analysis.
2. Define Equity and explain why it matters to the Chapter 1 analysis.

3. Define Progressive and explain why it matters to the Chapter 1 analysis.
4. Define taxable income and explain why it matters to the Chapter 1 analysis.
5. Define assessable income and explain why it matters to the Chapter 1 analysis.
6. Define ordinary income and explain why it matters to the Chapter 1 analysis.
7. What role does s 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 4-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. What role does ss 4-1, 4-5, 4-10 and 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
10. What role does ss 6-5, 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
11. What role does ss 4-1, 4-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
12. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
13. What role does s 6-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
14. What proposition does Matthews v Chicory Marketing Board illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
15. What proposition does MacCormick v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
16. What proposition does FCT v Myer Emporium Ltd illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
17. What proposition does Zobory v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
18. What proposition does Federal Coke Co Pty Ltd v FCT illustrate, why is that proposition relevant to this chapter, and how would you use the authority in an IRAC answer?
19. Issue-spot this fact pattern. Identify at least three separate tax issues and the order in which you would analyse them: Emma earns $92,000 salary with $20,000 PAYG withheld. She receives a $600 birthday voucher from her employer, $12,000 of Uber receipts (stated exclusive of GST), $24,000 rent, $1,200 bank interest and a $10,000 lottery prize. Her deductible Uber costs are…
20. What should a strong Chapter 1 conclusion contain?

QUIZ ANSWERS

Chapter Mastery Quiz - Answer Guide

1. Answer

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. Answer

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. Answer

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. Answer

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. Answer

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. Answer

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

8. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

9. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

10. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

11. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

12. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

13. Answer

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

14. Answer

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

15. Answer

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

16. Answer

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

17. Answer

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

18. Answer

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

19. Answer

Identify the taxpayer and income year first. Then separate every receipt, outgoing, asset, CGT event or administrative decision into its own issue. For each issue move through exact provision, elements, authority, application, calculation and conclusion before combining the results.

20. Answer

State the legal characterisation, the exact governing provision, the decisive factual findings, the practical tax consequence and any amount capable of calculation. If the outcome is fact-sensitive, state the better view and the strongest alternative.

20 MULTIPLE-CHOICE QUESTIONS

Multiple Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 4-15 in this chapter?

1. s 4-15
2. ss 4-1, 4-5, 4-10 and 4-15
3. ss 6-5, 6-10
4. s 4-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 4-10 in this chapter?

1. s 4-10
2. ss 6-5, 6-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-15

3. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5, 4-10 and 4-15 in this chapter?

1. ss 4-1, 4-5, 4-10 and 4-15
2. ss 6-5, 6-10
3. s 4-10
4. s 4-15

4. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5, 6-10 in this chapter?

1. s 4-15
2. ss 6-5, 6-10
3. s 4-10
4. ss 4-1, 4-5, 4-10 and 4-15

5. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5 in this chapter?

1. s 4-15
2. s 4-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. ss 4-1, 4-5

6. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 4-15
2. s 6-5
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-10 in this chapter?

1. s 4-10
2. s 4-15
3. s 6-10
4. ss 4-1, 4-5, 4-10 and 4-15

8. Which provision is the relevant statutory reference for the rule or method associated with ss 6-15, 6-20, 6-23 in this chapter?

1. ss 6-15, 6-20, 6-23
2. ss 4-1, 4-5, 4-10 and 4-15
3. s 4-10
4. s 4-15

9. Which authority is connected with this proposition: Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

1. MacCormick v FCT
2. FCT v Myer Emporium Ltd
3. Zobory v FCT
4. Matthews v Chicory Marketing Board

10. Which authority is connected with this proposition: Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

1. Zobory v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. MacCormick v FCT

11. Which authority is connected with this proposition: A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

1. FCT v Myer Emporium Ltd
2. Matthews v Chicory Marketing Board
3. MacCormick v FCT
4. Zobory v FCT

12. Which authority is connected with this proposition: Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

1. MacCormick v FCT
2. Matthews v Chicory Marketing Board
3. FCT v Myer Emporium Ltd
4. Zobory v FCT

13. Which authority is connected with this proposition: Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

1. Matthews v Chicory Marketing Board
2. MacCormick v FCT
3. Federal Coke Co Pty Ltd v FCT
4. FCT v Myer Emporium Ltd

14. Which authority is connected with this proposition: Non-cash benefits not convertible into money were not ordinary income on the facts.

1. MacCormick v FCT
2. FCT v Cooke & Sherden
3. Matthews v Chicory Marketing Board
4. FCT v Myer Emporium Ltd

15. Which taxation-law term or authority best matches this description: A compulsory exaction by public authority for public purposes.

1. taxable income
2. TAX
3. Equity
4. Progressive

16. Which taxation-law term or authority best matches this description: Tax-system criterion concerned with fairness.

1. Equity
2. Progressive
3. taxable income
4. assessable income

17. Which taxation-law term or authority best matches this description: Rate structure in which the average rate rises as income rises.

1. assessable income
2. Progressive
3. taxable income
4. ordinary income

18. Which taxation-law term or authority best matches this description: Assessable income less deductions under s 4-15.

1. assessable income
2. ordinary income
3. statutory income
4. taxable income

19. Which taxation-law term or authority best matches this description: Income brought into the statutory tax base.

1. statutory income
2. Deduction
3. assessable income
4. ordinary income

20. Which taxation-law term or authority best matches this description: Income according to ordinary concepts under s 6-5.

1. ordinary income
2. tax loss
3. Deduction
4. statutory income

MULTIPLE-CHOICE ANSWERS

Answer Key and Explanations

1. A. s 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

2. A. s 4-10

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

3. A. ss 4-1, 4-5, 4-10 and 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

4. B. ss 6-5, 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

5. D. ss 4-1, 4-5

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

6. B. s 6-5

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

7. C. s 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

8. A. ss 6-15, 6-20, 6-23

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

9. D. Matthews v Chicory Marketing Board

Classic description of a tax as a compulsory exaction for public purposes rather than payment for services.

10. D. MacCormick v FCT

Important constitutional authority concerning the requirement that taxation not operate as an arbitrary exaction.

11. A. FCT v Myer Emporium Ltd

A commercial profit from an isolated transaction may be ordinary income where the profit-making purpose and commercial character support that conclusion.

12. D. Zobory v FCT

Character of a receipt is determined in the taxpayer's hands and by its real legal/economic character.

13. C. Federal Coke Co Pty Ltd v FCT

Shows the importance of identifying the derivation and character of a payment in the hands of the recipient.

14. B. FCT v Cooke & Sherden

Non-cash benefits not convertible into money were not ordinary income on the facts.

15. B. TAX

TAX: A compulsory exaction by public authority for public purposes.

16. A. Equity

Equity: Tax-system criterion concerned with fairness.

17. B. Progressive

Progressive: Rate structure in which the average rate rises as income rises.

18. D. taxable income

taxable income: Assessable income less deductions under s 4-15.

19. C. assessable income

assessable income: Income brought into the statutory tax base.

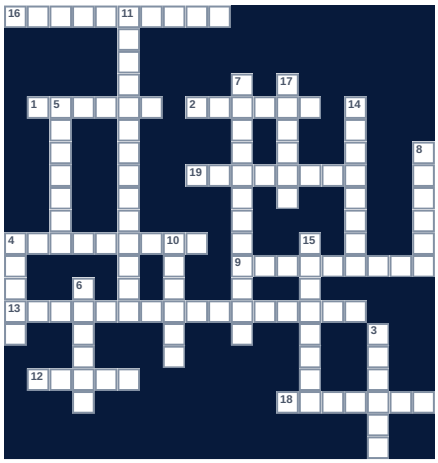
20. A. ordinary income

ordinary income: Income according to ordinary concepts under s 6-5.

20-CLUE CROSSWORD

Crossword - Chapter 12: Tax Administration: Returns, Assessments, Penalties, Objections, Rulings and ATO Powers

Launch Chapter 12 Active Crossword to type directly into the grid and check your answers.



Across

1. Court pathway on questions of law and taxation decisions.
2. Authority relevant to taxation administration.
3. Part IVC mechanism to dispute a taxation decision.
4. Authority concerning ATO information-gathering powers.
5. Authority concerning assessment/ administration principles.
6. Commissioner's formal determination of tax liability.
7. Administrative consequence for non-compliance or false statements.
8. Records supporting the taxpayer's return and objection position.
9. Change to an assessment within statutory limits.

Down

1. Ruling stating the Commissioner's view for classes of taxpayers/arrangements.
2. ATO examination of compliance and reported positions.
3. Ruling applying to a specified taxpayer and arrangement.
4. Commissioner guidance capable of binding protection when applicable.
5. Statutory administrator of Commonwealth taxation laws.
6. Document lodged to report tax information to the Commissioner.
7. Formal communication of an assessment.
8. System in which taxpayers initially determine their own liability.
9. Charge that can accrue on unpaid tax liabilities.
10. Protection question arising when taxpayer follows an applicable ruling.
11. External merits review pathway after objection decision.

CROSSWORD ANSWERS

Crossword Answers - Chapter 12

1 Across - APPEAL	2 Across - HOOPER
9 Across - OBJECTION	12 Across - KONZA
13 Across - INDUSTRIALEQUITY	16 Across - ASSESSMENT
18 Across - PENALTY	19 Across - EVIDENCE
20 Across - AMENDMENT	3 Down - PUBLIC
4 Down - AUDIT	5 Down - PRIVATE
6 Down - RULING	7 Down - COMMISSIONER
8 Down - RETURN	10 Down - NOTICE
11 Down - SELFASSESSMENT	14 Down - INTEREST
15 Down - RELIANCE	17 Down - REVIEW

IRAC PROBLEM QUESTION

High Distinction Problem 1 - Assessment, amendment and objection

Problem

FBC lodges its return and receives an assessment. Eighteen months later the ATO audits a deduction and issues an amended assessment with additional tax and an administrative penalty. FBC believes the law and facts support its original position. Explain the assessment/amendment framework, objection process, review/appeal options and penalty issues that should be addressed.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO

authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 1 - Assessment, amendment and objection

Issue. FBC must distinguish the validity/timing of assessment and amendment from the separate objection, review and penalty processes.

Rule / Law. The ITAA36 assessment framework includes ss 166–170 (including amendment periods), while Part IVC of the TAA 1953 governs objections and review/appeal. Section 14ZW sets objection time limits; ss 14ZY/14ZYA concern objection decisions; ss 14ZZ and following provisions provide review/appeal pathways. Administrative penalties arise under Sch 1 to the TAA (including Div 284/298 as applicable), and interest may be separately imposed. *R v DCT; Ex parte Hooper* confirms the assessment is the Commissioner's formal act, not merely the paper notice.

Application. An amended assessment issued 18 months later is not automatically invalid; first identify FBC's applicable statutory amendment period and whether an exception extends it. FBC should lodge a written taxation objection against the amended assessment within the Part IVC deadline, fully stating grounds challenging the deduction adjustment and, where appropriate, the penalty. If disallowed, it may seek merits review in the Administrative Review Tribunal or appeal to the Federal Court on the available pathway. The penalty must be analysed separately by reference to the conduct alleged (for example, failure to take reasonable care/recklessness) and remission criteria.

Conclusion. FBC's immediate practical step is a timely, properly particularised objection to the amended assessment and penalty, preserving later review/appeal rights.

IRAC PROBLEM QUESTION

High Distinction Problem 2 - Rulings and edited advice

Problem

Sally finds TR 2011/6 and several edited private-advice documents that appear to support a deduction position. She wants certainty before lodging the company return. Explain the legal status of public rulings, why edited private

advice does not bind the Commissioner for Sally's company, how a private ruling can be obtained and what protection reliance may provide under Schedule 1 Div 357 TAA53.

Required: Advise the taxpayer(s). Identify the main issue and sub-issues, state the exact statutory provisions and elements, connect the relevant cases/ATO authorities, apply each fact, show calculations where required, address the strongest counterargument and give a reasoned conclusion.

HIGH DISTINCTION MODEL ANSWER

HD Model Answer 2 - Rulings and edited advice

Issue. Sally must distinguish binding/public ATO advice from material that merely illustrates other taxpayers' circumstances.

Rule / Law. Schedule 1 Div 357 TAA 1953 provides the rulings framework. A public ruling binds the Commissioner for taxpayers within its scope when the law/facts match and the taxpayer relies on it as provided by the legislation. Edited private-advice documents are not Sally's private ruling and do not bind the Commissioner for her company. A taxpayer can apply for a private ruling on how a relevant provision applies to a specified arrangement, providing complete facts.

Application. TR 2011/6 can provide protection only to the extent Sally's facts fall within the ruling and it remains applicable. Edited private advice can be useful research but cannot be treated as precedent or personalised protection. If certainty is required before lodgment, the company should seek its own private ruling on the proposed facts and transaction. If it follows a binding ruling that applies to it, the statutory protection can prevent the Commissioner from later applying the law less favourably for the ruled matter, subject to the Div 357 rules.

Conclusion. Use public rulings according to their scope, treat edited private advice as non-binding guidance, and obtain a private ruling for transaction-specific certainty.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

CHAPTER 13. FINAL EXAMINATION REVISION: INTEGRATED AUSTRALIAN TAXATION LAW

integrated issue spotting • taxable-income reconciliation • CGT • deductions • administration • exam method

The final chapter brings the book together. High-distinction tax answers move in a controlled sequence: taxpayer, year, jurisdiction, characterisation, statutory inclusion, deduction, CGT, calculation and administration.

LEARNING OUTCOMES

- Issue-spot across the whole course.
- Select the correct Act, Division and section before applying a case.
- Show calculations transparently.
- Avoid double counting between ordinary income, statutory income and CGT.
- Use cases for propositions rather than name-dropping.
- Write concise, reasoned conclusions that state the tax consequence.

How to use this chapter

Read the connected explanation first. Then connect each rule to the exact statutory provision and the authority that explains it. Use the worked applications to convert facts into issues, issues into rules, rules into calculations where required, and the analysis into a reasoned conclusion and any relevant penalty, remedy, objection or review pathway.

Deep teaching: integrated tax problems are solved by building a reconciliation schedule

The final revision chapter should be used as a capstone. Real taxation problems rarely announce the topic. A single factual scenario can contain ordinary business income, capital gains, repairs, depreciation, borrowing expenses, preliminary expenditure, prepayments, tax administration and personal deductions. The student's first task is therefore to build an issue list before doing any arithmetic.

Step 1 — classify every item

Create a table with columns for the fact/amount, taxpayer, income year, tax character, governing provision, authority and numerical treatment. This prevents income, deductions and CGT items from being mixed together and exposes missing issues before the final calculation.

Step 2 — reconcile accounting to tax

If a company P&L is provided, begin with accounting profit before tax. Add back non-deductible or differently timed accounting expenses; subtract available tax deductions; add statutory income such as a net capital gain; remove exempt/NANE amounts; then apply tax losses where permitted. Show separate CGT and depreciation schedules where necessary rather than burying them in one unexplained number.

Step 3 — write the legal answer around the numbers

Each number in the final schedule should have a legal reason. State the issue, exact provision, authority, factual application and conclusion before carrying the amount into the reconciliation. The final conclusion should state the taxable income or other tax result and any remaining procedural step, such as obtaining a private ruling, lodging an objection or applying the correct amendment period.

In plain English
In a mixed problem, do not chase cases first. Build the issue tree, write the governing section beside each issue, then use the case for the proposition that helps interpret that section.

Key language

issue spotting | tax formula | residency | source | ordinary income | statutory income | business income | CGT | deduction | capital allowance | anti-avoidance | tax administration | assessment | penalty | objection | IRAC | calculation | authority | conclusion | revision

Issue → Rule → Authority → Application

I — Identify
State the taxpayer, entity type, income year, transaction/receipt/

R — Rule
Start with the exact statutory provision. Set out each limb,

outgoing and the precise tax question. Break mixed facts into separate sub-issues.

exception, subsection and paragraph that matters. Then state the case/ruling proposition that interprets the rule.

A — Apply
Apply the facts to each statutory element. Compare the facts with the authorities. Where numbers are involved, show the calculation line by line and explain the statutory order.

C — Conclude
Give a definite tax consequence: assessable/not assessable, deductible/not deductible, capital gain/loss, amount included, liability/refund, or procedural right. State any qualification or alternative view.

— FINAL REVISION

13.1 The final exam is not twelve topics — it is one method applied repeatedly

By the end of the subject, students often feel that Taxation Law consists of hundreds of sections and cases. The final revision chapter is designed to replace that feeling with a single method. Every problem begins with the taxpayer and income year, then moves through income, deductions, capital gains, integrity and administration. The facts determine which branches are activated.

Master method
FACT → TAXPAYER → INCOME YEAR → ISSUE → SUB-ISSUES → EXACT ACT / DIVISION / SECTION / SUBSECTION / PARAGRAPH → ELEMENTS → CASE / ATO AUTHORITY → APPLICATION → CALCULATION → CONCLUSION → PENALTY / REMEDY / REVIEW.

13.2 Build an issue tree before writing

On reading a problem, do not begin drafting immediately. Spend the first minutes converting the facts into an issue tree. A useful whole-course checklist is:

1. Jurisdiction: resident or foreign resident? source? derivation year?
2. Assessable income: ordinary income under s 6-5? statutory income under s 6-10? exclusion/exemption/NANE?
3. Business: is there a business? ordinary-course receipt? isolated profit?

4. Property/compensation: interest, rent, dividends, royalty, substituted receipt?
5. CGT: event, asset, time, proceeds, cost base, exemption, loss, discount?
6. Deductions: s 8-1 positive limb, negative limbs, apportionment, timing?
7. Specific deductions/capital allowances: s 25-10, s 25-25, Div 40, Div 43, s 40-880 etc?
8. Integrity: specific anti-avoidance rule or Part IVA?
9. Administration: assessment, penalty, objection, ruling, ATO information power?

Cross out branches that are plainly irrelevant. The point is not to discuss everything; it is to avoid missing a triggered issue.

13.3 Time by marks, not by how interesting the issue is

If a question is worth 20 marks in a two-hour paper, time should broadly follow marks. A four-mark subpart needs a concise statutory rule, the key authority and a direct application. A ten-mark issue deserves deeper element-by-element reasoning and calculation. Students lose marks by writing excellent essays on the first issue and leaving later parts incomplete.

Use micro-IRACs inside larger IRACs. For example, a CGT question may require separate mini-IRACs for event A1, cost base, discount and capital-loss ordering before the overall conclusion.

13.4 How to use cases in a tax exam

A case should do work. Do not write a string of citations after a rule. Use the authority to explain a proposition and then compare the facts. A strong sentence looks like this: “As in *Heavy Minerals*, the payment replaces amounts that would have been earned under an ordinary revenue contract, which supports ordinary-income character.”

For every leading authority, know four things: trigger facts, rule, reasoning, exam use. If you cannot explain why the case helps, it probably should not be in that paragraph.

13.5 How to use statutes

Tax answers are statute-led. Move beyond naming the Act. Cite the exact provision and, where necessary, subsection or paragraph. If the provision has a method statement, follow its order. If it contains positive and negative limbs, separate them. If it contains exceptions, state the one raised by the facts.

Never let a case displace statutory text. Cases interpret and apply the legislation. The exam answer should show both.

13.6 Calculations are legal reasoning

A tax calculation is not an appendix to the legal answer. Each number should be traceable to a legal conclusion. Use labels:

```
Assessable income
  ordinary income (s 6-5)              $...
  statutory income (e.g. s 102-5)      $...
Total assessable income                $...
Less deductions                        $...
Taxable income (s 4-15)                $...
Apply rates / levy / offsets           $...
Less credits / withholding             $...
Final liability or refund              $...
```

For CGT, keep current-year losses, prior-year losses, discount gains, non-discount gains and quarantined collectables losses separate until the statute allows them to combine.

13.7 Integrated revision problem — Fun Bus Chartering Pty Ltd

The Week 13 revision problem intentionally crosses topic boundaries. FBC is an Australian resident company carrying on a bus-charter business. The facts involve negligence legal costs and damages, travel to inspect an unsuccessful potential bus acquisition, borrowing costs and acquisition of a new bus, CGT on shares, ending of a contractual right, Sally's police-related expenses, ATO guidance and private rulings, plus a prepaid insurance premium.

Issue A — negligence legal costs and damages

Identify the occasion of the outgoings. The negligence claim arises from a passenger injured during the ordinary charter business. That connection supports the business limb of s 8-1. The fact that the litigation was unsuccessful does not itself deny deduction. Analyse whether the damages and legal costs are ordinary incidents of carrying on the business and whether any capital/private/specific denial applies.

The key method is to distinguish expenditure incurred in defending the day-to-day operations of the business from expenditure securing or altering the business's capital structure.

Issue B — $1,800 travel to inspect a bus that was not purchased

FBC travels to Western Australia to inspect a potential new bus, but no acquisition occurs. The expenditure relates to a proposed capital asset, making immediate deduction under s 8-1 problematic. The relevant rules include s 40-880 ITAA97 and TR 2011/6 concerning business-related capital expenditure. Apply the statutory exclusions and conditions rather than assuming all “blackhole” expenditure is deductible.

Issue C — borrowing costs and new bus

The $200,000 loan is used solely to acquire a bus used immediately in the charter business. Ongoing interest is analysed under s 8-1. Establishment, legal and valuation costs incurred to obtain the loan are borrowing expenses under s 25-25 if its conditions are met and are spread over the statutory period. The bus itself is a Div 40 depreciating asset. Use the stated eight-year effective life and the taxpayer's chosen depreciation method, subject to the problem's instruction not to use simplified depreciation.

Issue D — sale of Coastal Ferries shares

CGT event A1 occurs on disposal. Work out capital proceeds and cost base, including acquisition and disposal brokerage in the appropriate cost-base elements. Because FBC is a company, do not apply the general 50% CGT discount. Apply any current/prior capital losses in the statutory order and include the resulting net capital gain under s 102-5.

Issue E — ending of the terminal access right

The contractual right is a CGT asset. Its permanent ending can trigger CGT event C2 under s 104-25. Identify the $45,000 termination payment as potential capital proceeds and include relevant acquisition/termination legal costs in the cost-base analysis where legislation permits. Keep this gain/loss separate until the overall s 102-5 calculation.

Issue F — Sally's police expenses

Each expense needs its own s 8-1 analysis. Police-union membership can fall within a specific deduction framework and should be checked. Ordinary gym membership aimed at maintaining general fitness is usually private where the job requires only ordinary fitness rather than exceptional/specialised physical condition. Approved police boots used exclusively for duties have a stronger occupational/protective clothing character. Voluntary ammunition used for private-range practice is fact-sensitive: the taxpayer must show a sufficient connection with current police duties rather than personal skill/recreation, and the fact that the employer already provides all required training ammunition weakens the nexus.

Issue G — can FBC rely on TR 2011/6 and edited private advice?

A public taxation ruling has a formal status under the rulings regime and can bind the Commissioner where it applies and the taxpayer relies on it. Edited private advice published in the ATO database is not the same thing as a private ruling issued to FBC. It can be informative but does not give FBC the same binding protection. If the treatment of the unsuccessful acquisition expenditure is important and uncertain, FBC can apply for its own private ruling under Div 359 TAA53 Sch 1.

Issue H — prepaid insurance

The $18,000 premium covers 18 months and is paid in advance. First establish the underlying s 8-1 business nexus. Then apply the statutory prepayment rules and any relevant exception. Calculate the deduction for the portion permitted in 2025–26 rather than assuming full cash-basis deduction.

13.8 Model integrated answer structure

Opening paragraph

Identify FBC as the company taxpayer and Sally as a separate individual taxpayer. State the 2025–26 income year and separate corporate deductions/ CGT from Sally's employment deductions and administration issue.

Corporate deductions

Use separate subheadings for negligence, unsuccessful acquisition travel, borrowing costs and Div 40 bus deduction. State exact sections and calculations.

CGT

Calculate the share disposal and contractual-right ending separately, then combine through s 102-5. Explain why the company discount is unavailable.

Sally

Apply s 8-1 and any specific deductions/denials item by item. Avoid a single global conclusion.

Administration

Distinguish public ruling, edited private advice and private ruling. Explain the protection rather than merely naming the source.

Conclusion

Give totals where the facts permit and identify any fact-sensitive item requiring a qualified conclusion.

13.9 Whole-authority attack sheet

Topic	Authorities to reach for first	Why
Residence	TR 2023/1; *Levene*; *Lysaght*; *Applegate*; *Jenkins*	Ordinary residence and domicile/permanent abode.
Source	*Nathan*; *French*; *Mitchum*	Practical source analysis, especially services.
Derivation	*Carden*; *Henderson*; *Arthur Murray*	Cash/earnings basis and prepayments.

Personal exertion	*Scott*; *Kelly*; *Dixon*; *Brent*	Gifts, prizes, third-party/ service receipts.
Business / isolated profit	*Ferguson*; *Stone*; *Myer*; *Westfield*	Business indicators and one-off profits.
Compensation	*Heavy Minerals*; *Van den Berghs*; *McLaurin*	Replacement principle and structural capital.
Deductions	*Ronpibon Tin*; *Lunney*; *Finn*; *Maddalena*	Nexus, private travel, self-education.
Capital/revenue	*Sun Newspapers*	Profit-yielding structure versus process.
Repairs	TR 97/23; *W Thomas*; *Lindsay*	Repair, improvement and entirety.
Part IVA	*Spotless*; *Hart*	Scheme, tax benefit and dominant purpose.
Administration	*Ex parte Hooper*; *Industrial Equity*; *Konza*	Assessment and ATO information powers.

13.10 Ten habits of a high-distinction tax answer

1. Name the taxpayer and income year.
2. Separate every material receipt, outgoing, asset and transaction.
3. Use the exact statutory provision, including subsection/paragraph where needed.
4. State the elements or limbs before applying facts.
5. Use cases for propositions, not decoration.
6. Distinguish binding law from ATO guidance and persuasive tribunal decisions.
7. Show calculations in statutory order.
8. Address the strongest counterargument.
9. Distinguish enacted law from announced or proposed reform.
10. Conclude with the actual tax consequence, amount and procedural step/ remedy where relevant.

13.11 Plain-English final summary

Taxation Law is detailed, but it is not random. Every rule has a place in the chain. Your job is to recognise the factual trigger, find the exact law, understand what the

authority adds, apply each element and then calculate. When you work in that order, the subject becomes a problem-solving system rather than a memory test.

Full Teaching Text — Doctrine, Statute, Authority, Application and Calculation

Purpose of this section. The teaching text is followed by mastery questions, short-answer practice, FAQs, a crossword and fact-specific IRAC problems so students can test each topic before checking the answers on the following pages.

Integrated problem solving: one transaction at a time, one taxpayer at a time

The final revision problem combines company deductions, capital allowances, CGT, employee deductions, prepayments and tax administration. The correct technique is not to write one long narrative. Separate the company and Sally, then separate each transaction. For each transaction identify the legal category, exact provision, authority, calculation and conclusion before moving to the next.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use the substantive provisions from Chapters 1–12. The Week 13 problem specifically invokes s 8-1, s 40-880/TR 2011/6, s 25-25, Div 40, s 102-5, work-expense principles, prepayment rules and Div 359 ruling provisions.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Sun Newspapers/capital-revenue authorities, Ronpibon Tin/apportionment and the work-expense cases matter only for the propositions triggered by the facts. Authorities must be attached to the relevant item rather than listed at the end.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Issue spotting should produce a transaction table before prose: negligence legal costs/damages; failed bus inspection; borrowing costs; bus depreciation; shares; contractual right; Sally's union/gym/boots/ammunition; ATO advice; prepaid insurance.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

The final answer should contain a company taxable-income reconciliation, a separate net-capital-gain schedule, Sally's itemised deduction advice, and a procedural ruling/ advice conclusion.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as "it depends" unless you identify exactly which missing fact changes the result.

Accounting P&L to tax reconciliation for Fun Bus Chartering

A company profit and loss statement is the practical starting record but not the taxable-income answer. Legal costs may be deductible or capital depending on what they relate to. Damages can take their character from the business operation giving rise to liability. Accounting depreciation must be added back and replaced with Div 40 decline in value. Capital gains are calculated under CGT rules rather than using book profit on disposal.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply s 8-1 and specific deduction rules item by item; Div 40 for the bus; CGT provisions for shares and contractual rights. Company tax is then calculated from taxable income under the applicable rate rules.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Sun Newspapers helps classify structural capital costs; Herald & Weekly Times/ Charles Moore can support operational business-loss nexus; Ronpibon governs apportionment where mixed.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot every book/tax difference: accounting depreciation, provisions, capital legal costs, disposal profit, private/non-deductible items, specific statutory deductions and carried-forward losses.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Tax reconciliation format: accounting profit before tax + non-deductible/accounting-only expenses − tax deductions not in accounts − non-assessable accounting income + assessable tax amounts not in accounting profit = taxable income.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Borrowing, bus depreciation and acquisition investigation costs

The $200,000 loan and the bus acquisition require three separate questions: interest on borrowed funds, borrowing expenses of obtaining finance, and decline in value of the bus. The failed $1,800 inspection trip requires a fourth question because no bus was acquired. Combining them as “bus costs” hides the statutory differences.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use s 8-1 for interest, s 25-25 for qualifying borrowing expenses, Div 40 for bus decline in value, and test s 40-880/TR 2011/6 for qualifying unsuccessful business-related capital expenditure after considering other provisions.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

Steele/Munro principles explain interest use; capital/revenue authorities explain why acquisition investigation can be capital; TR 2011/6 supplies ATO interpretation of s 40-880.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot loan term, loan fees/legal/valuation fees, bus start time/effective life/method, and whether the failed-trip expenditure is dealt with elsewhere before s 40-880.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Show separate schedules: borrowing-cost write-off; diminishing-value depreciation from 1 May; s 40-880 five-year deduction if conditions are met.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

CGT shares and contractual rights

The Coastal Ferries shares and terminal-access right are separate CGT assets with separate events, proceeds and cost bases. Brokerage/legal expenses must be assigned to the correct cost-base/incidental-cost element. A loss on one event is not netted against ordinary business income; it enters the CGT method.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use CGT event A1 for the share disposal, the appropriate ending/cancellation event such as C2 for the contractual right, cost-base provisions and s 102-5 for final netting.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The reasoning is predominantly statutory. The compensation/right cases from Chapter 5 assist in characterising termination receipts and understanding what the payment represents.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot acquisition cost, incidental acquisition/disposal costs, termination payment, legal fees and whether any ordinary-income overlap exists.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Prepare one CGT event worksheet per asset, then combine eligible gains/losses through s 102-5 in the statutory order.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance

rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Sally’s employee expenses and the strength of nexus

Sally’s union fee, gym membership, police boots and voluntary ammunition should not be treated alike. Union fees and approved work boots have a much closer statutory/work nexus. General fitness ordinarily remains private where only baseline fitness is required. Voluntary shooting practice is closer: the skill relates to duties, but the QPS already provides mandatory training/ammunition and the additional practice is neither required nor directed, so the nexus and private character must be reasoned carefully.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Apply s 8-1 and any specific deduction rules to each item. Use the work-expense authority set from Chapter 7.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

The clothing/protective expenditure cases and work-expense nexus cases teach the distinction between objectively required work expenditure and private self-improvement. Do not decide solely from the taxpayer’s motive.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then

compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot employer requirement, reimbursement, occupational specificity, private utility, frequency and whether the activity occurs in performing duties or merely improves general capacity.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

Conclude item by item, including any apportionment/substantiation consequence rather than one global employee-deduction figure.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Tax administration and advice finish the integrated answer

After calculating substantive tax, the problem asks what legal protection FBC obtains from ATO materials. This must be answered separately from the deductibility question. A correct substantive conclusion does not make edited private advice

binding, and a public ruling's protection depends on its applicability and reliance conditions.

Why this doctrine matters

Taxation problems rarely announce the correct legal category. The same commercial fact can have different consequences depending on whether it is characterised as ordinary income, statutory income, capital, deductible expenditure, a tax loss, a CGT event or an administrative matter. This topic therefore has to be learned as a reasoning process: identify the legal category first, select the exact provision second, connect the relevant authority third, and calculate only after those legal steps are complete.

Exact legal framework

Use Divs 357–359 TAA53 Sch 1. For prepaid insurance, apply the specific prepayment regime identified in Chapter 11/Week 13 rather than claiming the whole $18,000 merely because cash was paid before year end.

When reading the legislation, do not stop at the section number. Read the subsection that creates the rule, any paragraph that limits it, the definitions that give words a special meaning, and any exception or method statement. In an IRAC answer, reproduce only the operative elements needed for the facts, but identify them precisely enough that the reader can see why the rule is satisfied or not satisfied.

Authority and reasoning

TR 2011/6 is the public ruling named in the problem. Edited private advice is not binding on FBC. A private ruling is the arrangement-specific route.

A case should be used for a proposition, not as decoration. State the factual feature that made the authority relevant, the rule or reasoning the court used, and then compare that feature with the new problem. If the facts point both ways, say so. The strongest tax answers often explain why one authority is closer and why a competing analogy is weaker. ATO rulings and guidance should be identified by type and legal effect rather than presented as though they were Acts or judgments.

Issue spotting

Spot the document type, taxpayer to whom it applies, transaction described, eligible service period of the prepayment, business status and any 12-month exception.

Convert the facts into a short issue list before writing prose. Put the section beside each issue and the leading authority beside the section. This produces a disciplined sequence: taxpayer → income year → transaction → legal character → exact provision → authority → application → calculation → conclusion. If the topic has a timing or jurisdictional dimension, add a date line before the calculation.

Application, numbers and workpapers

End with a procedural recommendation: rely on applicable public ruling if within scope, seek a private ruling where certainty is required, retain records/workpapers, and identify objection/review rights if the Commissioner assesses differently.

Show the arithmetic in a workpaper or table and explain what legal rule authorises each line. A figure without a provision is only accounting. A provision without the figure is incomplete tax advice when the question supplies numbers. Reconcile the legal analysis to the final taxable-income, net-capital-gain, deduction, loss, penalty or procedural result.

Counterargument and conclusion

Before concluding, identify the strongest alternative characterisation. For example, ask whether a receipt could be a personal gift rather than a reward, whether expenditure is capital rather than revenue, whether a transaction is a mere realisation rather than a profit-making scheme, or whether an ATO document is merely guidance rather than binding protection. Resolve that alternative by reference to the statutory elements and the authority whose facts are closest.

Finish with a concrete conclusion: identify the amount included or deducted where the facts permit; state the income year; identify any amount carried forward; and add any consequential penalty, objection, review, ruling or other remedy/procedure that genuinely arises. Avoid conclusions such as “it depends” unless you identify exactly which missing fact changes the result.

Worked Tax / Accounting Laboratory

Fun Bus Chartering — integrated worked schedules

Step / item	Tax-law treatment	Number / working
Negligence legal costs	$20,000	analyse under s 8-1 by relation to ordinary charter operations; separate from capital litigation
Passenger damages	$50,000	analyse business-operational nexus and any statutory denial

Failed bus inspection	$1,800	capital acquisition investigation; test s 8-1 denial then s 40-880/ TR 2011/6 conditions
Loan borrowing expenses	$1,200 + $3,000 + $1,500 = $5,700	test qualifying s 25-25 pool; spread over statutory period
New bus	$250,000 cost; start 1 May 2026; effective life 8 years	diminishing value first-year illustration: $250,000 × 61/365 × 25% ≈ $10,445 (subject to exact statutory day-count/ base-value rules)
CFL shares	Proceeds $290,000; acquisition $120,000 + $200 brokerage + $300 disposal brokerage	capital gain illustration: $169,500
Terminal right	Proceeds $45,000; cost $80,000 + $5,000 acquisition legal + $3,000 termination legal	capital loss illustration: $43,000, subject to exact cost-base/ incidental-cost rules
Net CGT position	Company receives no general 50% discount	$169,500 − $43,000 = $126,500 net capital gain if no other gains/ losses
Sally union/ gym/boots/ ammunition	$450 / $2,000 / $400 / $250	separate work-nexus analysis item by item

Prepaid insurance	$18,000 for 1 May 2026–31 Oct 2027	if general pro-rata rule applies over 549-day eligible service period, 61/549 × $18,000 = $2,000 for 2025–26; first test the applicable prepayment exception/ regime
ATO advice	TR 2011/6 + edited private advice	public ruling protection differs from non-binding edited advice; private ruling under Div 359 is arrangement-specific

All figures are teaching workpapers based on the supplied Week 13 facts. In assessed work, cite the exact statutory formula/eligibility rule before relying on the arithmetic, especially s 25-25, Div 40 and the prepayment regime.

Every legislative reference detected in the relevant chapter materials — teaching map

This layer is intentionally exhaustive. It preserves the source wording that triggered the reference, then explains how a student should use that reference. It does not replace reading the current official provision.

Reference context: For the 2025-26 income year, assume FBC does not apply the simplified depreciation rules in Subdiv 328-D ITAA97.

Exact statutory reference

Read the provision at the section, subsection and paragraph level. Identify the operative verb, taxpayer/entity, factual conditions, exceptions, timing rule and consequence. Then connect the relevant case/ruling to the particular word or legal test it explains. Do not rely on the section number alone.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Sally voluntarily attends a shooting range approximately every 2 months outside her rostered working hours to improve her firearm skills. The practice

is not required, directed or supervised by the QPS and does not form part of its official training program. During the 2025-26 income year, Sally incurred $250 in unreimbursed ammunition expenses for this practice. She used a privately owned firearm of the same type as her service firearm, and all ammunition was used exclusively for target practice at the shooting range.

Legislative teaching point

Use this source point as an issue-spotting trigger. Confirm the exact current provision in the official legislation and integrate it with the surrounding provisions before applying the facts.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Before lodging FBC's 2025-26 company income tax return, Sally (on behalf of the company) considers the tax treatment of the $1,800 incurred in travelling to Western Australia to inspect the bus that FBC ultimately decided not to acquire. She searches the ATO's website and legal database and finds Taxation Ruling TR 2011/6, which concerns deductions for business-related capital expenditure under s 40-880 ITAA97. Sally also finds several documents in the "Edited private advice" section of the ATO's legal database involving unsuccessful expenditure on proposed acquisitions in apparently similar circumstances.

Business-related capital expenditure

Use only after confirming the expenditure is capital and is not dealt with by another provision. Then work through the business connection and exclusions and spread qualifying expenditure over five years.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Reference context: Calculate FBC's net capital gain for the 2025-26 income year pursuant to s 102-5 ITAA97. Explain your calculation with reference to key legislative provisions. Show all workings; and

Net capital gain method

Apply the method statement in order: current capital losses, prior net capital losses, discounts/concessions at the correct steps, then include the resulting net capital gain in assessable income.

Application discipline: identify the precise element or method step this reference controls, apply the facts to that element, then carry the legal conclusion into the numerical workpaper. Where the source line refers to proposed/future law, keep it expressly separate from enacted law applying to the income year.

Case, ruling and authority map

Authority context: Before lodging FBC's 2025-26 company income tax return, Sally (on behalf of the company) considers the tax treatment of the $1,800 incurred in travelling to Western Australia to inspect the bus that FBC ultimately decided not to acquire. She searches the ATO's website and legal database and finds Taxation Ruling TR 2011/6, which concerns deductions for business-related capital expenditure under s 40-880 ITAA97. Sally also finds several documents in the "Edited private advice" section of the ATO's legal database involving unsuccessful expenditure on proposed acquisitions in apparently similar circumstances.
deduction for interest depends on real income-producing nexus and purpose; disproportionate tax-driven arrangements require close analysis

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Authority context: Advise FBC on the extent to which it can rely on TR 2011/6 and the edited private advice it researched when preparing its 2025-26 company income tax return. What alternative is available to FBC to obtain advice from the ATO, and what protection would that advice provide if FBC relies on it? Support your answer with references to relevant legislation.
This is ATO interpretative/compliance material identified here. Use it to explain the Commissioner's view or compliance approach, but distinguish it from the binding force of the Act and judicial precedent. Identify whether it is a public ruling, determination or guideline because the legal protection and function differ.

How to deploy it: state the proposition in one sentence, identify the material factual analogy or distinction, then connect that reasoning to the statutory provision. Do not cite the authority for a broader proposition than the authority or judgment supports.

Problem-solving method — from facts to final advice

- Identify the taxpayer/entity and capacity in which the taxpayer acts.
- Identify the income year and any critical dates, residence periods, asset acquisition/disposal dates or administrative deadlines.
- Split the facts into separate receipts, outgoings, assets, liabilities, losses, tax credits and ATO decisions.

- For each item, identify the exact Act, Part/Division/Subdivision, section, subsection and paragraph that creates the rule.
- Break the provision into elements or method steps. Put each element beside the fact that satisfies or contradicts it.
- Add the case, ruling or ATO authority only for the proposition it explains. State why that authority is analogous or distinguishable.
- Resolve competing characterisations before calculating: ordinary/statutory/exempt/NANE/capital; deductible/capital/private; business/hobby; revenue asset/capital asset; CGT/Div 40/Div 43.
- Show the tax calculation in statutory order. Keep tax losses, capital losses, offsets, credits, GST and accounting entries in their proper regimes.
- Address the strongest counterargument and explain why the preferred characterisation is stronger.
- Conclude with the tax consequence and amount, income year, carried-forward balance and any penalty, objection, review, ruling or other procedural consequence genuinely raised by the facts.

IRAC / tax advice writing model

ISSUE. Write a narrow issue for each receipt, outgoing or transaction. Example: “Whether the $X received for Y is ordinary income under s 6-5 in the 2025–26 income year” is stronger than “Is the money taxable?”.

RULE / LAW. State the exact statutory rule and its elements. Where the rule is judicially developed, state the authority and proposition. Where an ATO ruling is relevant, identify its type and legal effect.

APPLICATION / REASONING. Apply facts to each element. Compare with authority. Explain both the favourable and adverse facts. If characterisation is uncertain, analyse the competing category and resolve it.

CALCULATION. Translate the legal conclusion into numbers using a separate schedule. Cite the statutory method step beside the arithmetic. Reconcile accounting amounts to tax amounts where relevant.

CONCLUSION. State the amount included/deducted/gained/lost or the procedural result. Then state any carried-forward balance, penalty/remedy or next administrative step.

DEEP TEACHING COMMENTARY

Deep Teaching Commentary — Learn the Doctrine, Then Learn How to Use It

Required-reading integration. Whole-book revision: use all chapters, Worked problems, required readings and the Week 13 Revision Class problem. The prescribed text is Sadiq et al, *Principles of Taxation Law* (Thomson Reuters, 2026) ("PTL"). The recommended legislation text is Sadiq & Pinto, *Fundamental Tax Legislation* (Thomson Reuters, 2026). Use the readings with this chapter, matching Worked problem and the complete source layer retained later in this chapter.

The final revision chapter should not be a short checklist. Its purpose is to teach transfer: how the doctrines from the earlier chapters interact when a single taxpayer has business receipts, capital assets, financing costs, repairs, work-related expenses, CGT events and an ATO advice issue in the same income year. The Week 13 Fun Bus Chartering problem is therefore treated as an integrated file rather than a set of unrelated mini-questions.

Exam technique begins with an issue tree. Separate the taxpayer (company or individual), transaction, income year, statutory regime and remedy/procedure. Put the governing section beside each issue before writing prose. Then allocate time by marks. This prevents spending half an answer on an interesting case while missing a straightforward statutory calculation worth more marks.

Cases are used for propositions, not decoration. Legislation is used at the exact level needed—section, subsection, paragraph and method step. Calculations are part of legal reasoning because the order in which losses, discounts, deductions and offsets are applied is determined by statute.

Provision-by-provision teaching guide

Provision / regime	What it does	How to use it in a university answer
Integrated s 8-1 analysis	For each expense, establish nexus under a positive limb, apply negative limbs, then check specific deductions/denials.	Use a separate mini-IRAC for legal costs, travel, police expenses, gym, boots and ammunition.

ITAA97 s 40-880 and TR 2011/6	Business-related capital expenditure may receive a five-year deduction where the statutory conditions are satisfied and another provision does not deal with it.	Use for unsuccessful acquisition/investigation expenditure in the revision problem.
ITAA97 s 25-25 and Div 40	Borrowing expenses and depreciation of the bus/equipment require separate calculations.	Do not combine finance costs with the asset's decline in value.
ITAA97 s 102-5 and relevant CGT events	Calculate gains/losses transaction by transaction and then apply the net-capital-gain method.	Show all workings for shares and contractual rights.
TAA53 Sch 1 Div 359	A private ruling can give arrangement-specific protection; edited private advice for other taxpayers does not.	Use in the administration component of the revision question.
Prepayment rules	The additional prepaid insurance fact requires the specific prepayment regime, not merely s 8-1.	Identify the eligible service period and any applicable small-business/12-month exception before calculating.

Cases, rulings and authorities — proposition + exam function

Authority	Proposition	When to use it
Sun Newspapers / capital-revenue authorities	Use to classify structural acquisition/investigation expenditure before moving to s 40-880.	Use for legal/travel costs connected with proposed capital acquisitions.
Ronpibon Tin and work-expense authorities	Use for nexus and apportionment of mixed expenses.	Use for Sally's individual deductions.

TR 2011/6	ATO ruling specifically identified in the revision problem for business-related capital expenditure.	Explain both its substantive guidance and the legal effect of relying on a public ruling.

Worked application — fact-by-fact reasoning map

Business legal costs and damages
Identify what the litigation/settlement relates to. Legal costs take their character from the advantage or operations to which they are connected.

WA bus inspection travel
If the bus was not acquired, test s 8-1 capital denial and then s 40-880. Explain why edited private advice found online is not binding.

Borrowing expenses and new bus
Apply s 25-25 to finance establishment costs and Div 40 to the bus. Use diminishing value if the facts request that method.

Coastal Ferries shares
Calculate the CGT event, proceeds, cost base and gain/loss, then include it in the s 102-5 netting process.

Terminal access contractual right
Identify the CGT event for ending the right and include legal/incidental costs in the correct calculation where permitted.

Police union, gym, boots and ammunition
Apply the specific work-expense cases/rules item by item. Conventional/private fitness expenditure differs from compulsory/protective work items; voluntary practice ammunition requires a close nexus analysis.

ATO advice
Distinguish TR 2011/6, edited private advice and a private ruling under Div 359.

Prepaid insurance
Apply the prepayment rules to the 18-month eligible service period and calculate the current-year deduction rather than claiming the full cash payment automatically.

How to write this chapter in IRAC / tax-problem form

Issue. Identify the taxpayer, income year and transaction. Break the problem into separate receipts, outgoings, CGT events or administrative decisions. Do not write one broad issue such as “what tax is payable?”.

Rule / Law. Start with the exact Act and provision. If the section contains multiple limbs, subsections, paragraphs, exceptions or a method statement, set them out in the order in which they operate. Then add the case, ruling or ATO authority for the particular proposition it explains.

Application. Apply one fact to one legal element at a time. Compare the facts with the authority and deal with the strongest alternative characterisation. Where the law requires a calculation, show the legal order and the arithmetic together.

Conclusion. State the legal tax consequence and amount where possible. Then add any associated loss, penalty, objection/review, timing or administrative consequence relevant to the chapter.

Completeness rule for this book: the deep teaching section above explains the principal doctrine and exam method. The statutory/case/source layers below remain part of the chapter so that no provision, subsection, paragraph, case, ruling, example or teaching point relevant to the chapter is silently discarded.

CHAPTER REVISION & APPLICATION

Practice, Apply, Check

Work through each question set before turning to its answer page. For problem questions, identify facts, issues and sub-issues, exact legislation, authorities, application, calculations and a reasoned conclusion.

Chapter 13 Final Integrated Quiz — Multiple Choice

This quiz draws across the whole course. Work through every question before turning the page.

Q1. A taxpayer's residency status, the source of their income, and when it is derived should be analysed as:

1. One combined issue
2. Separate issues, since each answers a different legal question and can produce different answers on the same facts
3. Irrelevant once assessable income is calculated
4. Only relevant for companies

Q2. The correct order for a full taxable-income calculation is:

1. Deductions, then assessable income, then tax payable
2. Characterise each receipt (ordinary/statutory/exempt/NANE/capital) → total assessable income → apply deductions → taxable income → apply rate and offsets → tax payable
3. Apply the CGT discount before identifying any CGT event
4. Calculate tax payable first, then work backwards

Q3. A profit from an isolated transaction can be ordinary income under the Myer Emporium principle where:

1. The taxpayer is a company
2. The taxpayer had a profit-making purpose and the transaction has a commercial character
3. The transaction involves land only
4. The amount exceeds $50,000

Q4. For a general deduction under s 8-1, after confirming a positive limb is satisfied, a student must then:

1. Assume the deduction is automatically allowed
2. Test the outgoing against all four negative limbs (capital, private/domestic, exempt/NANE-income-related, specifically denied)
3. Apply the CGT discount
4. Skip straight to Part IVA

Q5. When calculating a net capital gain, the discount is applied:

1. Before any capital losses
2. After current-year and prior-year capital losses have reduced the gain, and before small business concessions
3. Only to companies
4. Regardless of the asset's holding period

Q6. The distinction between capital and revenue expenditure (Sun Newspapers) turns on:

1. The character of the advantage sought, its manner of use, and the means of obtaining it — explained in the context of the taxpayer's business, not counted mechanically
2. Only the dollar amount
3. Whether the expenditure was paid in cash
4. The taxpayer's industry only

Q7. Before applying Part IVA, a student should first check:

1. Whether the ordinary provisions or a specific anti-avoidance rule already resolve the matter
2. Whether the taxpayer is over 65
3. Whether the ATO has audited the taxpayer before
4. Whether the scheme is longer than five years

Q8. If a taxpayer disagrees with an assessment, the first procedural step is to:

1. Appeal directly to the Federal Court
2. Lodge an objection with the Commissioner
3. Withhold payment until the dispute is resolved
4. Request a private ruling retrospectively

Q9. A case cited in a table about income characterisation, but which is actually about the deductibility of an outgoing (such as FCT v La Rosa), should be:

1. Used interchangeably for either topic
2. Recognised as doctrinally misplaced for that purpose and applied only to its correct area of law (general deductions)
3. Ignored entirely
4. Cited only in constitutional law problems

Q10. A complete, high-distinction IRAC answer moves through:

1. Conclusion, then facts, then law
2. Issue (with sub-issues) → Rule (exact provision, broken into elements, plus authority) → Application (fact-by-fact, with calculation) → Conclusion (with amount and any administrative consequence)
3. Only the calculation, with no legal reasoning
4. A list of every case in the textbook regardless of relevance

Chapter 13 Mastery Quiz — Answers and Explanations

A1. Answer: B

Residence, source and derivation are separate issues answering different legal questions.

A2. Answer: B

The full sequence: characterise each receipt, total assessable income, apply deductions, taxable income, apply rate/offsets, tax payable.

A3. Answer: B

Myer Emporium requires a profit-making purpose and commercial character for an isolated transaction to be ordinary income.

A4. Answer: B

All four negative limbs must be tested after a positive limb is satisfied.

A5. Answer: B

The discount applies after losses and before small business concessions.

A6. Answer: A

Sun Newspapers requires explaining the advantage, its use, and the means of obtaining it in context, not mechanical counting.

A7. Answer: A

Always check ordinary provisions and specific anti-avoidance rules before reaching Part IVA.

A8. Answer: B

The first step is lodging an objection with the Commissioner.

A9. Answer: B

A misplaced case like La Rosa should be recognised and applied only to its correct doctrinal area.

A10. Answer: B

A complete IRAC answer moves Issue → Rule → Application → Conclusion, each properly developed.

Chapter 13 Final Integrated Short-Answer Questions

Write a full answer to each before checking the model answers on the following page.

SA1. Set out, in order, the full sequence of legal questions a complete tax problem should address, from residency through to final tax payable.

SA2. Explain why "issue-spotting" a single broad question such as "how much tax does this person pay?" is inadequate for a high-distinction answer, and what should be done instead.

SA3. A resident individual: (a) earns $85,000 salary; (b) receives a $20,000 gift from a friend; (c) makes a $10,000 capital gain on shares held 15 months; and (d) incurs $2,000 in deductible work-related expenses. Calculate their taxable income, explaining the treatment of each item.

SA4. Explain how a student should decide whether to apply Division 40, Division 43, s 25-10, or s 8-1 to a piece of capital or repair-related expenditure.

SA5. Explain why the administration chapter (objections, review, penalties, rulings) matters even in a problem that is otherwise entirely about substantive characterisation and deduction issues.

Chapter 13 Short-Answer Questions — Model Answers

Model Answer SA1

(1) Determine the taxpayer's residency status for the relevant period(s); (2) for any non-resident period, determine the source of each item of income; (3) determine when each item is derived (timing); (4) characterise each receipt as ordinary income, statutory income, exempt, NANE, or capital; (5) total assessable income; (6) identify and test each potential deduction against the positive and negative limbs of s 8-1 (and any specific deduction provisions); (7) calculate any net capital gain separately through the CGT event/cost base/losses/discount sequence and include it as statutory income; (8) calculate taxable income (assessable income less deductions); (9) apply the relevant rate scale and any tax offsets to determine tax payable; (10) consider any anti-avoidance issue (specific rules, then Part IVA) if a scheme is present; (11) address any relevant administrative consequence (assessment, objection, penalty, ruling reliance) raised by the facts.

Model Answer SA2

A single broad issue such as "how much tax does this person pay?" fails to identify the specific legal questions that actually need to be resolved and risks missing entire categories of analysis (e.g. failing to separately consider a capital gain, a specific deduction issue, or an administrative point). Instead, the facts should be broken into discrete issues — each receipt, each outgoing, each CGT event, and each administrative matter — with each analysed under its own applicable rule, so that no legal question is silently skipped.

Model Answer SA3

(a) $85,000 salary is ordinary income under s 6-5. (b) The $20,000 gift from a friend is not assessable — it arises from personal generosity, not a reward for services or business activity (Scott v FCT), so it is excluded from assessable income entirely. (c) The $10,000 capital gain, held for 15 months (over 12 months) by an individual, is statutory income under s 102-5, eligible for the 50% CGT discount (assuming no capital losses to apply first): $10,000 × 50% = $5,000 included as a net capital gain. (d) The $2,000 work-related expenses are deductible under s 8-1 (assuming the positive limb is satisfied and no negative limb excludes them). Assessable income = $85,000 + $5,000 = $90,000. Taxable income = $90,000 − $2,000 = $88,000.

Model Answer SA4

First classify precisely what the expenditure is: if it restores an asset's function without upgrading its character, it is a repair under s 25-10; if it creates a new asset or upgrades an existing one, it is capital. For capital items, ask whether it is a depreciating asset with a limited effective life (Division 40) or a structural capital work such as a building (Division 43). If the expenditure is the cost of obtaining a loan itself (not interest), it is dealt with under s 25-25 as a specifically deductible capital cost. If none of these specific provisions apply and the expenditure is a genuine outgoing incurred in gaining assessable income or carrying on a business, fall back to the general deduction test in s 8-1, subject to its negative limbs (which will exclude capital expenditure already dealt with under Division 40/43).

Model Answer SA5

Even a substantively correct characterisation and deduction analysis is incomplete without considering administration, because the practical tax outcome depends on how it is assessed, disputed, and enforced. For example, correctly identifying a deduction is of limited value if the taxpayer does not know how to correct an earlier return that omitted it (objection/amendment), what protection they have if they relied on ATO guidance that later changes (private ruling reliance), or what penalty or interest exposure arises from an error (administrative penalties, GIC). A complete high-distinction answer therefore treats administration as the final, practical layer that determines how the substantive legal conclusion is actually given effect.

Chapter 13 — Frequently Asked Questions

Answer each question before turning the page. Suggested answers are on the following page.

Q: How much time should I spend issue-spotting before writing my answer?

Q: Do I need to cite a case for every single point I make?

Q: What if the facts are genuinely ambiguous between two legal outcomes?

Q: Should I show my calculations even if I'm not confident in the final number?

Q: Is it enough to reach a conclusion on the substantive tax issue, or should I also mention administrative consequences?

Chapter 13 — Frequently Asked Questions: Suggested Answers

FAQ 1

Enough to identify every separate receipt, outgoing, CGT event, and administrative matter in the facts — a rushed, single broad issue statement is the most common cause of missed marks in tax problem questions.

FAQ 2

Not for uncontested, purely mechanical statutory steps, but for every genuinely contestable characterisation question (is this ordinary income? is this a repair or improvement?) you should tie your reasoning to the relevant authority.

FAQ 3

State the better view based on the facts given, briefly explain why, and then note the alternative outcome and what facts would change the answer — this shows the marker you understand the boundary of the rule, not just one side of it.

FAQ 4

Yes — show the legal order of the calculation and the arithmetic together; partial credit is generally available for correctly applying the right method even if an arithmetic slip occurs.

FAQ 5

A complete conclusion should include any relevant administrative consequence — for example, whether an amended assessment, objection, or penalty is relevant — where the facts raise it, not just the bare characterisation or deduction outcome.

FINAL REVISION CHAPTER

Whole-Course Taxation Law Revision & Exam Mastery

This final revision suite integrates Chapters 1-12. It deliberately mixes jurisdiction, income, deductions, CGT, integrity and administration so that students practise recognising issues rather than answering topics in isolation.

Open the whole-course interactive revision hub | *Launch the final active crossword*.

100 QUIZ QUESTIONS

100 Whole-Course Quiz Questions

1. Define TAX and explain why it matters to the Chapter 1 analysis.
2. Define Equity and explain why it matters to the Chapter 1 analysis.
3. Define Progressive and explain why it matters to the Chapter 1 analysis.
4. Define taxable income and explain why it matters to the Chapter 1 analysis.
5. Define assessable income and explain why it matters to the Chapter 1 analysis.
6. Define ordinary income and explain why it matters to the Chapter 1 analysis.
7. What role does s 4-15 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
8. What role does s 4-10 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
9. Define Residency and explain why it matters to the Chapter 2 analysis.
10. Define Resides and explain why it matters to the Chapter 2 analysis.
11. Define Domicile and explain why it matters to the Chapter 2 analysis.
12. Define Abode and explain why it matters to the Chapter 2 analysis.
13. Define Source and explain why it matters to the Chapter 2 analysis.
14. Define Derivation and explain why it matters to the Chapter 2 analysis.
15. What role does s 6(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
16. What role does ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
17. Define Salary and explain why it matters to the Chapter 3 analysis.
18. Define Wages and explain why it matters to the Chapter 3 analysis.
19. Define Bonus and explain why it matters to the Chapter 3 analysis.
20. Define Commission and explain why it matters to the Chapter 3 analysis.
21. Define Prize and explain why it matters to the Chapter 3 analysis.
22. Define GIFT and explain why it matters to the Chapter 3 analysis.

23. What role does s 15-2 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
24. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
25. Define Business and explain why it matters to the Chapter 4 analysis.
26. Define System and explain why it matters to the Chapter 4 analysis.
27. Define Scale and explain why it matters to the Chapter 4 analysis.
28. Define profit motive and explain why it matters to the Chapter 4 analysis.
29. Define Commercial and explain why it matters to the Chapter 4 analysis.
30. Define trading stock and explain why it matters to the Chapter 4 analysis.
31. What role does s 21A play in this chapter, what factual trigger makes it relevant, and how would you apply it?
32. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
33. Define Interest and explain why it matters to the Chapter 5 analysis.
34. Define Dividend and explain why it matters to the Chapter 5 analysis.
35. Define RENT and explain why it matters to the Chapter 5 analysis.
36. Define Royalty and explain why it matters to the Chapter 5 analysis.
37. Define Annuity and explain why it matters to the Chapter 5 analysis.
38. Define lease premium and explain why it matters to the Chapter 5 analysis.
39. What role does s 6-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
40. What role does s 6(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
41. Define capital gains tax (CGT) and explain why it matters to the Chapter 6 analysis.
42. Define Event and explain why it matters to the Chapter 6 analysis.
43. Define Asset and explain why it matters to the Chapter 6 analysis.
44. Define A1 and explain why it matters to the Chapter 6 analysis.
45. Define C1 and explain why it matters to the Chapter 6 analysis.
46. Define D1 and explain why it matters to the Chapter 6 analysis.
47. What role does s 102-5 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
48. What role does s 102-20 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
49. Define Nexus and explain why it matters to the Chapter 7 analysis.
50. Define Positive and explain why it matters to the Chapter 7 analysis.
51. Define Negative and explain why it matters to the Chapter 7 analysis.
52. Define Capital and explain why it matters to the Chapter 7 analysis.

53. Define private/domestic character and explain why it matters to the Chapter 7 analysis.
54. Define apportionment and explain why it matters to the Chapter 7 analysis.
55. What role does s 8-1 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
56. What role does s 8-1(1) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
57. Define Preliminary and explain why it matters to the Chapter 8 analysis.
58. Define post-cessation expenditure and explain why it matters to the Chapter 8 analysis.
59. Define Interest and explain why it matters to the Chapter 8 analysis.
60. Define self-education expenditure and explain why it matters to the Chapter 8 analysis.
61. Define Maddalena and explain why it matters to the Chapter 8 analysis.
62. Define FINN and explain why it matters to the Chapter 8 analysis.
63. What role does s 8-1 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
64. What role does s 40-880 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
65. Define Capital and explain why it matters to the Chapter 9 analysis.
66. Define Revenue and explain why it matters to the Chapter 9 analysis.
67. Define Sun Newspapers and explain why it matters to the Chapter 9 analysis.
68. Define Vallambrosa and explain why it matters to the Chapter 9 analysis.
69. Define British Insulated and explain why it matters to the Chapter 9 analysis.
70. Define Broken Hill Theatres and explain why it matters to the Chapter 9 analysis.
71. What role does s 8-1 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
72. What role does s 8-1(2)(a) play in this chapter, what factual trigger makes it relevant, and how would you apply it?
73. Define borrowing expenses and explain why it matters to the Chapter 10 analysis.
74. Define Interest and explain why it matters to the Chapter 10 analysis.
75. Define Repair and explain why it matters to the Chapter 10 analysis.
76. Define Mortgage and explain why it matters to the Chapter 10 analysis.
77. Define tax-related expense and explain why it matters to the Chapter 10 analysis.
78. Define Baddebt and explain why it matters to the Chapter 10 analysis.
79. What role does s 8-1 play in this chapter, what factual trigger makes it relevant, and how would you apply it?

80. What role does s 25-25 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
81. Define Planning and explain why it matters to the Chapter 11 analysis.
82. Define Avoidance and explain why it matters to the Chapter 11 analysis.
83. Define Evasion and explain why it matters to the Chapter 11 analysis.
84. Define Scheme and explain why it matters to the Chapter 11 analysis.
85. Define Benefit and explain why it matters to the Chapter 11 analysis.
86. Define purpose test and explain why it matters to the Chapter 11 analysis.
87. What role does s 177F play in this chapter, what factual trigger makes it relevant, and how would you apply it?
88. What role does s 177A play in this chapter, what factual trigger makes it relevant, and how would you apply it?
89. Define Return and explain why it matters to the Chapter 12 analysis.
90. Define Assessment and explain why it matters to the Chapter 12 analysis.
91. Define amended assessment and explain why it matters to the Chapter 12 analysis.
92. Define Objection and explain why it matters to the Chapter 12 analysis.
93. Define Review and explain why it matters to the Chapter 12 analysis.
94. Define Appeal and explain why it matters to the Chapter 12 analysis.
95. What role does s 161 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
96. What role does s 166 play in this chapter, what factual trigger makes it relevant, and how would you apply it?
97. Set out the whole-course order for solving a mixed taxation problem.
98. Why should a tax calculation never begin before legal characterisation?
99. How should a student use cases in a taxation-law exam?
100. What makes a taxation conclusion “High Distinction” quality?

100 QUIZ ANSWERS

Whole-Course Quiz - Answer Guide

1. Answer

A compulsory exaction by public authority for public purposes. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

2. Answer

Tax-system criterion concerned with fairness. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

3. Answer

Rate structure in which the average rate rises as income rises. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

4. Answer

Assessable income less deductions under s 4-15. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

5. Answer

Income brought into the statutory tax base. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

6. Answer

Income according to ordinary concepts under s 6-5. Place it at the correct stage of the statutory income-tax formula and do not confuse income, deductions, losses, offsets and collection credits.

7. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

8. Answer

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction, denied amount, capital amount or private/domestic amount. Only after those classifications are complete should the student calculate taxable income…

9. Answer

Status that determines the breadth of Australia’s income-tax jurisdiction. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

10. Answer

Ordinary-concepts limb in the individual residence definition. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

11. Answer

Statutory residence test linked to permanent place of abode. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

12. Answer

Place considered under the domicile and 183-day exceptions. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

13. Answer

Practical factual connection locating where income is produced. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

14. Answer

Timing concept identifying when income belongs to an income year. Keep residence, source and derivation analytically separate; identify the exact statutory test or judicial principle before applying the facts.

15. Answer

Section 995-1(1) ITAA97 directs the reader to the definition of “resident” in s 6(1) ITAA36. For an individual, s 6(1) contains several alternative routes to residence. A taxpayer need satisfy only one. The ordinary concepts test asks whether the person “resides” in Australia according to ordinary meaning. The domicile test can treat a person as resident where their domicile is in Australia unless the statutory exception applies. The 183-day test addresses physical presence during the income…

16. Answer

Before asking whether a receipt is ordinary or statutory income, Australian income tax law often requires a more basic question: why does Australia have jurisdiction to tax this taxpayer or this income? The answer usually depends on residence and source. Broadly, an Australian tax resident is exposed to Australian income tax on worldwide ordinary and statutory income, while a foreign resident is generally taxed only on Australian-sourced income, subject to specific statutory rules and treaties.…

17. Answer

Ordinary remuneration for employment. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

18. Answer

Employment earnings ordinarily assessable as ordinary income. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

19. Answer

Additional employment reward requiring nexus analysis. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

20. Answer

Performance-linked remuneration. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

21. Answer

Award requiring inquiry into its connection with income-producing activity. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

22. Answer

Receipt that may be personal or income depending on its true nexus. Ask why the receipt was made and identify its nexus with employment or services before deciding whether it is ordinary income, statutory income or a personal/capital receipt.

23. Answer

Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.

24. Answer

Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.

25. Answer

Commercial activity assessed using multiple factual indicators. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

26. Answer

Organisation and repetition are indicators of business. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

27. Answer

Magnitude of activities relevant to business character. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

28. Answer

Intention to profit may support a business conclusion. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

29. Answer

Character of transactions supporting business status. Use the business indicators and the transaction’s commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

30. Answer

Property held for sale in the ordinary course of business. Use the business indicators and the transaction's commercial purpose to decide whether the gain is business income, a non-cash business benefit or an isolated profit-making receipt.

31. Answer

Deal with non-cash business benefits under s 21A ITAA36.

32. Answer

Once an activity is a business, receipts generated in the ordinary course commonly fall within s 6-5. Non-cash business benefits require separate attention to s 21A ITAA36. The student should identify whether the benefit arises in relation to a business relationship, determine whether it is non-cash, apply the statutory valuation mechanism and explain any exclusions.

33. Answer

Return on debt or use of money. Identify what the receipt legally and economically represents. For compensation, ask what the payment replaces before deciding its character.

34. Answer

Distribution by a company subject to statutory rules. Identify what the receipt legally and economically represents. For compensation, ask what the payment replaces before deciding its character.

35. Answer

Return from granting use of property. Identify what the receipt legally and economically represents. For compensation, ask what the payment replaces before deciding its character.

36. Answer

Payment for use of intellectual or other property. Identify what the receipt legally and economically represents. For compensation, ask what the payment replaces before deciding its character.

37. Answer

Periodic payment with statutory treatment. Identify what the receipt legally and economically represents. For compensation, ask what the payment replaces before deciding its character.

38. Answer

Upfront lease-related receipt requiring specific statutory analysis. Identify what the receipt legally and economically represents. For compensation, ask what the payment replaces before deciding its character.

39. Answer

The ordinary-income question remains governed by s 6-5 ITAA97, but several statutory provisions also modify, supplement or coordinate the common-law treatment. Students should therefore identify both the ordinary character and the specific provision.

40. Answer

Dividends are ordinarily income in general concepts, but the ITAA36 contains the specific statutory framework. Section 6(1) defines “dividend” broadly to include distributions of money or property and amounts credited by a company to shareholders in their capacity as shareholders, subject to exclusions. Sections 44–47 govern important aspects of assessability. ITAA97 s 6-25 is relevant to the interaction between ordinary and statutory income rules.

41. Answer

Capital gains tax regime in Parts 3-1 and 3-3 ITAA97. Identify the CGT event first, then apply the statutory method statement in order: proceeds, cost base, losses, concessions and net capital gain.

42. Answer

Statutory trigger required before a capital gain or loss arises. Identify the CGT event first, then apply the statutory method statement in order: proceeds, cost base, losses, concessions and net capital gain.

43. Answer

Property or legal/equitable right within the CGT regime. Identify the CGT event first, then apply the statutory method statement in order: proceeds, cost base, losses, concessions and net capital gain.

44. Answer

Most common disposal CGT event. Identify the CGT event first, then apply the statutory method statement in order: proceeds, cost base, losses, concessions and net capital gain.

45. Answer

CGT event involving loss or destruction of a CGT asset. Identify the CGT event first, then apply the statutory method statement in order: proceeds, cost base, losses, concessions and net capital gain.

46. Answer

CGT event involving creation of contractual or other rights. Identify the CGT event first, then apply the statutory method statement in order: proceeds, cost base, losses, concessions and net capital gain.

47. Answer

Calculate a net capital gain under the five-step method in s 102-5.

48. Answer

Every CGT answer should begin with the event, not with the size of the economic profit. Section 102-20 tells the student that a capital gain or loss arises only if a CGT event happens. Identify the event in Division 104, its timing rule and its calculation formula. Then ask whether a CGT asset is required, whether the asset is pre-CGT, whether an exemption applies, and whether another regime has priority.

49. Answer

Required connection between outgoing and assessable-income production or business. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

50. Answer

Limbs in s 8-1(1) that confer a general deduction. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

51. Answer

Limbs in s 8-1(2) that deny certain outgoings. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

52. Answer

Outgoing excluded from s 8-1 where capital in nature. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

53. Answer

Private or domestic outgoing excluded by s 8-1(2). Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

54. Answer

Split mixed expenditure between deductible and non-deductible components. Apply the positive limbs of s 8-1, then the negative limbs and any apportionment or specific denial rule.

55. Answer

s 8-1 • nexus • positive limbs • negative limbs • apportionment • travel • home office • self-education

56. Answer

ITAA97 s 8-1(1)(a) and (b) are the positive limbs; s 8-1(2) contains the negative limbs. Sections 8-5 and 8-10 remind students to check specific deductions and priority/coordination rules.

57. Answer

Expenditure incurred before an income-producing activity begins. Focus on timing and nexus: ask whether the expenditure is preliminary, contemporaneous, continuing after cessation, or connected with current income-earning skills.

58. Answer

Expense incurred after a business or income activity has ended. Focus on timing and nexus: ask whether the expenditure is preliminary, contemporaneous, continuing after cessation, or connected with current income-earning skills.

59. Answer

Cost of borrowed money tested by use and continuing nexus. Focus on timing and nexus: ask whether the expenditure is preliminary, contemporaneous, continuing after cessation, or connected with current income-earning skills.

60. Answer

Study expenditure requiring connection with current income-earning activities. Focus on timing and nexus: ask whether the expenditure is preliminary, contemporaneous, continuing after cessation, or connected with current income-earning skills.

61. Answer

Authority denying costs of getting a new income-earning position. Focus on timing and nexus: ask whether the expenditure is preliminary, contemporaneous, continuing after cessation, or connected with current income-earning skills.

62. Answer

Authority supporting self-education maintaining or improving current skills. Focus on timing and nexus: ask whether the expenditure is preliminary, contemporaneous, continuing after cessation, or connected with current income-earning skills.

63. Answer

Recognise when capital-allowance or business-related-cost provisions may operate instead of s 8-1.

64. Answer

Maddalena distinguishes expenditure incurred in getting a new income-earning activity from expenditure incurred in the course of an existing activity. Softwood Pulp and related authorities help identify whether business operations have commenced. If an amount is capital and does not fit another regime, s 40-880 can become important as a business-related capital expenditure provision.

65. Answer

Expenditure on the profit-yielding structure rather than ordinary operations. Characterise the advantage sought as revenue or capital before moving to any Division 40, Division 43, repair or CGT treatment.

66. Answer

Recurring or operational expenditure ordinarily on revenue account. Characterise the advantage sought as revenue or capital before moving to any Division 40, Division 43, repair or CGT treatment.

67. Answer

Leading Australian authority on capital/revenue distinction. Characterise the advantage sought as revenue or capital before moving to any Division 40, Division 43, repair or CGT treatment.

68. Answer

Classic recurrence test authority. Characterise the advantage sought as revenue or capital before moving to any Division 40, Division 43, repair or CGT treatment.

69. Answer

Authority on enduring benefit and capital expenditure. Characterise the advantage sought as revenue or capital before moving to any Division 40, Division 43, repair or CGT treatment.

70. Answer

Authority refining capital/revenue analysis. Characterise the advantage sought as revenue or capital before moving to any Division 40, Division 43, repair or CGT treatment.

71. Answer

A deduction may fail under s 8-1 because it is capital, but that is often the beginning rather than the end of the analysis. Australian tax law contains capital allowance regimes that may provide deductions over time.

72. Answer

Section 8-1(2)(a) denies a deduction for capital expenditure. The classic cases do not provide a single verbal formula; they provide indicators. Vallambrosa Rubber contrasts recurring working expenditure with more enduring outlays. British Insulated focuses on enduring advantage. Sun Newspapers distinguishes the business structure or profit-yielding subject from the process by which the business earns income. Students should use these indicators cumulatively and explain which features are…

73. Answer

Costs of obtaining finance potentially deductible under s 25-25. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

74. Answer

Cost of using borrowed funds generally tested under s 8-1. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

75. Answer

Restoration deductible under s 25-10 where statutory conditions are met. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

76. Answer

Discharge expenses potentially covered by s 25-30. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

77. Answer

Tax-related expense potentially deductible under s 25-5. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

78. Answer

Specific deduction category under s 25-35. Check the specific deduction provision, its conditions and any deduction-denial or CGT cost-base interaction.

79. Answer

Specific deduction provisions often rescue expenditure that is capital or otherwise outside s 8-1. A disciplined answer checks the general provision first, then asks whether a more specific rule applies.

80. Answer

Calculate deductions for borrowing expenses under s 25-25.

81. Answer

Lawful arranging of affairs within the tax law. Apply any specific integrity rule first, then identify the scheme, tax benefit, statutory purpose factors and cancellation consequence under Part IVA.

82. Answer

Arrangement seeking tax advantage that may attract integrity rules. Apply any specific integrity rule first, then identify the scheme, tax benefit, statutory purpose factors and cancellation consequence under Part IVA.

83. Answer

Illegal concealment or falsification. Apply any specific integrity rule first, then identify the scheme, tax benefit, statutory purpose factors and cancellation consequence under Part IVA.

84. Answer

Broad concept central to Part IVA. Apply any specific integrity rule first, then identify the scheme, tax benefit, statutory purpose factors and cancellation consequence under Part IVA.

85. Answer

Tax benefit identified under the general anti-avoidance rule. Apply any specific integrity rule first, then identify the scheme, tax benefit, statutory purpose factors and cancellation consequence under Part IVA.

86. Answer

Objective dominant-purpose inquiry under Part IVA. Apply any specific integrity rule first, then identify the scheme, tax benefit, statutory purpose factors and cancellation consequence under Part IVA.

87. Answer

Explain the Commissioner's determination power under s 177F.

88. Answer

Identify the “scheme” under s 177A. Identify the “tax benefit” under s 177C and work through the alternative postulate/counterfactual requirements, including s 177CB where relevant. Then apply the objective dominant-purpose test in s 177D by examining the statutory factors. If Part IVA applies, s 177F gives the Commissioner the power to make the necessary determination. Each step should be separately reasoned.

89. Answer

Document lodged to report tax information to the Commissioner. Identify the Commissioner’s statutory power, the taxpayer’s procedural right, any time limit, and the consequences of rulings, penalties, objections and review.

90. Answer

Commissioner’s formal determination of tax liability. Identify the Commissioner’s statutory power, the taxpayer’s procedural right, any time limit, and the consequences of rulings, penalties, objections and review.

91. Answer

Change to an assessment within statutory limits. Identify the Commissioner’s statutory power, the taxpayer’s procedural right, any time limit, and the consequences of rulings, penalties, objections and review.

92. Answer

Part IVC mechanism to dispute a taxation decision. Identify the Commissioner’s statutory power, the taxpayer’s procedural right, any time limit, and the consequences of rulings, penalties, objections and review.

93. Answer

External merits review pathway after objection decision. Identify the Commissioner’s statutory power, the taxpayer’s procedural right, any time limit, and the consequences of rulings, penalties, objections and review.

94. Answer

Court pathway on questions of law and taxation decisions. Identify the Commissioner’s statutory power, the taxpayer’s procedural right, any time limit, and the consequences of rulings, penalties, objections and review.

95. Answer

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal ascertainment of liability rather than merely the paper notice.

96. Answer

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal ascertainment of liability rather than merely the paper notice.

97. Answer

Identify taxpayer/entity and income year; classify receipts; determine residence/source/derivation; identify deductions and denial rules; calculate taxable income; separately calculate CGT; apply integrity rules; then address administration, rulings, objections, penalties and review.

98. Answer

The arithmetic depends on legal categories. A receipt may be ordinary income, statutory income, capital or excluded; an outgoing may be deductible, capital, private or denied. Characterise first, calculate second.

99. Answer

Use each case for a precise proposition, explain why that proposition is relevant to the statutory rule and facts, compare material facts, and then state the consequence. Do not name-drop authorities.

100. Answer

It identifies the exact statutory basis and authority, resolves competing characterisations, shows the calculation in statutory order, states the amount/consequence and addresses any procedural or review consequence that genuinely arises.

100 MULTIPLE-CHOICE QUESTIONS

100 Whole-Course Multiple-Choice Questions

1. Which provision is the relevant statutory reference for the rule or method associated with s 4-15 in this chapter?

1. s 4-15
2. ss 4-1, 4-5, 4-10 and 4-15
3. ss 6-5, 6-10
4. s 4-10

2. Which provision is the relevant statutory reference for the rule or method associated with s 4-10 in this chapter?

1. s 4-10
2. ss 6-5, 6-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-15

3. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5, 4-10 and 4-15 in this chapter?

1. ss 4-1, 4-5, 4-10 and 4-15
2. ss 6-5, 6-10
3. s 4-10
4. s 4-15

4. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5, 6-10 in this chapter?

1. s 4-15
2. ss 6-5, 6-10
3. s 4-10
4. ss 4-1, 4-5, 4-10 and 4-15

5. Which provision is the relevant statutory reference for the rule or method associated with ss 4-1, 4-5 in this chapter?

1. s 4-15
2. s 4-10
3. ss 4-1, 4-5, 4-10 and 4-15
4. ss 4-1, 4-5

6. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 4-15
2. s 6-5
3. ss 4-1, 4-5, 4-10 and 4-15
4. s 4-10

7. Which provision is the relevant statutory reference for the rule or method associated with s 6-10 in this chapter?

1. s 4-10
2. s 4-15
3. s 6-10
4. ss 4-1, 4-5, 4-10 and 4-15

8. Which provision is the relevant statutory reference for the rule or method associated with ss 6-15, 6-20, 6-23 in this chapter?

1. ss 6-15, 6-20, 6-23
2. ss 4-1, 4-5, 4-10 and 4-15
3. s 4-10
4. s 4-15

9. Which provision is the relevant statutory reference for the rule or method associated with s 6(1) in this chapter?

1. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
2. s 995-1(1)
3. s 10
4. s 6(1)

10. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5) in this chapter?

1. s 10
2. s 6(1)
3. s 995-1(1)
4. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)

11. Which provision is the relevant statutory reference for the rule or method associated with s 995-1(1) in this chapter?

1. s 995-1(1)
2. s 6(1)
3. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
4. s 10

12. Which provision is the relevant statutory reference for the rule or method associated with s 10 in this chapter?

1. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
2. s 6(1)
3. s 995-1(1)
4. s 10

13. Which provision is the relevant statutory reference for the rule or method associated with s 44(1) in this chapter?

1. s 6(1)
2. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
3. s 44(1)
4. s 995-1(1)

14. Which provision is the relevant statutory reference for the rule or method associated with s 6C in this chapter?

1. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
2. s 6C
3. s 6(1)
4. s 995-1(1)

15. Which provision is the relevant statutory reference for the rule or method associated with ss 6-5(2) and 6-5(4) in this chapter?

1. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
2. s 6(1)
3. s 995-1(1)
4. ss 6-5(2) and 6-5(4)

16. Which provision is the relevant statutory reference for the rule or method associated with s 6-5(4) in this chapter?

1. s 995-1(1)
2. s 6-5(4)
3. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)
4. s 6(1)

17. Which provision is the relevant statutory reference for the rule or method associated with s 15-2 in this chapter?

1. s 21A
2. s 15-2
3. s 6-5
4. s 21

18. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 6-5
2. s 15-2
3. s 21
4. s 21A

19. Which provision is the relevant statutory reference for the rule or method associated with s 21 in this chapter?

1. s 6-5
2. s 21
3. s 15-2
4. s 21A

20. Which provision is the relevant statutory reference for the rule or method associated with s 21A in this chapter?

1. s 15-2
2. s 6-5
3. s 21
4. s 21A

21. Which provision is the relevant statutory reference for the rule or method associated with s 6-5(1) in this chapter?

1. s 6-5
2. s 21
3. s 6-5(1)
4. s 15-2

22. Which provision is the relevant statutory reference for the rule or method associated with s 995-1(1) in this chapter?

1. s 995-1(1)
2. s 21
3. s 6-5
4. s 15-2

23. Which provision is the relevant statutory reference for the rule or method associated with s 23L in this chapter?

1. s 15-2
2. s 23L
3. s 6-5
4. s 21

24. Which provision is the relevant statutory reference for the rule or method associated with s 15-2(1) in this chapter?

1. s 15-2(1)
2. s 15-2
3. s 21
4. s 6-5

25. Which provision is the relevant statutory reference for the rule or method associated with s 21A in this chapter?

1. s 21A
2. s 6-5
3. ss 21A(3) and 21A(4)
4. s 70-10

26. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 70-10
2. s 21A
3. s 6-5
4. ss 21A(3) and 21A(4)

27. Which provision is the relevant statutory reference for the rule or method associated with s 70-10 in this chapter?

1. s 6-5
2. s 21A
3. s 70-10
4. ss 21A(3) and 21A(4)

28. Which provision is the relevant statutory reference for the rule or method associated with ss 21A(3) and 21A(4) in this chapter?

1. ss 21A(3) and 21A(4)
2. s 70-10
3. s 6-5
4. s 21A

29. Which provision is the relevant statutory reference for the rule or method associated with s 15-10 in this chapter?

1. s 6-5
2. s 70-10
3. s 21A
4. s 15-10

30. Which provision is the relevant statutory reference for the rule or method associated with s 102-20 in this chapter?

1. s 6-5
2. s 21A
3. s 70-10
4. s 102-20

31. Which provision is the relevant statutory reference for the rule or method associated with s 104-10 in this chapter?

1. s 104-10
2. s 6-5
3. s 21A
4. s 70-10

32. Which provision is the relevant statutory reference for the rule or method associated with ss 102-20, 104-10 in this chapter?

1. s 70-10
2. s 6-5
3. s 21A
4. ss 102-20, 104-10

33. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 6-5
2. s 6(1)
3. ss 44–47
4. s 6-25

34. Which provision is the relevant statutory reference for the rule or method associated with s 6(1) in this chapter?

1. s 6(1)
2. s 6-5
3. s 6-25
4. ss 44–47

35. Which provision is the relevant statutory reference for the rule or method associated with ss 44–47 in this chapter?

1. s 6-25
2. s 6-5
3. ss 44–47
4. s 6(1)

36. Which provision is the relevant statutory reference for the rule or method associated with s 6-25 in this chapter?

1. s 6(1)
2. ss 44–47
3. s 6-25
4. s 6-5

37. Which provision is the relevant statutory reference for the rule or method associated with s 44 in this chapter?

1. s 44
2. s 6-5
3. s 6(1)
4. ss 44–47

38. Which provision is the relevant statutory reference for the rule or method associated with s 15-20 in this chapter?

1. s 15-20
2. s 6(1)
3. ss 44–47
4. s 6-5

39. Which provision is the relevant statutory reference for the rule or method associated with s 27H in this chapter?

1. s 27H
2. s 6(1)
3. s 6-5
4. ss 44–47

40. Which provision is the relevant statutory reference for the rule or method associated with s 15-30 in this chapter?

1. s 6-5
2. s 15-30
3. s 6(1)
4. ss 44–47

41. Which provision is the relevant statutory reference for the rule or method associated with s 102-5 in this chapter?

1. s 102-5
2. s 110-25
3. s 102-20
4. s 116-20

42. Which provision is the relevant statutory reference for the rule or method associated with s 102-20 in this chapter?

1. s 110-25
2. s 102-20
3. s 116-20
4. s 102-5

43. Which provision is the relevant statutory reference for the rule or method associated with s 116-20 in this chapter?

1. s 102-20
2. s 102-5
3. s 116-20
4. s 110-25

44. Which provision is the relevant statutory reference for the rule or method associated with s 110-25 in this chapter?

1. s 110-25
2. s 116-20
3. s 102-20
4. s 102-5

45. Which provision is the relevant statutory reference for the rule or method associated with s 110-35 in this chapter?

1. s 102-20
2. s 102-5
3. s 116-20
4. s 110-35

46. Which provision is the relevant statutory reference for the rule or method associated with s 118-20 in this chapter?

1. s 118-20
2. s 116-20
3. s 102-20
4. s 102-5

47. Which provision is the relevant statutory reference for the rule or method associated with s 118-24 in this chapter?

1. s 116-20
2. s 102-20
3. s 102-5
4. s 118-24

48. Which provision is the relevant statutory reference for the rule or method associated with ss 102-10 and 102-15 in this chapter?

1. s 102-5
2. s 102-20
3. s 116-20
4. ss 102-10 and 102-15

49. Which provision is the relevant statutory reference for the rule or method associated with s 8-1 in this chapter?

1. s 8-1(2)
2. s 8-1(1)(a)
3. s 8-1
4. s 8-1(1)

50. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(1) in this chapter?

1. s 8-1(1)(a)
2. s 8-1(1)
3. s 8-1
4. s 8-1(2)

51. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(2) in this chapter?

1. s 8-1
2. s 8-1(1)
3. s 8-1(1)(a)
4. s 8-1(2)

52. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(1)(a) in this chapter?

1. s 8-1(1)
2. s 8-1(2)
3. s 8-1
4. s 8-1(1)(a)

53. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(1)(b) in this chapter?

1. s 8-1(1)(b)
2. s 8-1
3. s 8-1(2)
4. s 8-1(1)

54. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(2)(a) in this chapter?

1. s 8-1(2)
2. s 8-1
3. s 8-1(2)(a)
4. s 8-1(1)

55. Which provision is the relevant statutory reference for the rule or method associated with s 6-5 in this chapter?

1. s 6-5
2. s 8-1
3. s 8-1(2)
4. s 8-1(1)

56. Which provision is the relevant statutory reference for the rule or method associated with s 15-10 in this chapter?

1. s 8-1(2)
2. s 8-1
3. s 8-1(1)
4. s 15-10

57. Which provision is the relevant statutory reference for the rule or method associated with s 8-1 in this chapter?

1. s 40-880
2. s 8-1
3. ss 40-830
4. s 26-20

58. Which provision is the relevant statutory reference for the rule or method associated with s 40-880 in this chapter?

1. ss 40-830
2. s 8-1
3. s 26-20
4. s 40-880

59. Which provision is the relevant statutory reference for the rule or method associated with ss 40-830 in this chapter?

1. ss 40-830
2. s 26-20
3. s 40-880
4. s 8-1

60. Which provision is the relevant statutory reference for the rule or method associated with s 26-20 in this chapter?

1. s 40-880
2. s 8-1
3. ss 40-830
4. s 26-20

61. Which provision is the relevant statutory reference for the rule or method associated with s 25-25 in this chapter?

1. s 25-25
2. s 8-1
3. s 40-880
4. ss 40-830

62. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(1)(b) in this chapter?

1. s 8-1
2. s 40-880
3. s 8-1(1)(b)
4. ss 40-830

63. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(2)(a) in this chapter?

1. s 40-880
2. s 8-1
3. s 8-1(2)(a)
4. ss 40-830

64. Which provision is the relevant statutory reference for the rule or method associated with s 40-840(2)(d) in this chapter?

1. s 8-1
2. s 40-840(2)(d)
3. ss 40-830
4. s 40-880

65. Which provision is the relevant statutory reference for the rule or method associated with s 8-1 in this chapter?

1. s 25-10
2. s 8-1
3. s 40-880
4. s 8-1(2)(a)

66. Which provision is the relevant statutory reference for the rule or method associated with s 8-1(2)(a) in this chapter?

1. s 8-1(2)(a)
2. s 8-1
3. s 25-10
4. s 40-880

67. Which provision is the relevant statutory reference for the rule or method associated with s 25-10 in this chapter?

1. s 25-10
2. s 8-1
3. s 40-880
4. s 8-1(2)(a)

68. Which provision is the relevant statutory reference for the rule or method associated with s 40-880 in this chapter?

1. s 8-1
2. s 25-10
3. s 8-1(2)(a)
4. s 40-880

69. Which provision is the relevant statutory reference for the rule or method associated with s 40-285 in this chapter?

1. s 40-285
2. s 8-1
3. s 25-10
4. s 8-1(2)(a)

70. Which provision is the relevant statutory reference for the rule or method associated with s 43-10 in this chapter?

1. s 43-10
2. s 25-10
3. s 8-1
4. s 8-1(2)(a)

71. Which provision is the relevant statutory reference for the rule or method associated with s 82K in this chapter?

1. s 25-10
2. s 8-1(2)(a)
3. s 8-1
4. s 82K

72. Which provision is the relevant statutory reference for the rule or method associated with s 40-25(1) in this chapter?

1. s 8-1
2. s 8-1(2)(a)
3. s 40-25(1)
4. s 25-10

73. Which provision is the relevant statutory reference for the rule or method associated with s 8-1 in this chapter?

1. s 25-25
2. s 8-1
3. s 25-10
4. s 25-5

74. Which provision is the relevant statutory reference for the rule or method associated with s 25-25 in this chapter?

1. s 8-1
2. s 25-10
3. s 25-5
4. s 25-25

75. Which provision is the relevant statutory reference for the rule or method associated with s 25-10 in this chapter?

1. s 8-1
2. s 25-25
3. s 25-10
4. s 25-5

76. Which provision is the relevant statutory reference for the rule or method associated with s 25-5 in this chapter?

1. s 25-5
2. s 8-1
3. s 25-25
4. s 25-10

77. Which provision is the relevant statutory reference for the rule or method associated with s 25-30 in this chapter?

1. s 8-1
2. s 25-25
3. s 25-30
4. s 25-10

78. Which provision is the relevant statutory reference for the rule or method associated with s 8-5 in this chapter?

1. s 8-5
2. s 25-25
3. s 8-1
4. s 25-10

79. Which provision is the relevant statutory reference for the rule or method associated with s 8-10 in this chapter?

1. s 8-1
2. s 25-10
3. s 8-10
4. s 25-25

80. Which provision is the relevant statutory reference for the rule or method associated with s 110-25(4) in this chapter?

1. s 8-1
2. s 25-10
3. s 25-25
4. s 110-25(4)

81. Which provision is the relevant statutory reference for the rule or method associated with s 177F in this chapter?

1. s 177A
2. s 177D
3. s 177C
4. s 177F

82. Which provision is the relevant statutory reference for the rule or method associated with s 177A in this chapter?

1. s 177A
2. s 177D
3. s 177F
4. s 177C

83. Which provision is the relevant statutory reference for the rule or method associated with s 177C in this chapter?

1. s 177D
2. s 177F
3. s 177C
4. s 177A

84. Which provision is the relevant statutory reference for the rule or method associated with s 177D in this chapter?

1. s 177D
2. s 177F
3. s 177A
4. s 177C

85. Which provision is the relevant statutory reference for the rule or method associated with s 8-1 in this chapter?

1. s 8-1
2. s 177C
3. s 177F
4. s 177A

86. Which provision is the relevant statutory reference for the rule or method associated with s 21A in this chapter?

1. s 177A
2. s 177F
3. s 177C
4. s 21A

87. Which provision is the relevant statutory reference for the rule or method associated with s 26-35 in this chapter?

1. s 26-35
2. s 177A
3. s 177F
4. s 177C

88. Which provision is the relevant statutory reference for the rule or method associated with ss 116-30 and 112-20 in this chapter?

1. ss 116-30 and 112-20
2. s 177A
3. s 177C
4. s 177F

89. Which provision is the relevant statutory reference for the rule or method associated with s 161 in this chapter?

1. s 161
2. s 166
3. s 167
4. s 166A

90. Which provision is the relevant statutory reference for the rule or method associated with s 166 in this chapter?

1. s 166A
2. s 167
3. s 166
4. s 161

91. Which provision is the relevant statutory reference for the rule or method associated with s 166A in this chapter?

1. s 166A
2. s 167
3. s 161
4. s 166

92. Which provision is the relevant statutory reference for the rule or method associated with s 167 in this chapter?

1. s 166
2. s 167
3. s 166A
4. s 161

93. Which provision is the relevant statutory reference for the rule or method associated with s 174 in this chapter?

1. s 174
2. s 161
3. s 166
4. s 166A

94. Which provision is the relevant statutory reference for the rule or method associated with s 175 in this chapter?

1. s 175
2. s 161
3. s 166
4. s 166A

95. Which provision is the relevant statutory reference for the rule or method associated with s 170 in this chapter?

1. s 170
2. s 166A
3. s 161
4. s 166

96. Which provision is the relevant statutory reference for the rule or method associated with s 8 in this chapter?

1. s 166
2. s 161
3. s 166A
4. s 8

97. Which sequence is strongest for a mixed tax problem?

1. Calculate first, then find law
2. Issue → exact provision → authority → application → calculation → conclusion
3. Case list → conclusion → calculation
4. ATO website → conclusion

98. Which statement best distinguishes a deduction from a tax offset?

1. Both reduce assessable income
2. A deduction reduces taxable income; an offset reduces tax payable
3. An offset is always refundable
4. A deduction only applies to companies

99. Which amount is included in assessable income under s 102-5?

1. Gross capital proceeds
2. Net capital gain
3. Net capital loss
4. Cost base

100. Which step should generally come last in a Part IVA analysis?

1. Identify specific provisions
2. Identify scheme
3. Identify tax benefit and purpose
4. Commissioner cancellation consequence

100 MCQ ANSWERS

Whole-Course MCQ Answer Key & Explanations

1. A. s 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

2. A. s 4-10

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

3. A. ss 4-1, 4-5, 4-10 and 4-15

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

4. B. ss 6-5, 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

5. D. ss 4-1, 4-5

A taxation problem should be approached as a controlled sequence, not as a collection of unrelated labels. Start by identifying the taxpayer and income year. Next classify each receipt as ordinary income, statutory income, exempt income, NANE income or outside the tax base. Then classify each outgoing as a general deduction, specific deduction,…

6. B. s 6-5

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

7. C. s 6-10

For assessments, policy principles usually support rather than replace statutory analysis. If a question asks whether a payment is assessable, your answer must still begin with the Act. Policy can explain the structure or support an interpretation, but it is not a substitute for the text of ss 6-5, 6-10 or a specific statutory provision.

8. A. ss 6-15, 6-20, 6-23

Students must actively test whether an apparent receipt is excluded. Section 6-15 directs attention to amounts that are not assessable. Section 6-20 deals with exempt income, while s 6-23 deals with NANE income. These classifications matter because they can affect deductions and losses differently.

9. D. s 6(1)

Section 995-1(1) ITAA97 directs the reader to the definition of “resident” in s 6(1) ITAA36. For an individual, s 6(1) contains several alternative routes to residence. A taxpayer need satisfy only one. The ordinary concepts test asks whether the person “resides” in Australia according to ordinary meaning. The domicile test can treat a person as…

10. D. ss 6-5(2), 6-5(3), 6-10(4) and 6-10(5)

Before asking whether a receipt is ordinary or statutory income, Australian income tax law often requires a more basic question: why does Australia have jurisdiction to tax this taxpayer or this income? The answer usually depends on residence and source. Broadly, an Australian tax resident is exposed to Australian income tax on worldwide ordinary…

11. A. s 995-1(1)

Section 995-1(1) ITAA97 directs the reader to the definition of “resident” in s 6(1) ITAA36. For an individual, s 6(1) contains several alternative routes to residence. A taxpayer need satisfy only one. The ordinary concepts test asks whether the person “resides” in Australia according to ordinary meaning. The domicile test can treat a person as…

12. D. s 10

Before asking whether a receipt is ordinary or statutory income, Australian income tax law often requires a more basic question: why does Australia have jurisdiction to tax this taxpayer or this income? The answer usually depends on residence and source. Broadly, an Australian tax resident is exposed to Australian income tax on worldwide ordinary…

13. C. s 44(1)

For dividends, the course refers to Esquire Nominees Ltd v FCT and to s 44(1) ITAA36. For royalties, s 6C ITAA36 can deem Australian source in defined circumstances. The student should therefore ask: what produced the income? Work? Property? A contract? A business? Intellectual property? The source test follows the character of the income.

14. B. s 6C

For dividends, the course refers to Esquire Nominees Ltd v FCT and to s 44(1) ITAA36. For royalties, s 6C ITAA36 can deem Australian source in defined circumstances. The student should therefore ask: what produced the income? Work? Property? A contract? A business? Intellectual property? The source test follows the character of the income.

15. D. ss 6-5(2) and 6-5(4)

Even after residence, source and character are resolved, timing remains. Sections 6-5(2) and 6-5(4) are central for ordinary income. The law asks when income is “derived”, and the answer can depend on the taxpayer's activities and accounting method.

16. B. s 6-5(4)

Even after residence, source and character are resolved, timing remains. Sections 6-5(2) and 6-5(4) are central for ordinary income. The law asks when income is “derived”, and the answer can depend on the taxpayer's activities and accounting method.

17. B. s 15-2

Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.

18. A. s 6-5

Use s 15-2 ITAA97 in the correct order and avoid double counting with s 6-5.

19. B. s 21

Cooke & Sherden and Payne are central to the ordinary-income non-convertibility principle. But a conclusion under ordinary concepts is not the end of the analysis: s 21, s 21A, s 15-2 and the FBT rules may alter the result. Section 21 is a valuation rule, not an independent charging provision. Students must first identify the provision that brings…

20. D. s 21A

Cooke & Sherden and Payne are central to the ordinary-income non-convertibility principle. But a conclusion under ordinary concepts is not the end of the analysis: s 21, s 21A, s 15-2 and the FBT rules may alter the result. Section 21 is a valuation rule, not an independent charging provision. Students must first identify the provision that brings…

21. C. s 6-5(1)

Amounts received because of employment, services or other personal effort are a central category of ordinary income. Under ITAA97 s 6-5(1), the question is whether the receipt has a sufficient connection with an income-earning activity so that it is properly characterised as a product or incident of employment or services rendered.

22. A. s 995-1(1)

Has it been “provided” to the taxpayer? Section 995-1(1) contains an inclusive definition relevant to providing an economic benefit.

23. B. s 23L

Not every employment-related non-cash benefit is included directly in the employee's assessable income. The course directs attention to ITAA36 s 23L and the fringe-benefits-tax regime. A proper answer asks whether the benefit is a fringe benefit and, if so, whether s 23L makes it non-assessable to the employee while the employer bears a separate…

24. A. s 15-2(1)

s 15-2(1) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

25. A. s 21A

Deal with non-cash business benefits under s 21A ITAA36.

26. C. s 6-5

Once an activity is a business, receipts generated in the ordinary course commonly fall within s 6-5. Non-cash business benefits require separate attention to s 21A ITAA36. The student should identify whether the benefit arises in relation to a business relationship, determine whether it is non-cash, apply the statutory valuation mechanism and…

27. C. s 70-10

Receipts from transactions forming part of the ordinary operations of a business are ordinarily income under s 6-5. Sale proceeds from trading stock, service fees and ordinary business charges are straightforward examples. Section 70-10 ITAA97 defines trading stock and the trading-stock regime can affect timing and calculation, but the basic…

28. A. ss 21A(3) and 21A(4)

The Forum highlights the arm's-length value rule and the reductions in ss 21A(3) and 21A(4). Where a business receives an item that is then used privately, the tax consequences can differ from a case where the item becomes trading stock or is used in the business. Separate receipt character, valuation and any deduction consequences.

29. D. s 15-10

Government assistance can be ordinary income under s 6-5 where it is received as part of the business's revenue operations. If it is not ordinary income, s 15-10 may include certain bounties or subsidies received in relation to carrying on a business. TR 2006/3 is a significant interpretative source for government payments to industry.

30. D. s 102-20

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent…

31. A. s 104-10

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent…

32. D. ss 102-20, 104-10

Where an asset is sold for a profit, a student must consider both ordinary income and capital gains tax. Section 102-20 says a capital gain or loss arises only if a CGT event happens, and disposal commonly triggers CGT event A1 under s 104-10. But if the profit is ordinary income under s 6-5, the CGT regime contains mechanisms that prevent…

33. A. s 6-5

The ordinary-income question remains governed by s 6-5 ITAA97, but several statutory provisions also modify, supplement or coordinate the common-law treatment. Students should therefore identify both the ordinary character and the specific provision.

34. A. s 6(1)

Dividends are ordinarily income in general concepts, but the ITAA36 contains the specific statutory framework. Section 6(1) defines “dividend” broadly to include distributions of money or property and amounts credited by a company to shareholders in their capacity as shareholders, subject to exclusions. Sections 44–47 govern important aspects of…

35. C. ss 44–47

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36. C. s 6-25

Dividends are ordinarily income in general concepts, but the ITAA36 contains the specific statutory framework. Section 6(1) defines “dividend” broadly to include distributions of money or property and amounts credited by a company to shareholders in their capacity as shareholders, subject to exclusions. Sections 44–47 govern important aspects of…

37. A. s 44

Dividends are ordinarily income in general concepts, but the ITAA36 contains the specific statutory framework. Section 6(1) defines “dividend” broadly to include distributions of money or property and amounts credited by a company to shareholders in their capacity as shareholders, subject to exclusions. Sections 44–47 govern important aspects of…

38. A. s 15-20

McCauley v FCT assists in identifying a royalty by reference to payments calculated according to the quantity or value of a substance taken or the use of intellectual-property rights. Stanton v FCT provides an important contrast. Section 15-20 ITAA97 can include certain royalties that are not ordinary income under s 6-5.

39. A. s 27H

An annuity is a stream of regular payments over a defined period or for life. Egerton-Warburton v DFCT illustrates the ordinary-income character of recurring annuity payments. Section 27H ITAA36 can modify the treatment by excluding a return-of-capital component in relevant annuities.

40. B. s 15-30

Section 15-30 ITAA97 can also include certain insurance or indemnity amounts. Students should test the common-law character and then any specific statutory inclusion.

41. A. s 102-5

Calculate a net capital gain under the five-step method in s 102-5.

42. B. s 102-20

Every CGT answer should begin with the event, not with the size of the economic profit. Section 102-20 tells the student that a capital gain or loss arises only if a CGT event happens. Identify the event in Division 104, its timing rule and its calculation formula. Then ask whether a CGT asset is required, whether the asset is pre-CGT, whether an…

43. C. s 116-20

Section 116-20 supplies the general capital-proceeds rule, but market-value substitution and other modifications can alter the amount. Section 110-25 divides the cost base into five elements. The student should classify each expenditure item by element rather than simply total every historic cost. Incidental costs under s 110-35, ownership costs,…

44. A. s 110-25

Section 116-20 supplies the general capital-proceeds rule, but market-value substitution and other modifications can alter the amount. Section 110-25 divides the cost base into five elements. The student should classify each expenditure item by element rather than simply total every historic cost. Incidental costs under s 110-35, ownership costs,…

45. D. s 110-35

Section 116-20 supplies the general capital-proceeds rule, but market-value substitution and other modifications can alter the amount. Section 110-25 divides the cost base into five elements. The student should classify each expenditure item by element rather than simply total every historic cost. Incidental costs under s 110-35, ownership costs,…

46. A. s 118-20

Section 118-20 prevents double taxation where the same economic amount is otherwise assessable as income and a capital gain. Depreciating assets can be excluded from CGT outcomes by s 118-24 because Division 40 is intended to be the primary regime. This interaction matters when a problem mixes business assets, CGT assets and deductible expenditure.

47. D. s 118-24

Section 118-20 prevents double taxation where the same economic amount is otherwise assessable as income and a capital gain. Depreciating assets can be excluded from CGT outcomes by s 118-24 because Division 40 is intended to be the primary regime. This interaction matters when a problem mixes business assets, CGT assets and deductible expenditure.

48. D. ss 102-10 and 102-15

Australian capital gains tax is not a separate tax imposed by a standalone CGT Act. It is an income-tax regime contained principally in Parts 3-1 and 3-3 ITAA97. A taxpayer's net capital gain is included in assessable income as statutory income under s 102-5. A net capital loss is not deducted from salary, rent or business income. Instead, capital…

49. C. s 8-1

s 8-1 • nexus • positive limbs • negative limbs • apportionment • travel • home office • self-education

50. B. s 8-1(1)

ITAA97 s 8-1(1)(a) and (b) are the positive limbs; s 8-1(2) contains the negative limbs. Sections 8-5 and 8-10 remind students to check specific deductions and priority/coordination rules.

51. D. s 8-1(2)

Under the first positive limb, a loss or outgoing is deductible to the extent that it is incurred in gaining or producing assessable income. Under the second, it is deductible to the extent that it is necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income. Even if a positive limb is satisfied, s…

52. D. s 8-1(1)(a)

ITAA97 s 8-1(1)(a) and (b) are the positive limbs; s 8-1(2) contains the negative limbs. Sections 8-5 and 8-10 remind students to check specific deductions and priority/coordination rules.

53. A. s 8-1(1)(b)

s 8-1(1)(b) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

54. C. s 8-1(2)(a)

s 8-1(2)(a) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

55. A. s 6-5

For a business receipt, identify s 6-5 and the business principle. For a government grant, identify s 6-5 and s 15-10 if relevant. For a land profit, test ordinary income and CGT separately. For the final tax calculation, show the numbers and do not waste time repeating doctrine already established.

56. D. s 15-10

For a business receipt, identify s 6-5 and the business principle. For a government grant, identify s 6-5 and s 15-10 if relevant. For a land profit, test ordinary income and CGT separately. For the final tax calculation, show the numbers and do not waste time repeating doctrine already established.

57. B. s 8-1

Recognise when capital-allowance or business-related-cost provisions may operate instead of s 8-1.

58. D. s 40-880

Maddalena distinguishes expenditure incurred in getting a new income-earning activity from expenditure incurred in the course of an existing activity. Softwood Pulp and related authorities help identify whether business operations have commenced. If an amount is capital and does not fit another regime, s 40-880 can become important as a…

59. A. ss 40-830

Softwood Pulp & Paper Ltd v FCT is important for business feasibility and establishment expenditure. Modern legislation can provide specific relief even where s 8-1 fails. The Forum directs attention to Subdiv 40-I and provisions such as ss 40-830/40-832/40-835/40-840/40-855, and to s 40-880 for certain business-related capital expenditure. This…

60. D. s 26-20

Section 26-20 ITAA97 separately denies deductions for HELP/FEE-HELP repayments. This is a statutory denial and must be distinguished from the s 8-1 question concerning underlying tuition fees.

61. A. s 25-25

Use s 8-1, and distinguish interest from borrowing expenses dealt with under s 25-25. Cost-base rules can capture some non-deducted ownership/financing expenditure where statutory conditions are met.

62. C. s 8-1(1)(b)

s 8-1(1)(b) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

63. C. s 8-1(2)(a)

s 8-1(2)(a) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

64. B. s 40-840(2)(d)

s 40-840(2)(d) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

65. B. s 8-1

A deduction may fail under s 8-1 because it is capital, but that is often the beginning rather than the end of the analysis. Australian tax law contains capital allowance regimes that may provide deductions over time.

66. A. s 8-1(2)(a)

Section 8-1(2)(a) denies a deduction for capital expenditure. The classic cases do not provide a single verbal formula; they provide indicators. Vallambrosa Rubber contrasts recurring working expenditure with more enduring outlays. British Insulated focuses on enduring advantage. Sun Newspapers distinguishes the business structure or…

67. A. s 25-10

Section 25-10, covered more fully in the next chapter, allows certain repair expenditure. But an improvement, replacement of an entirety or initial repair may not qualify. If denied as a repair because it is capital, Div 40 or Div 43 may instead provide deductions over time. This illustrates a recurring tax method: failure under one provision does…

68. D. s 40-880

Section 8-1(2)(a) denies capital expenditure under the general deduction provision. Specific regimes such as Div 40, Div 43 and s 40-880 can then provide statutory write-offs.

69. A. s 40-285

Division 40 includes decline-in-value rules and balancing adjustment provisions such as s 40-285. Diminishing value and prime cost methods have separate statutory formulas. Low-value/small-business concessions apply only if their own criteria are satisfied.

70. A. s 43-10

Use Div 43, including s 43-10 and related construction-expenditure provisions identified in the materials.

71. D. s 82K

s 82K is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

72. C. s 40-25(1)

s 40-25(1) is the relevant provision identified in this chapter; a complete answer states the rule and applies its elements to the facts.

73. B. s 8-1

Specific deduction provisions often rescue expenditure that is capital or otherwise outside s 8-1. A disciplined answer checks the general provision first, then asks whether a more specific rule applies.

74. D. s 25-25

Calculate deductions for borrowing expenses under s 25-25.

75. C. s 25-10

Section 25-10 allows deductions for repairs to premises or depreciating assets held or used for the purpose of producing assessable income, subject to its limits. A repair restores function or condition without changing the essential character of the thing repaired. Capital improvements, replacement of an entirety and initial repairs can fall…

76. A. s 25-5

Section 25-5 can specifically recognise costs of managing tax affairs, but its exclusions and later reforms must be checked for the relevant income year. Deduction-denial provisions must be treated as independent statutory rules: satisfying s 8-1 does not guarantee deductibility if Parliament has specifically denied the amount.

77. C. s 25-30

Mortgage discharge fees are capital in nature and ordinarily fail s 8-1. Section 25-30 provides a specific deduction where the mortgage secured money borrowed, or property acquired, for producing assessable income. The Forum identifies both lender-finance and vendor-finance situations.

78. A. s 8-5

Tax students often learn s 8-1 first and then try to force every outgoing through it. That is a mistake. The ITAA97 contains many specific deduction provisions designed for expenditure that may fail s 8-1 because it is capital or because Parliament wants a particular timing rule. Section 8-5 recognises specific deductions, while s 8-10 prevents…

79. C. s 8-10

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80. D. s 110-25(4)

Section 110-25(4) can include certain non-capital ownership costs in the CGT cost base. But amounts already deducted can be excluded from cost base by provisions such as s 110-45(1B). The policy is straightforward: the taxpayer should not obtain both an income-tax deduction and a second tax benefit by adding the same outgoing to cost base where…

81. D. s 177F

Explain the Commissioner's determination power under s 177F.

82. A. s 177A

Identify the “scheme” under s 177A. Identify the “tax benefit” under s 177C and work through the alternative postulate/counterfactual requirements, including s 177CB where relevant. Then apply the objective dominant-purpose test in s 177D by examining the statutory factors. If Part IVA applies, s 177F gives the Commissioner the power to make the…

83. C. s 177C

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84. A. s 177D

Identify the “scheme” under s 177A. Identify the “tax benefit” under s 177C and work through the alternative postulate/counterfactual requirements, including s 177CB where relevant. Then apply the objective dominant-purpose test in s 177D by examining the statutory factors. If Part IVA applies, s 177F gives the Commissioner the power to make the…

85. A. s 8-1

Before applying Part IVA, ask whether the taxpayer's claimed treatment is available under ordinary provisions. Ure v FCT and Fletcher v FCT illustrate how s 8-1 itself can limit deductions where the claimed outgoing is disproportionate to income-producing use or where the arrangement has significant private/tax purposes. If the ordinary provision…

86. D. s 21A

Section 21A ITAA36 addresses non-cash business benefits that might otherwise escape ordinary-income treatment because of convertibility issues.

87. A. s 26-35

Section 26-35 ITAA97 restricts deductions for excessive amounts paid to related persons.

88. A. ss 116-30 and 112-20

CGT market-value substitution rules , including ss 116-30 and 112-20, prevent gifts or nominal-price transfers from avoiding recognition at market value in relevant circumstances.

89. A. s 161

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal…

90. C. s 166

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal…

91. A. s 166A

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal…

92. B. s 167

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal…

93. A. s 174

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal…

94. A. s 175

Section 161 ITAA36 and the annual lodgment instrument determine who must lodge. Section 166 governs assessment, s 166A deals with full self-assessment taxpayers and s 167 permits default assessments. Section 174 concerns notice of assessment and s 175 limits invalidity arguments. The Hooper authority explains that the assessment is the formal…

95. A. s 170

Section 170 is highly fact-sensitive. Identify the type of taxpayer, whether the affairs are complex, whether Part IVA is relevant, and whether fraud or evasion is alleged. Do not simply state “two years” or “four years” without connecting the relevant item of the statutory table to the taxpayer.

96. D. s 8

The Commissioner's general administration functions arise under provisions including s 8 ITAA36, s 1-7 ITAA97 and s 3A of the Taxation Administration Act 1953 (Cth) (TAA53). Australia operates substantially on self-assessment: taxpayers are responsible for lodging correct information, while the ATO uses review, audit, information-gathering and…

97. B. Issue → exact provision → authority → application → calculation → conclusion

Tax problems are solved by legal characterisation before calculation.

98. B. A deduction reduces taxable income; an offset reduces tax payable

The statutory stages are different and should not be conflated.

99. B. Net capital gain

Section 102-5 includes the net capital gain, not gross proceeds.

100. D. Commissioner cancellation consequence

Part IVA analysis proceeds through scheme, tax benefit and purpose before the cancellation consequence.

20 SHORT-ANSWER QUESTIONS

Whole-Course Short-Answer Questions

1. Explain the difference between ordinary income and statutory income.
2. Why is residence different from source?
3. What is constructive receipt?
4. How do you distinguish a gift from income?

5. What are the main indicators of carrying on a business?
6. How is compensation characterised?
7. What triggers CGT?
8. What is the difference between a tax loss and a capital loss?
9. What is the central test in s 8-1?
10. Why is apportionment important?
11. When can self-education be deductible?
12. How do preliminary and post-cessation expenses differ?
13. How do you distinguish capital from revenue expenditure?
14. What is Division 40 used for?
15. What is Division 43 used for?
16. How does s 25-25 treat borrowing expenses?
17. Why must specific deduction-denial provisions be checked?
18. What are the core Part IVA questions?
19. What is the purpose of a private ruling?
20. What is the pathway for disputing an assessment?

SHORT-ANSWER RESPONSES

Suggested Answers

1. Explain the difference between ordinary income and statutory income.

Ordinary income is included under s 6-5 according to ordinary concepts; statutory income is included by specific provisions through s 6-10. A receipt may require both inquiries.

2. Why is residence different from source?

Residence determines the breadth of the taxpayer's jurisdictional connection; source identifies where particular income is produced. Foreign residents may still be taxed on Australian-source income.

3. What is constructive receipt?

Income can be derived where it is applied or dealt with on the taxpayer's behalf or direction even if cash never reaches the taxpayer's bank account.

4. How do you distinguish a gift from income?

Examine the real cause or nexus of the receipt. A personal gift may be non-income, while a payment connected with services, employment or business may be ordinary or statutory income.

5. What are the main indicators of carrying on a business?

System and organisation, scale, repetition and regularity, profit motive, commercial character and other factual indicators considered as a whole.

6. How is compensation characterised?

Generally by identifying what the payment replaces: income, a capital asset, a business structure, a right or another item.

7. What triggers CGT?

A CGT event. No capital gain or loss arises merely because an asset changes value.

8. What is the difference between a tax loss and a capital loss?

A tax loss arises under Division 36 and may be deductible subject to the loss rules. A capital loss is quarantined to capital gains under the CGT regime.

9. What is the central test in s 8-1?

Whether the outgoing has the required nexus with gaining assessable income or carrying on a business, subject to the negative limbs for capital, private/domestic and other denied expenditure.

10. Why is apportionment important?

Mixed expenditure must be split so only the income-producing/business component is deducted.

11. When can self-education be deductible?

Where it maintains or improves skills used in the taxpayer's current income-earning activities or is sufficiently connected with current income, rather than qualifying the taxpayer for a new occupation.

12. How do preliminary and post-cessation expenses differ?

Preliminary expenses arise before income activity begins; post-cessation expenses arise after it ends. Each requires a distinct continuing-nexus or specific-deduction analysis.

13. How do you distinguish capital from revenue expenditure?

Look to the character of the advantage sought, the profit-yielding structure versus operational process, recurrence and enduring-benefit indicators, applying the leading authorities.

14. What is Division 40 used for?

Deductions for decline in value of depreciating assets and related balancing adjustments.

15. What is Division 43 used for?

Capital works deductions for qualifying construction expenditure.

16. How does s 25-25 treat borrowing expenses?

It allows specified borrowing expenses for income-producing borrowing, generally spread over the shorter statutory period, with special rules for small amounts and early discharge.

17. Why must specific deduction-denial provisions be checked?

A positive nexus under s 8-1 does not guarantee deductibility where Parliament specifically denies or limits the deduction.

18. What are the core Part IVA questions?

Identify a scheme, a tax benefit and whether the statutory objective-purpose test is satisfied, then consider the Commissioner’s cancellation power.

19. What is the purpose of a private ruling?

To obtain the Commissioner’s view for a specified taxpayer and arrangement, with statutory protection where the ruling applies and is relied upon.

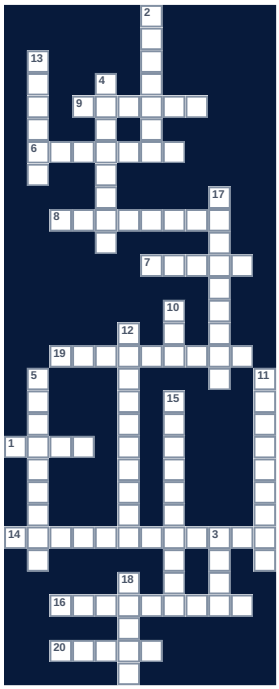
20. What is the pathway for disputing an assessment?

Use the statutory objection process, then available review or appeal mechanisms, observing time limits and evidentiary requirements.

20-CLUE CROSSWORD

Crossword - Chapter 13: Final Examination Revision: Integrated Australian Taxation Law

Launch Chapter 13 Active Crossword to type directly into the grid and check your answers.



Across

1. Tax or capital loss subject to different statutory treatment.
2. Character contrasted with revenue.
3. Connection required for general deductions.
4. Statutory CGT calculation input.
5. ATO interpretative/administrative instrument.
6. Receipt characterised by what it replaces.
7. Jurisdictional status affecting worldwide taxation.
8. Formal dispute mechanism.
9. Depreciating-asset regime.

Down

1. General anti-avoidance regime.
2. Structured legal problem-solving method.
3. Commercial activity producing ordinary income.
4. Allocation of mixed-purpose expenditure.
5. Capital gains tax regime.
6. Finance costs with specific deduction rules.
7. Timing of income recognition.
8. Location connection of income.
9. Income included in the tax base.
10. Amount allowed against assessable income.
11. Capital-works regime.

CROSSWORD ANSWERS

Crossword Answers - Chapter 13

1 Across - LOSS	6 Across - CAPITAL
7 Across - NEXUS	8 Across - COSTBASE
9 Across - RULING	14 Across - COMPENSATION
16 Across - RESIDENCY	19 Across - OBJECTION
20 Across - DIV40	2 Down - PARTIVA
3 Down - IRAC	4 Down - BUSINESS
5 Down - APPORTION	10 Down - CGT
11 Down - BORROWING	12 Down - DERIVATION
13 Down - SOURCE	15 Down - ASSESSABLE
17 Down - DEDUCTION	18 Down - DIV43

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 1 - Residency, employment income and derivation

Problem

A foreign engineer comes to Australia for five months, later extends for a year, receives salary for Australian work, has part of the salary paid to a landlord and asks the employer to postpone a June payment until July. Advise on residence, source and derivation.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ ATO authorities; apply each element; show calculations; address

counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 1 - Residency, employment income and derivation

Issues. Residence must be determined for each income year and potentially for different periods; source and derivation are separate questions.

Law and application. Apply ITAA36 s 6(1) and TR 2023/1. A five-month, temporary stay with strong foreign ties may initially fall short of ordinary residence; the later one-year extension and settled accommodation/ties can change the conclusion. Check the 183-day test for each year and the domicile test if relevant. Salary for services performed in Australia has a strong Australian source under *French*, while *Mitchum* requires the whole factual context. Salary paid directly to a landlord at the employee's request is constructively received under s 6-5(4). A June amount merely postponed to July must be tested by when entitlement/receipt occurred; a taxpayer cannot necessarily shift already-derived income by requesting deferred payment.

Conclusion. A change from non-resident to resident during the stay is possible; Australian work salary remains Australian-source while non-resident, and the directed/deferred salary must be allocated to the income year in which it is legally derived.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 2 - Business income, grant and isolated land profit

Problem

A hobby food producer becomes commercially organised, receives a government expansion grant and makes a large one-off profit after buying and subdividing land with a profit-making plan. Characterise the receipts.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 2 - Business income, grant and isolated land profit

Law and application. Once the food activity becomes systematic, organised and commercial under the business indicators in *Ferguson*, *Walker* and *Stone*, its sales are ordinary income under s 6-5. A government expansion grant received in relation to carrying on the business is likely assessable under s 15-10 unless a specific exemption applies. The land profit is not made capital merely because it is one-off: where the land was acquired and developed pursuant to a profit-making plan, *Myer Emporium* and *Whitfords Beach* support ordinary-income treatment. CGT event A1 may also occur, but s 118-20 prevents double inclusion.

Conclusion. Business sales and grant are assessable; the deliberate subdivision profit is likely ordinary income, with CGT applying only residually.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 3 - Compensation and CGT

Problem

A business receives compensation for cancellation of a supply contract, sells a post-CGT asset, suffers a capital loss on shares and grants a contractual right for payment. Identify ordinary/statutory income and CGT consequences.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 3 - Compensation and CGT

Law and application. Characterise compensation by what it replaces. A payment replacing ordinary supply-contract profits is ordinarily revenue; compensation for destruction of an enduring profit-making structure can be capital. The post-CGT asset sale triggers A1; compute proceeds less cost base. The share capital loss is applied against capital gains in the s 102-5 method statement before any discount. Payment for granting a new contractual right can trigger CGT event D1 under s 104-35. Keep ordinary-income compensation outside the CGT net-gain calculation except for any anti-overlap adjustment such as s 118-20.

Conclusion. Separate revenue compensation from CGT events, then apply capital losses and concessions in statutory order.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 4 - General deductions and self-education

Problem

An employee claims home-to-work travel, professional subscriptions, home-office costs, study maintaining current skills, study for a new career and legal expenses relating to work. Determine deductions and apportionment.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 4 - General deductions and self-education

Law and application. Apply s 8-1 item by item. Ordinary home-to-work travel is private; professional subscriptions and properly apportioned home-office running costs have a direct nexus. Study maintaining/improving current employment skills is deductible under the *Finn* principle, while study to qualify for a new career is too soon under *Maddalena*. Work-related legal expenses are deductible where their character is revenue and they arise from performing current duties, but not where they secure/protect an enduring capital asset. Apportion mixed private/income-producing amounts under *Ronpibon Tin*.

Conclusion. Do not claim by category label; identify the nexus and negative limb for each outgoing, then apportion.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 5 - Capital/revenue, repairs, Div 40 and Div 43

Problem

A company buys equipment, constructs a building extension, repairs storm damage and replaces a system with a superior one. Classify expenditure and identify capital allowance pathways.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 5 - Capital/revenue, repairs, Div 40 and Div 43

Law and application. Equipment is capital and ordinarily a depreciating asset under Div 40. A building extension is structural capital works under Div 43. Like-for-like storm restoration can be deductible under s 25-10 if it is a repair rather than reconstruction of an entirety. Replacing a whole system with a materially superior system is an improvement/capital expenditure and therefore follows Div 40/43 or cost-base rules rather than immediate s 8-1/s 25-10 deduction.

Conclusion. Machine—Div 40; building extension—Div 43; genuine repair—s 25-10; superior replacement—capital pathway.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 6 - Borrowing costs and denial provisions

Problem

A property investor incurs loan establishment fees, mortgage discharge costs, an administrative fine, client entertainment and an excessive wage paid to a relative. Advise on specific deductions and denials.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 6 - Borrowing costs and denial provisions

Law and application. Loan establishment fees are borrowing expenses under s 25-25 and are spread over the statutory period; mortgage-discharge costs are tested under s 25-30. Statutory fines are specifically denied. Client entertainment is generally denied by Div 32. Excessive remuneration to a relative is limited by s 26-35 to a reasonable amount, even though the recipient may be assessed on the amount received.

Conclusion. Apply the specific deduction/denial provisions before relying on the general s 8-1 rule.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 7 - CGT method statement

Problem

A taxpayer sells an investment asset for $500,000 with a $200,000 cost base, has $20,000 current capital losses and $40,000 prior losses, and is eligible for the 50% discount. Calculate the net capital gain and explain each statutory step.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 7 - CGT method statement

Issue. The question is the statutory order for calculating Priya's net capital gain.

Rule / Law. ITAA97 s 102-5 requires capital gains and capital losses to be netted in the statutory order. Current-year capital losses are applied first, then unapplied net capital losses from earlier years, and only then is the CGT discount under Div 115 applied to an eligible remaining discount capital gain.

Application and calculation. Capital proceeds $500,000 less cost base $200,000 gives a $300,000 capital gain. Apply the $20,000 current-year capital loss: $280,000. Apply the $40,000 carried-forward net capital loss: $240,000. The remaining gain is eligible for the 50% discount, reducing it to $120,000. With no other gains, losses or concessions, the net capital gain included in assessable income under s 102-5 is $120,000.

Conclusion. Priya's net capital gain is $120,000. Losses must be applied before the discount; reversing that order would overstate the concession.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 8 - Integrity and Part IVA

Problem

A consultant routes personal services income through a company, pays a low salary, distributes profits to a non-working spouse and enters non-arm’s-length transactions. Analyse specific integrity rules and Part IVA.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 8 - Integrity and Part IVA

Law and application. First test the PSI regime in Divs 84–87 and any other specific integrity rules. If a tax benefit remains, Part IVA requires a scheme (s 177A), tax benefit (ss 177C/177CB) and an objective dominant-purpose conclusion under s 177D, followed by a determination under s 177F. A low salary to the working consultant, profit retention/distributions to a non-working spouse and non-arm's-length dealings are strong indicators of income splitting and a tax-driven structure unless supported by genuine commercial reasons.

Conclusion. Specific PSI/associate rules apply first; Part IVA is the residual anti-avoidance backstop.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 9 - Tax administration and rulings

Problem

A company relies on a public ruling and edited private advice, is later audited and receives an amended assessment plus penalty. Explain ruling protection, objection and review options.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 9 - Tax administration and rulings

Law and application. A public ruling within Sch 1 Div 357 can bind/protect the taxpayer within its scope; edited private advice concerning another taxpayer is not binding. On audit, an amended assessment and any penalty must be challenged through the statutory objection process, including the Part IVC deadline in s 14ZW and subsequent objection decision/review/appeal provisions. Analyse penalty liability and remission separately from the substantive tax adjustment.

Conclusion. Preserve objection rights promptly; rely on a public/private ruling only if it legally applies to this taxpayer and arrangement.

MIXED-TOPIC IRAC PROBLEM

Final IRAC Problem 10 - Whole-course integrated computation

Problem

A resident individual has salary, business receipts, rent, a capital gain, mixed deductions, a carried-forward tax loss and PAYG credits. Build the legal issue tree and explain the statutory order of the calculation, including the distinction between income, CGT, deductions, losses, offsets and collection credits.

Required: Identify all issues and sub-issues; state the exact legislation (including subsections/paragraphs where applicable); connect leading cases/ ATO authorities; apply each element; show calculations; address counterarguments; and give a reasoned conclusion and procedural consequence where relevant.

FINAL HIGH DISTINCTION MODEL ANSWER

Final HD Model Answer 10 - Whole-course integrated computation

Issue tree and statutory order. (1) Confirm the individual is resident and the income year. (2) Include salary, business receipts and rent as ordinary income under s 6-5. (3) Calculate any CGT events separately and include only the resulting net capital gain under s 102-5. (4) Apply general/specific deductions, apportioning mixed expenditure and applying denials. (5) Calculate taxable income under s 4-15. (6) Apply any carried-forward tax loss under Div 36 in the statutory order. (7) Apply rates/levies and then tax offsets. (8) Apply PAYG withholding and other collection credits last to determine the balance payable/refund.

Conclusion. The central exam discipline is to keep legal characterisation and arithmetic aligned: every number in the final computation must be traceable to a provision and every provision affecting an amount must appear in the calculation.

> Coverage and cross-reference. Every statutory reference, case, ruling and authority relevant to this chapter is cross-referenced in Appendices A, B and E. Use those appendices as a comprehensive verification checklist alongside the chapter explanation, application and calculation method.

APPENDIX A

Statute Guide

This statutory register brings together the legislative references used throughout the book, chapter by chapter. Use the blue links to open the relevant legislation, then read the exact section, subsection, paragraph or method step in context.

Chapter 1

- ITAA97 s 59-30 - Amounts you must repay.
- ITAA97 s 61-110 - entitlement to the Low Income tax offset.
- ITAA97 s 61-115 - amount of the Low Income tax offset.
- If you see former s 25(1), how should you read this?
- How do you read former s 26(e)?
- for part of the income year, their tax-free threshold is apportioned for
- become, or cease to be, a resident) using the following formula (s 20(1)
- resident child (aged under age 18 on 30 June 2026) under Div 6AA ITAA36:
- ordinary resident individual tax rates apply to that part of income.
- A company is a base rate entity for an income year if (s 23AA ITRA86):
- Examples of base rate entity passive income include (see s 23AB ITRA86
- are liable to pay the Medicare Levy: s251S ITAA 36.
- (see Subdiv 61-D ITAA97). It is an important tax offset to know because
- ITAA 97 s4-1 and s4-10 - on your taxable income for the income year
- ITAA 97 s4-10(3):
- sections 251R and 251S of the ITAA 36.
- capacities: s 960-100(3) ITAA97. For example, an individual can act in
- ITAA 97 s4-15: Taxable Income = Assessable Income - Deductions
- s6-5 Ordinary Income (note jurisdictional rules)
- s6-10 Statutory Income (note jurisdictional rules)
- s6-15 What is not assessable income
- s6-20 Exempt Income. Examples:
- Exempt fringe benefits: s 23L(1A) ITAA36
- full-time service): s 51-5 ITAA97 (item 1.4)
- Maintenance payments to a spouse or child: s 51-30 (item 5.1), and s 51-50

- s6-23 Non Assessable Non Exempt Income (NANE Income). Examples include:
- GST payable on a taxable supply (s 17-5 of the ITAA 97);
- fringe benefits (s23L(1) of the ITAA 36); and
- others (see Subdivision 11-B of the ITAA 97).
- s6-25 Relationship between rules about income (ie No double taxation &
- s8-1 General deductions
- s8-5 Specific deductions
- s8-10 No double deductions
- See the list in ITAA 97 s13-1.
- Eg ITAA 97 Subdiv 61-D Low Income Tax Offset (see above)
- Eg ITAA 97 s207-20(2) Dividend imputation offset
- subject to the refundable tax offset rules (see Division 67 ITAA 97 -
- for in the Taxation Administration Act 1953 (Cth) (TAA53), Sch 1.
- formula in s 4-10(3) ITAA 97), a credit is available for the tax that
- s 36-10 How to calculate a tax loss for an income year.
- s 36-15 How to deduct tax losses of entities other than corporate tax
- s 36-17 How to deduct tax losses of corporate tax entities (subject to
- ruling from any adverse consequences: Div 357 TAA53, Sch 1.
- for the year ending 30 June). See sections 4-1, 4-5 and 4-10 of the 1997
- Substituted accounting periods - see section 18 of the 1936 Act.
- Section 21 ITAA36 - if consideration is not in cash, the “money value” of
- Note that section 21 is a valuation rule and does not make consideration
- Section 96 of the 1936 Act - Generally speaking, trustees are not liable
- Section 59-30 ITAA 1997 - amounts that must be repaid
- Section 17-5 ITAA97 - GST on a taxable supply - this section also
- Role of sections 6-5(4) and 6-10(3) of the 1997 Act - the constructive
- The application of s 21A ITAA36, former s 26(e) ITAA36 and current s 15-2 ITAA97
- Temporary-resident rules: qualifying foreign-source income may be NANE under s 768-910, while certain capital gains and capital losses are disregarded under s 768-915.
- Alex had a net capital gain for the CIY of $5,000 (see s 102-5 ITAA97).
- Advise Alex whether the above receipts are assessable income for the CIY. Provide a reason to support your answer for each receipt. (This will be a key part of the discussion so please prepare a considered answer).

- Assume Alex had a poorly performing, passive investment in the PIY that resulted in his total assessable income for the PIY being $100,000 and his total deductions for the PIY being $110,000. Alex disposed of that investment towards the end of the PIY. Would these additional facts change your answer to question 2 at all for the CIY, and if so, how? (Consider s 36-10 and 36-15 ITAA97).
- consider whether s 21A ITAA 1936 would alter the outcome if the facts happened today.

Chapter 2

- Note the application of sections 6-5(2), 6-5(3), 6-10(4), 6-10(5) ITAA97.
- Section 995-1(1) ITAA97 defines an “Australian resident” as ‘a person who is a resident for the purposes of the ITAA36.
- For individuals, s 6(1) ITAA36 defines a "resident" or resident of Australia to mean a person who resides in Australia and includes a person:
- Domicile of choice - According to s 10 Domicile Act 1982 (Cth), the intention that a person must have in order to acquire a domicile of choice in a country is the intention to make his or her home indefinitely in that country.
- A person is a "temporary resident" (as defined in s 995-1(1) ITAA97) if:
- However, a person is not a temporary resident if they have been an Australian resident (as defined in s 6(1) ITAA36), and any of paragraphs (a), (b) and (c) above are not satisfied.
- A company is a resident under s 6(1) ITAA 36 if it:
- Section 44(1) ITAA36 provides the source rule.
- Where a royalty is paid by an Australian business to a non-resident, then s 6C ITAA36 deems it to have an Australian source.
- Sections 6-5(2) and 6-5(4) ITAA97: when is ordinary income derived?
- For dividends, see s 44(1) ITAA36. Dividends are recognised when ‘paid’ and paid is defined in section 6(1) to mean ‘credited or distributed’.
- Hillary was experiencing cash flow difficulties in June 2026 due to the need to pay a four-week bond on her Sydney apartment. On 15 June 2026, Hillary requested that the firm pay part of her June salary in advance to meet immediate needs, namely:

Chapter 3

- An amount is ordinary income under section 6-5(1) ITAA97 if there is a sufficient nexus (or connection) with an earning activity. In the context of personal exertion, the nexus test will be satisfied if an amount is characterized as a product or incident of employment or a reward for services rendered.
- 1. Section 15-2 ITAA97
- From 1 July 2006, section 26(e) ITAA36 has been repealed, and new section 15-2 of the ITAA 97 has become operative.
- Section 15-2 of the ITAA 97 provides:
- an amount that is assessable as ordinary income under section 6-5;
- An employee share scheme interest may fall under Subdivision 83A-B (s 83A-20) or, where its conditions apply, Subdivision 83A-C (s 83A-105).
- Note: Section 23L of the Income Tax Assessment Act 1936 provides that fringe benefits are nonassessable nonexempt income. [emphasis added]
- 4 requirements to trigger s 15-2:
- Section 995-1(1) ITAA97 defines to "provide" an economic benefit as including: to allow, confer, give, grant or perform the benefit.
- What is one of the key differences between former s 26(e) and s 15-2?
- Can s 15-2 apply to benefits that are not convertible into money?
- If section 15-2 is triggered, the amount to include in assessable income is the “value to you” meaning the ‘value to the taxpayer’. This was the equivalent valuation rule in former s 26(e) ITAA36.
- Contrast this with the valuation rule under s 6-5 ITAA97. The valuation rule under s 6-5 is the ‘realisable value’ of the relevant benefit: Donaldson v FCT 74 ATC 4192. Presumably this means the amount that a willing but not anxious purchaser would be prepared to pay for the relevant benefit (akin to the market value?). Also consider s 21 ITAA36 and the “money value” of the consideration provided.
- From 1 July 2006, would s 15-2 apply in the following cases?
- Valuation issues in former s 26(e): an impetus for reform - Fringe Benefits Tax (see below)
- 2. Section 15-3 ITAA97
- Section 15-3 ITAA97 includes in a taxpayer’s assessable income:

- FBT is a tax imposed on employers on the value of 'fringe benefits' (as defined in s 136(1) Fringe Benefits Tax Assessment Act 1986 (Cth) (FBT Act)) provided to employees or to associates of employees in respect of their employment for the FBT year (1 April to 31 March).
- Elements of the definition of 'fringe benefit' in s 136(1) of the FBT Act:
- That is not covered by the exclusions in the s 136(1) 'fringe benefit' definition
- In relation to the last point above, examples of exclusions from the section 136(1) definition of fringe benefit are:
- Paragraph (f) - ie payments of 'salary or wages' (See the section 136(1) definition of 'salary or wages' and the cross-reference within that definition to Schedule 1 of the Taxation Administration Act 1953 (Cth). In particular, note the type of payments covered by section 12-35 in Schedule 1 to the Tax Admin Act).
- Question: Therefore, what are regarded as 'salary or wages' that will be excluded from the definition of 'fringe benefit' in section 136(1)?
- Once you are satisfied that your benefit satisfies the definition of 'fringe benefit' in s 136(1), you need to then ask: what type of fringe benefit have I got? This is because the FBT Act contains specific valuation rules depending on the classification of your 'fringe benefit'.
- minor benefits with a notional taxable value of less than $300 (see s 58P FBT Act).
- the provision of certain eligible work-related items like portable electronic devices, computer software, protective clothing, briefcases, and tools of trade provided they are used primarily in the employee's employment (see s 58X FBT Act - subject to some exceptions).
- subscriptions to trade or professional journals (s 58Y FBT Act)
- certain taxi travel (s 58Z FBT Act).
- Consider the relationship between sections 6-5, 6-25 and 15-2 ITAA97.
- Note the exclusions from the definition of 'fringe benefit' in the s 136(1) FBT Act definition. Importantly, note paragraphs (f) and (g) of the definition of 'fringe benefit' in section 136(1). What does this mean? What are 'salary or wages'?
- To prevent fringe benefits from being subject to further tax, s 23L(1) ITAA36 makes 'fringe benefits' non-assessable, non-exempt income in the hands of employees. Note the distinction between subsections (1) and (1A) in section 23L(1). When does each sub-section in section 23L apply? What is the practical difference between exempt income and non-assessable non-exempt income (refer to s 6-23 and Division 36 ITAA97)?

- If an amount is assessable as ordinary income under s 6-5, it can not be included in assessable income under section 15-2 ITAA97. Note the initial phrase "[u]nless the contrary intention appears" in section 6-25(2) ITAA 97. Does s 15-2 ITAA97 express a contrary intention? What is the practical effect of this?
- What valuation rule does s 6-5 impose compared to s 15-2 ITAA97?
- Consider how s 15-2 ITAA97 or the FBT Act might apply, if at all, to any of these cases.
- Advise Jackson whether the $24,000 would be included in his assessable income pursuant to s 6-5 or s 15-2 ITAA97, and if so, when it is included. In doing so, consider Higgs (Inspector of Taxes) v Olivier (1951) 1 Ch 899.

Chapter 4

- You only make a capital gain or loss if a CGT Event happens (see s 102-20 ITAA97)
- Most common CGT Event is CGT Event A1 - disposal of a CGT asset (see s 104-10 ITAA97)
- Assessable income includes net capital gains (s 102-5 ITAA97)
- Capital losses can only be utilised against capital gains (ie quarantining rule for capital losses). There is no deduction for net capital losses. Net capital losses can only be carried forward and offset against future capital gains (sections 102-10 and 102-15).
- Consider the definition of trading stock in s 70-10 ITAA97. Does the sale of trading stock generate any ordinary income? Why?
- Section 21A ITAA36:
- Reductions under s 21A(3) and s 21A(4)
- If the facts of the above cases occurred today, how might section 21A ITAA36 apply, if at all, to these cases? Refer to the discussion in Chapter 2.
- Consider the effect of section 23L(2) ITAA36 -exemption for certain benefits in the nature of income. Would this section change your answer in the above example (eg if you removed a "zero" from each of the relevant prices)?
- FCT v Cooke & Sherden 80 ATC 4140 and s 21A ITAA36.
- Section 15-10 ITAA97 - Bounties and Subsidies. When does this section apply? You could also refer to Taxation Ruling TR 2006/3.
- "A loss from an isolated transaction is generally deductible under subsection 51(1) [now s 8-1 ITAA97] if:
- You are not required to apply capital allowance provisions in Div 40 ITAA97 to this scenario.

Chapter 5

- ITAA97 s 70-115 - compensation for lost trading stock.
- ITAA36 s 27H - relevant annuity treatment.
- Section 6(1) ITAA36 defines a dividend as including:
- However, sections 44-47 ITAA36 mainly govern the tax treatment of dividends. What is the role of section 6-25 ITAA97 in this context?
- Section 15-20 ITAA97 can apply to royalties that are not ordinary income under s 6-5.
- Certain annuities are now subject to s 27H ITAA36, which makes the return of capital component in an annuity tax-free.
- At common law, a compensation receipt generally takes the character of that which it replaces so if it replaces ordinary income it is normally income under s 6-5.
- The compensation receipts principle is also relevant to s 15-30 ITAA97 - assessable income includes certain insurance or indemnity amounts.
- Section 115-25 ITAA97.
- Note the application of Division 52 of the 1997 Act - certain pensions, benefits and allowances are exempt (or partly so) from income tax.

Chapter 6

- Assessable income includes net capital gains: section 102-5
- Calculating net capital gains: section 102-5
- Working out net capital losses and their application: sections 102-10 and 102-15
- You can only make a capital gain or loss if a CGT Event happens: section 102-20.
- Summary of CGT Events: section 104-5
- A1 - most common CGT Event - disposal of a CGT asset: s 104-10
- C1 - loss or destruction of a CGT asset: s 104-20
- C2 - cancellation, surrender and similar endings: s 104-25
- D1 - creating contractual or other rights: s 104-35
- F1 - granting a lease: s 104-110
- Order of application of CGT Events: section 102-25
- In most cases, capital gains or losses on pre-CGT assets are disregarded. See for example section 104-10(5)(a). Does this mean that a CGT Event does not happen in relation to a pre-CGT asset? See section 102-23.

- Example 4: Michael and Jim are best friends. Michael needed some cash to pay for some medical expenses for his daughter. Michael borrowed $5,000 from Jim for 12 months at nil interest. Unfortunately, Michael's daughter passed away and 9 months later, Jim forgave the debt (that is, by releasing or discharging Michael from the obligation to repay the loan). Note, however, s 108-20(2)(d) and s 108-20(1).
- Definition of a 'CGT asset' - section 108-5.
- What does 'property' mean in section 108-5(1)(a)?
- Legal or equitable rights that are not property: section 108-5(1)(b).
- Note that a CGT asset includes part of, or an interest in, a CGT asset: section 108-5(2)(a).
- Collectables: sections 108-10, 108-15, 108-17 and 118-10(1)
- Personal use assets: sections 108-20, 108-25, 108-30 and 118-10(3)
- Example 11: Nigella purchased a Mini Cooper motor vehicle 5 years ago for $50,000. She sold it on 1 June 2026 for $28,000. Nigella has a gross capital gain on shares during the 2025/26 year of $100,000. Consider s 118-5.
- What is the treatment if a post CGT structure is built on pre-CGT land? See section 108-55(2).
- A building or structure on land, or a capital improvement to land, is deemed to be a separate CGT asset from the land if the depreciation provisions (in Div 40 ITAA97 - studied in a later chapter) apply to the asset: s 108-55(1) and s 108-70(1). The legislation provides the following example (in s 108-70(1)):
- You own land that you use for pastoral operations. You build some fences that are destroyed by fire. The fences are depreciating assets and are subject to a balancing adjustment on their destruction under Division 40 [meaning the depreciation provisions in the ITAA97]. The fences are taken to be a separate CGT asset from the land.
- A depreciating asset that is part of a building or structure is deemed to be a separate CGT asset from the building or structure: s 108-60. The legislation provides the following example (in s 108-60):
- What is the effect of s 118-24(1) in this context (assuming the asset is used 100% to produce assessable income)? Which regime has "priority" regarding such depreciating assets? What does this mean, for example, if the taxpayer has a prior year net capital loss?
- Acquisition rules - see sections 109-5 and 109-10

- Most CGT Events provide for the calculation of a capital gain or capital loss by comparing 2 different amounts. The amount of the gain or loss is the difference between these 2 amounts. See section 102-22.
- In many cases, we need to calculate the difference between the capital proceeds, and the cost base or reduced cost base. See, for example, the calculation for CGT Event A1 at section 104-10(4).
- Note, however, that this is not the universal calculation under the CGT rules. See, for example, the calculation for CGT Event D1 at section 104-35(3). Why does the calculation for CGT Event D1 differ? The point is that you must always check the legislation for the calculation formula for each CGT Event.
- General Rules: section 116-20(1) - eg the money (or market value of property) you received, or are entitled to receive, in respect of the CGT Event happening.
- Market value substitution rule - section 116-30 - read this section in detail.
- Apportionment rule - section 116-40
- Example 14: Jeff purchased a block of land in January 2006 for $200,000 near where he lives. He wants to help his adult daughter build a house to live in on the land. On 1 June 2026, Jeff gifts the land to his daughter (meaning for nil consideration). The market value of the land on 1 June 2026 is $800,000. What is Jeff's capital proceeds (consider s 116-30)? What if instead he transferred the land to his daughter for $1? What is his daughter's cost base (consider s 112-20)?
- Other modifications to the general rule for capital proceeds in s 116-20 apply. Read the examples in s 116-45 (non-receipt rule), s 116-50 (repaid rule), and s 116-55 (assumption of liability). There is also a misappropriation rule in s 116-60.
- According to section 110-25, the 5 elements of cost base are:
- 2nd - incidental costs (eg accountancy, agent & legal fees, costs of transfer, stamp duty, certain advertising costs, valuation costs, search fees, conveyancing kits, borrowing expenses) - see section 110-35. Note the overriding requirements in ss 110-35(1).
- Where indexation applies, the cost base of a CGT asset includes indexation of the elements (except the 3rd element): s 110-36(1).
- Market value substitution rule - section 112-20 - read this section in detail
- Apportionment rule - section 112-30
- Generally, expenditure does not usually form part of the cost base or reduced cost base to the extent that a taxpayer has deducted or can deduct it. There are some timing rules regarding this principle: see s 110-40 and s 110-45.
- In relation to the reduced cost base, see section 110-55(4). Note, also, section 110-55(9).

- If indexation is applicable to the cost base, the third element of the cost base is not indexed: see section 960-275(4).
- Split, changed or merged assets: section 112-25
- For CGT assets purchased on or before the 1999 Announcement time, indexation of the asset's cost base is only relevant for individuals trusts and complying super funds if they choose to index the cost base for the purposes of section 110-25.
- That is, indexation is frozen as at 30 September 1999. At that time, inflation data was published on a quarterly basis, and the quarter ending 30 September 1999 is the relevant reference point because indexation was abolished for assets acquired after the 1999 Announcement time: s 114-1. This is why the numerator for the indexation factor (see below) always refers to the index number for the quarter ending 30 September 1999. The legislation still requires the quarterly indexation figure to be used.
- If indexation is relevant, in order to index the cost base of a CGT asset, the asset must be held for at least 12 months before the time of a CGT Event that happens: section 114-10.
- Indexing amounts: see sections 960-270, 960-275 and 960-280.
- CGT Event must happen after the 1999 Announcement time - the capital gain must result from a CGT event happening after the 1999 Announcement time (see section 115-15).
- No indexation in calculating the capital gain - the capital gain must have been worked out by reference to a cost base whose elements have not been indexed (see section 115-20).
- Must hold the CGT asset for 12 months - the capital gain must result from a CGT event happening to a CGT asset that was acquired by the entity making the capital gain at least 12 months before the CGT event (see section 115-25).
- Capital gains from some CGT events do not give rise to discount capital gains. For example, CGT Events D1, F1, F2, F5 and H2 (see section 115-25(3)).
- The discount percentage for an amount of a discount capital gain is 50% if the gain is made by an individual or trust; and 33.33% (recurring) if the gain is made by a complying superannuation fund (see section 115-100).
- See the Method Statement in section 102-5. You need to appreciate the methodology adopted in section 102-5 in detail. See Example 17 below.
- Working out your net capital loss - see section 102-10.
- How to apply net capital losses - see section 102-15.

- Kate sold the land with the building on it for $1,600,000 on 16 April 2026. The real estate agent's commission on the sale was $30,000. Assume Kate sold no other CGT assets during the CIY and that she has no prior year net capital loss. (Ignore any possible Capital Allowance Deductions under s 43-10 of ITAA 1997).
- Example 17: Example of the 5-step, net capital gain calculation (in s 102-5 ITAA97)
- In this example, it is much more tax effective to utilise the current year capital loss against Asset 1 first as this will ultimately produce the lowest overall amount in the taxpayer's assessable income. See Note 1 in Step 1 in s 102-5, which permits a choice to be made about the order in which capital gains can be reduced by capital losses for the CIY.
- Notice that the taxpayer has a choice about the order in which this is done (see Note 2 in Step 2 in s 102-5).
- The $3,000 will enter the taxpayer's assessable income as statutory income under s 102-5.
- Question: What if an amount is assessable as ordinary income under section 6-5 and as a capital gain because of the same CGT Event?
- Note the application of section 118-20 - reduce the capital gain by amounts otherwise assessable. Read, in this order, subsections 118-20(1), 118-20(3), and then 118-20(2).
- How do these provisions rest with section 6-25? What conclusions can you make?
- Does section 118-20 apply in this situation? Why?
- How do the reduced cost base rules work to prevent double counting? Consider sections 110-55(9) and 110-55(4).
- cars and motor cycles (section 118-5)
- collectables and personal use assets (see section 118-10 - discussed previously)
- depreciating assets (see section 118-24)
- trading stock (see section 118-25)
- capital gains and losses from gambling, a game or a competition with prizes (section 118-37(1)(c))
- certain compensation receipts and damages payments (see section 118-37)
- An important exemption in practice is the CGT main residence exemption (see Subdivision 118-B ITAA97). Please ensure you review the rules as summarised in the textbook and understand the effect of s 118-110, s 118-115, s 118-120, s 118-140, s 118-145, s 118-185, s 118-190, and s 118-192. Also refer to the examples provided on the ATO website at: Treating former home as main residence.

- For assessments for the income year that includes 1 July 2027 and later income years, s 102-5 ITAA97 is amended by the Treasury Laws Amendment (Tax Reform No. 1) Act 2026 (Cth), expanding the net capital gain calculation from 5 to 7 steps. This change accommodates 4 categories of capital gains, distinguishing between:
- See: Treasury Laws Amendment (Tax Reform No. 1) Bill 2026, Sch 1, and the related Explanatory Memorandum to the Bill; and Income Tax Rates Amendment (Tax Reform No. 1) Bill 2026.
- 5-step, net capital gain calculation (in s 102-5 ITAA97)
- The calculation below shows how s 102-5 ITAA97 applies to the facts. Please ensure you review this section carefully. For a further example, apply the same method to a comparable factual variation.
- Summary (before applying s 102-5 ITAA97)
- Priya also has a net capital loss from collectables for the CIY of $600 which will be carried forward to reduce her capital gains from collectables in the next income she has such gains: s 108-10(4) ITAA 97.
- Applying s 102-5 ITAA97
- In this example, it is much more tax effective to utilise the current year capital loss against the non-discount capital gains first as this will ultimately produce the lowest overall amount in the Priya's assessable income. See Note 1 in Step 1 in s 102-5, which permits a choice to be made about the order in which capital gains can be reduced by capital losses for the CIY.
- Notice that Priya has a choice about the order in which this is done (see Note 2 in Step 2 in s 102-5).
- The $431,150 will enter Priya's assessable income as statutory income under s 102-5 ITAA97.

Chapter 7

- Overview of sections 8-1, 8-5 and 8-10 ITAA97.
- Tests of deductibility under s 8-1 ITAA97:
- Section 8-1 ITAA97 is very important!
- Various judicial tests have been established to show the nexus, yet ultimately they do not displace the statutory test under s 8-1(1)(a).
- More recently, in Hall v FCT [2026] FCAFC 43, Thawley J (in the Full Federal Court) said the following of the first positive limb of s 8-1:

- "The [first] positive limb in s 8-1(1) asks a question of connection or occasion: whether the loss or outgoing is incurred in gaining or producing assessable income; "it is both sufficient and necessary that the occasion of the loss or outgoing should be found in whatever is productive of the assessable income" - see: Ronpibon Tin NL v Commissioner of Taxation [1949] HCA 15; 78 CLR 47 at 57. Mere formal connection is not sufficient. It is necessary to look to the essential character of the expenditure, rather than the subjective purpose for which an item of expenditure has been incurred: Lunney v Commissioner of Taxation [1958] HCA 5; 100 CLR 478 at 497-9.
- "[Section 8-1(1)(a)]…does not require that the purpose of the expenditure shall be the gaining of the income of that year, so long as it was made in the given year and is incidental and relevant to the operations or activities regularly carried on for the production of income.
- It is no part of the function of the Act or of those who administer it to dictate to taxpayers in what business they shall engage or how to run their business provitably or economically.
- FCT v La Rosa 2003 ATC 4510 - see (now) s 26-54 ITAA 97
- FCT v Anstis 2010 ATC 20-221 - see (now) s 26-19 ITAA97
- Additional requirements for deductibility under s 8-1 - Note the application of the substantiation provisions in Division 900 of the 1997 Act (via the 4th negative limb).
- Importance of the words 'to the extent' in section 8-1.
- *FCT v Payne 2001 ATC 4027 and section 25-100 of the ITAA 97.
- 1. What is the distinction between (i) a home office; and (ii) the usage of part of the home as a place of 'business'?
- Question: Is expenditure in any of these 3 areas deductible under section 8-1?
- FCT v Anstis 2010 ATC 20-221, and s 26-19 ITAA97
- If a taxpayer's tuition fees are deductible, how are any related FEE-HELP repayments treated? Distinguish between the time the self-education cost is incurred vs the time when the repayments are made - see s 26-20 ITAA97.

Chapter 8

- In order to claim a general deduction under section 8-1, a taxpayer must show that a loss or outgoing was incurred 'in gaining or producing your assessable income' or 'in carrying on a business' for that purpose.

- The general position is that expenditure incurred before the commencement of a business (including expenditure incurred to diversify an existing business) is not deductible under section 8-1 because it is not incurred in carrying on a business etc (section 8-1(1)(b)) and/or is capital expenditure (and therefore denied deductibility under section 8-1(2)(a)).
- Does Subdiv 40-I ITAA97 now provide a capital allowance deduction over time for costs such as feasibility studies. See s 40-840(2)(d)(ii), s 40-832, 40-835, and s 40-855 ITAA97?
- Also consider 40-880(2) and 40-880(2A) ITAA97 for business related costs (colloquially known as “blackhole” expenses), but note s 40-880(5) and 40-880(7) ITAA97 (which may be further subject to the non-commercial loss rules in Div 35 ITAA97: s 35-10(2B) ITAA97).
- First consider some general propositions about the deductibility of interest under s 8-1 (as confirmed by the High Court in Steele):
- Generally, interest on money borrowed for the purpose of acquiring an income producing asset is deductible under s 8-1.
- If Steele happened today, query whether Div 35 ITAA97 (deferring deductions from non-commercial business activities conducted by individuals) would quarantine the taxpayer’s losses so they are deductible only against future assessable income from the business activity (see ss 35-10(1) and 35-10(2) ITAA97). However, the real property test in s 35-40 ITAA97 may apply to permit the deduction (if other requirements are satisfied - s 35-10(1(a) ITAA97).
- Note that s 26-102 ITAA97 can deny deductions for the holding costs of vacant land (eg interest and council rates) unless the land is in use (or available for use) in carrying on a business.
- The general position is that expenditure incurred after the cessation of a business is not deductible under section 8-1 because it is not incurred in carrying on a business etc (section 8-1(1)(b)) and/or is capital expenditure (and therefore denied deductibility under section 8-1(2)(a)). See, for example, Amalgamated Zinc (de Bavay’s) Ltd v FCT (1935) 54 CLR 295.
- Part A
- Advise Romek whether any of the above expenses, or part thereof, are deductible to him. Support your answer with reference to relevant legislation and case law.
- Part B (If time permits)
- Advise JBL whether the $8,000 in stolen money is deductible to the firm under s 8-1 ITAA 1997. Support your answer with reference to relevant case law.

- Advise Romek whether the other items stolen from him at the café (namely his bag, tie, wallet and $180 in cash) are deductible to him under s 8-1 ITAA97. Support your answer with reference to relevant case law.
- As part of your revision, you are encouraged to read all of Taxation Ruling TR 2024/3: Income Tax:
- We discussed the view that a law degree is not merely workplace training. Rather, it forms part of the
- Note too that while the deductibility of tuition fees depends on the s 8-1 nexus analysis, HELP/FEEHELP repayments are non-deductible: s 26-20 of the ITAA 1997.

Chapter 9

- ITAA97 s 40-72 - diminishing value method for post-9 May 2006 assets.
- ITAA97 s 40-75 - prime cost method.
- ITAA97 s 108-55 - when a building is a separate CGT asset from land.
- PS LA 2003/8 - practical approaches to low-cost business expenses.
- REVENUE/CAPITAL DICHOTOMY UNDER s 8-1
- Section 8-1(2)(a) - denies deductibility for losses or outgoings of capital, or of a capital nature
- Overall, it is likely that the payment for the pizza oven would be capital and non-deductible under s 8-1 whereas the electricity payments would not be capital."
- TAX ACCOUNTING FOR DEDUCTIONS UNDER s 8-1
- When is a loss or outgoing 'incurred' under s 8-1 of the ITAA 97?
- a taxpayer need not actually have paid any money to have incurred an outgoing provided the taxpayer is definitively committed in the year of income. Accordingly, a loss or outgoing may be incurred within section 8-1 even though it remains unpaid, provided the taxpayer is 'completely subjected' to the loss or outgoing. That is, subject to the principles set out below, it is not sufficient if the liability is merely contingent or no more than pending, threatened or expected, no matter how certain it is in the year of income that the loss or outgoing will be incurred in the future. It must be a presently existing liability to pay a pecuniary sum; [emphasis added]
- (Note s 82KZM ITAA36 would not apply to spread the deduction over the insurance period - see s 82KZM(ba)(ii) ITAA36).
- DIVISION 40 OF THE ITAA 1997
- Operative provision - section 40-25(1):

- You can deduct an amount equal to the decline in value for an income year (as worked out under Division 40) of a depreciating asset that you held for any time during the year.
- What is a depreciating asset? See section 40-30
- When is a depreciating asset 'held'? See section 40-40.
- Choice of methods to calculate decline in value: see section 40-65.
- Prime cost method: see section 40-75; or
- Diminishing value method (from 9 May 2006): see section 40-72.
- The diminishing value method can not be chosen for some intangible assets. See the types of intangible assets covered by s 40-70(2) (and s 40-72(2)).
- Cost or base value (effectively, written down value): see sections 40-85, 40-175, 40-180, 40-185, 40-190.
- Note the adjustment for the cost of a car (section 40-230). For the 2025-26 income year, the car limit is $69,674.
- Effective life - choice (section 40-95) between Commissioner's determination (section 40-100) and self-assessment (section 40-105).
- As an exercise, search Table A in Schedule 2 of this Determination to find the effective life of a dishwasher in a rental property, and Table B for the effective life of a laptop computer.
- Note that you can not self-assess the effective life for certain intangible assets as the legislation prescribes the effective life (see s 40-95(7)).
- Taxable purpose is defined in section 40-25(7).
- Reduction of deduction for decline in value for a purpose other than a taxable purpose: see section 40-25(2). The legislation requires you to first calculate the decline in value of the asset (s 40-25(1)) and then to "reduce" this by the non-income producing portion (s 40-25(2)).
- Section 40-27 ITAA97 provides that individuals can not benefit from excessive deductions related to depreciating assets held to produce residential rental income.
- Note that the decline in value of a depreciating asset that you hold is its' cost, where, inter alia, that cost does not exceed $300 and you use the asset predominately for the purpose of producing assessable income that is not income from carrying on a business (see section 40-80(2)). Read this section carefully for all of the requirements!

- Romek is a paralegal for a law firm on the Gold Coast. To match his suit and to keep a professional image, Romek spent $280 on an artificial leather, document wallet designed for the secure transport of confidential and sensitive documents for court events or client meetings. Assuming the wallet is used solely in Romek's employment, the expense is immediately deductible to him pursuant to s 40-80(2) ITAA97.
- Balancing adjustment event: section 40-295.
- the asset's termination value > adjustable value, the difference is included in assessable income (statutory income): section 40-285(1).
- the asset's termination value < adjustable value, the difference is deductible (specific deduction): section 40-285(2).
- What is an asset's termination value? See section 40-300 and 40-305.
- Adjustment for the termination value of a car which has a cost calculated by applying the section 40-230 car limit: see sections 40-320 and 40-325.
- If a depreciating asset is held 100% for the purposes of producing assessable income, any capital gain or loss arising from the happening of CGT Event A1 as a result of the disposal of the depreciating asset is disregarded (assuming that the disposal is also a balancing adjustment event): s 118-24(1).
- Note that although section 118-24(1) disregards capital gains or losses on depreciating assets that are also balancing adjustment events, the exclusion does not apply to capital gains or losses from CGT Event K7 happening (see section 118-24(2)). CGT Event K7 is relevant when a balancing adjustment event occurs for a depreciating asset that you hold and use only partly for a taxable purpose. However, if the depreciating asset is also a personal use asset, any capital loss on its disposal is disregarded.
- DEDUCTIONS FOR CAPITAL WORKS (DIVISION 43 OF THE ITAA 1997)
- Capital Works (Division 43 of the ITAA 1997)
- You can deduct an amount for capital works for the year if the requirements in s 43-10 are satisfied.
- What are capital works? A taxpayer can claim deductions under Division 43 for capital expenditure incurred in constructing capital works being a building, or an extension, alteration or improvement to a building: section 43-20(1).
- Division 43 also applies to capital works that are structural improvements, or extensions, alterations or improvements to structural improvements: section 43-20(2). Some examples of structural improvements are contained in section 43-20(3). Section 43-20(3) provides an inclusive list of examples of structural improvement and not an exhaustive list.

- Example: Although a building might be a depreciating asset, expenditure on buildings is generally deductible under Division 43 (ie the capital works provisions) and not Division 40 - unless it is 'plant' (see below).
- Section 43-10(2)(a) requires the capital work to have a "construction expenditure area" as one of the prerequisites for obtaining a Division 43 deduction. What is construction expenditure? See s 43-70(1). Note some of the types of expenditure that are excluded in s 43-70(2) (e.g. paragraphs (a), (b), (d), (e)) and therefore could not be added to other construction expenditure costs of the capital work for the purposes of the Division 43 deduction. Also read sections 43-120 and 43-125.
- For this example, you can assume that most expenditure on capital works to which Division 43 apply are deducted at a rate of 2.5% per annum over 40 years. [Remember part year apportionment issues, where relevant, and the fact that the building must be used for the purposes of producing assessable income.]
- The Div 43 deduction for the CIY is calculated using the formula:
- There is no deduction until construction is complete: s 43-30. Therefore, you may need to apportion part of the deduction in the first year.
- Of course, taxpayers can only get Division 43 deductions if the capital works are used in a deductible way (i.e. for the purpose of producing assessable income). Where only part of capital works are used to produce assessable income, an apportionment is required to reduce the deduction (usually on a floor area basis).
- If the taxpayer satisfies the requirements for deductibility under Division 43 (even if the relevant expenditure is in respect of a depreciating asset), then depreciation deductions under Division 40 can not be claimed since Division 40 is deemed not to apply (see sections 40-45(2) and 43-50).
- However, if the expenditure on a building (or other capital works) satisfies the definition of 'plant', then the capital works expenditure will not be deductible under Division 43 (see sections 43-70(2)(e), 43-10, and 43-15) and instead, will be deductible under Division 40.
- Definition of 'plant': see section 45-40. You may need to print this out if it is not in your Core Tax Legislation. The s 45-40 definition is an inclusive definition. This means that an item can still be regarded as 'plant' if it is not on the list. Therefore, we need to know what the common law regards is 'plant'.

- What happens if an asset is both a Division 40 and a Division 43 asset? Then, if the asset is plant, for example, deductions will be calculated according to Division 40. As you know when you stop holding a Division 40 depreciating asset (eg. selling or scrapping the asset) a balancing adjustment event happens. If Division 40 prevails over Division 43 in respect of the asset, then to the extent that the depreciating asset has been used for a taxable purpose, the gain or loss on sale will be picked up under Division 40 and not CGT.
- But what happens if the depreciating asset is part of a CGT asset? For example, the factory (or building) in Wangaratta Woollen Mills v FCT was obviously fixed to land and part of the land. If the owner in Wangaratta sold the land and factory, then the disposal of the factory would be a balancing adjustment event (because it was a Division 40 asset (plant) and the owner no longer holds it). Note the obvious practical point that some of the sale proceeds for the disposal would be attributable to the land and some of them to the building. Is it correct then to put the construction costs of the factory in the CGT cost base of the land? The answer is no. The CGT rules will treat the factory as a separate CGT asset from the land (see s 108-55) so that capital gain or loss on disposal of the factory is disregarded, with the gain or loss only being picked up under the Division 40 balancing adjustment provisions. The same logic applies to a depreciating asset that is part of a building: s 108-60.
- On another matter, if Division 43 capital works expenditure forms part of the cost base of a CGT asset (eg 4th element if you incurred it, or 1st element if you purchased the capital work from someone else), then the cost base needs to be reduced to the extent of any Division 43 deductions you have claimed (if the CGT asset was acquired after 7.30pm on 13 May 1997). See s 110-45.
- Expenditure does not form part of the reduced cost base to the extent you have deducted it or can deduct it (see section 110-55(4) and 110-55(9)).
- Note the application of section 110-45(4): capital expenditure by a previous owner that you can deduct after acquisition.
- 1. Does Division 40 apply to the house? Why?
- 2. Is the Company entitled to a Division 43 deduction in the 2025-26 income year? Why? How much is the deduction?
- Part A
- Part B

Chapter 10

- See the relevant authority which explains the test for the deductibility of interest under s 8-1 ITAA97 as confirmed by the High Court in Steele v DFCT 99 ATC 4242. Interest is also not normally a capital expense.
- Can interest form part of the CGT cost base or reduced cost base: s 110-25(4) ITAA97? What happens to the CGT cost base if interest has already been deducted under s 8-1 ITAA97? When and how does s 110-45(1B) ITAA97 apply?
- Costs incurred in arranging or securing borrowed funds are generally regarded as capital expenses and therefore are not ordinarily deductible under s 8-1 ITAA97. An exception may arise where borrowing money forms part of the taxpayer's regular business activities (eg a bank).
- Section 25-25 ITAA97 provides a specific deduction for borrowing expenses (not interest), where borrowed funds are used for income-producing purposes (and apportionment is required if the funds are used partly for those purposes). The borrowing expenses are generally deductible over the shorter of the period of the loan term or 5 years, with the deduction period commencing on the date the loan is entered into.
- Accordingly, if a loan has a term longer than 5 years, the borrowing expenses are spread evenly over the first 5 calendar years from the date of borrowing. Where the loan begins part-way through an income year, the deduction for both the first and last years must be apportioned to account for the fact that the expenses are only deductible for part of those income years.
- However, a different rule applies where the total borrowing expenses incurred are $100 or less. In that case, the full amount is deductible in the income year in which it is incurred: s 25-25(6) ITAA97.
- Notice that borrowing expenses under s 25-25 ITAA97 may constitute an incidental cost of a CGT asset and be included under the cost base 2nd element: s 110-35(9) ITAA97. However, what if the borrowing cost has already been deducted: can it be included in the CGT cost base? Consider s 110-45(1B) ITAA97.
- What is Liam's s 25-25 ITAA97 deduction for the 2025-26 income year? And what are his deductions for each of the remaining years of the loan?
- If Liam repaid the entire loan on 20 June 2027, what is his s 25-25 ITAA97 deduction for the 2026-27 income year?
- Section 25-30 ITAA97 allows a taxpayer to deduct costs incurred in discharging (removing) a mortgage where the mortgage relates to money borrowed or property acquired for the purpose of producing assessable income.

- Section 25-30 applies to discharges of mortgages that secured a loan from a lender: s 25-30(1). It also applies to a mortgages that secured the purchase price owed to the seller (that is, a vendor finance situation): s 25-30(2). Such costs are capital outgoings and are not deductible under s 8-1 ITAA97, so a specific deduction is needed to provide the deduction.
- Example: Jane owns a rental property secured by a mortgage. When Jane sells the property, the bank charges her a $450 mortgage discharge fee. Because the property was used solely to derive rental income, the $450 mortgage discharge fee is deductible under s 25-30 ITAA97.
- Can mortgage discharge fees be included in the 2nd element of the CGT cost base? See s 110-35(9) ITAA97? What if they've already been deducted? See s 110-45(1B).
- Elements of section 25-10 of the 1997 Act.
- Repair for the most part is occasional and partial. It involves restoration of the efficiency of function of the property being repaired without changing its character and may include restoration to its former appearance, form, state or condition. A repair merely replaces a part of something or corrects something that is already there and has become worn out or dilapidated. Works can fairly be described as 'repairs' if they are done to make good damage or deterioration that has occurred by ordinary wear and tear, by accidental or deliberate damage or by the operation of natural causes (whether expected or unexpected) during the passage of time.
- To repair property improves to some extent the condition it was in immediately before repair. A minor and incidental degree of improvement, addition or alteration may be done to property and still be a repair. If the work amounts to a substantial improvement, addition or alteration, it is not a repair and is not deductible under section 25-10."
- "What is a 'repair' for the purposes of section 25-10 is a question of fact and degree in each case having regard to the appearance, form, state and condition of the particular property at the time the expenditure is incurred and to the nature and extent of the work done to the property.
- If work done to property goes beyond what is a 'repair' in terms of section 25-10, any expenditure for the work is not deductible. The work may go beyond 'repairs' in terms of the section if it:

- “Work done partly to remedy or make good defects, damage or deterioration does not cease to be a repair if it is also done partly - even largely - to prevent or anticipate defects, damage or deterioration (in a mechanical or physical sense) in property or in rectifying defects in their very early stages. Repairs are not confined to rectifying defects, damage or deterioration that have already become serious. Work done to property not in need of repair, however, is not repair work and any expenditure for the work in these circumstances is not deductible under section 25-10.
- Some kinds of maintenance work are 'repairs' in terms of section 25-10, for example, painting plant or business premises to rectify existing deterioration and to prevent further deterioration. Other kinds of maintenance work, such as oiling, brushing or cleaning something that is otherwise in good working condition and only requires attention to prevent the possibility of its going wrong in the future, are not 'repairs' in terms of the section . Expenditure on the latter kind of maintenance work may be an allowable deduction under section 8-1.”
- “Elle Bashful uses her truck for income producing purposes. She replaces the truck's worn out petrol engine with a diesel engine with a much greater economy of operation. The engine is not an entirety but a subsidiary part of truck. However, the costs relate to an improvement of the truck because the replacement of the engine involved a significantly greater efficiency in the truck's function. The engine is a major and important part of the truck and is a new and better engine with considerable advantages over the old one, including the advantage that it reduces the likelihood of future repair bills. The costs are of a capital nature and are not deductible under section 25-10: cf (1953) 3 CTBR (NS) Case 82. A deduction for depreciation…may be allowable.”
- “Mary Fabrica owns a factory in which the bitumen floor laid on a gravel base needs repairing. She replaces it with a new floor consisting of an underlay of concrete topped with granolith (a paving stone of crushed granite and cement). The new floor, from a functional efficiency (rather than an appearance) point of view, is not superior in quality to the old floor. The new floor performs precisely the same function as the old and is no more satisfactory. In fact, the new floor is more expensive to repair than the old. Because the new floor is not a substantial improvement, it is a repair and its cost is deductible under section 25-10: Case T75 (1968) 18 TBRD 377; (1968) 14 CTBR (NS) Case 40.”

- "Sam Tabernarius, a shopkeeper, decides to replace the awning of his shop with a more modern and aesthetic equivalent. The awning is in good condition before the work is done; there is nothing to be restored, no decayed or worn out parts to be renewed and nothing loose or detached which requires fixing. The expenditure involved is not for repairs - the awning being in good repair before the work was done - and no deduction is allowable under section 25-10 of the ITAA 1997."
- A repair involvers the replacement or renewal of a subsidiary part of an entirety (or whole).
- Mr Fermier is entitled to claim a deduction for the cost of repairing his fencing under section 25-10. The entirety is the total fencing so replacing the fences on the northern boundary is a replacement of a subsidiary part of the whole fencing: cf (1963) 11 CTBR (NS) Case 44.
- However, Mr Agricola's expenditure is not deductible under section 25-10 because the whole fencing was replaced, making it a reconstruction of the entirety. The total fencing is not a subsidiary part of the rural property or of anything else. To replace entire fencing with new fencing is to replace one capital asset with another capital asset. The cost is therefore of a capital nature: cf (1962) 10 CTBR (NS) Case 58. Mr Agricola's fences are depreciable 'plant'…"
- "[A] taxpayer's beachside apartment may have deteriorated over several years due to wear and tear arising from its use for private purposes. If the taxpayer arranges to 'rent' the apartment to his or her adult child for, say, a month and during that month incurs expenditure to repair and paint the apartment, a deduction may not be allowable, in our view, under section 25-10 for the repair and painting costs. We would take the view in appropriate circumstances that no deduction is allowable either because:
- Part IVA of the ITAA 1936 may apply to the arrangement [that is, the general anti-avoidance provisions - which we will discuss in a later chapter],"
- Capital expenditure is not deductible under section 25-10 (see section 25-10(3)).
- The expenditure incurred in these circumstances to fix the white ant problem existing at the date of purchase is also of a capital nature. It is therefore not deductible under section 25-10. The fact that William was unaware of the problem when he purchased the house, and the fact that he would have paid a lower purchase price if he had known of the need for repairs, do not alter the capital nature of the expense: Case 64 (1944) 11 TBRD (OS) 202 and the W Thomas & Co case."
- See section 25-10(2).

- "Josephine Telefix, a television repairer, owns a station wagon that is used for 70% business and 30% private purposes during the taxation year. Repair costs of $10,000 are incurred on the front panels, engine and computer system in the station wagon following a car accident during the running of the business. The full amount of the repair costs of $10,000 is not deductible under section 25-10. Because Josephine uses the station wagon for private and for business purposes, subsection 25-10(2) limits the amount of her deduction to that part of the expenditure that reasonably relates to the use of the station wagon for business purposes, namely, $7,000."
- "Assume the facts [above involving Josephine Telefix] are unchanged except that the accident occurs while Josephine is using the station wagon driving to Church, i.e., for private purposes. We reject the view that no part of the repair costs is deductible under section 25-10. Because Josephine uses the station wagon for private and for business purposes, subsection 25-10(2) limits the amount of her deduction to that part of the expenditure that reasonably relates to the use of the station wagon for business purposes, namely, $7,000."
- What is the relationship between section 25-10 and section 8-1? The ATO provides a summary of this issue in TR 97/23 (at para 74):
- "Generally speaking, section 8-1 produces the same result as section 25-10 in relation to the deductibility of repair costs. Section 8-1 has its own tests for deductibility. There may be occasions, however, where section 8-1 allows a deduction for repair expenditure that would otherwise not be deductible under section 25-10. Section 8-1 might allow a deduction, for example, after a taxpayer ceases to hold, etc., property for income purposes even though section 25-10 would not allow a deduction (see Placer Pacific Management Pty Ltd v FC of T 95 ATC 4459; (1995) 31 ATR 253)."
- Repairs of a revenue nature may be included in the 3rd element of the CGT cost base: s 110-25(4)(b); but not to the extent they have already been deducted: s 110-45(1B).
- If a repair is capital in nature, then consider if the expenditure satisfies the test in the 4th element of the CGT cost base (in s 110-25(5)) so that it may be included under that element? Then, if it can, does Div 43 ITAA97 provide a capital work deduction for the cost in the meantime? If Div 43 applies, do the deductions claimed under that Division need to be removed from the CGT cost base when CGT event A1 happens when the property is disposed? When and how does s 110-45(2) apply?
- Tax related expenses (section 25-5)
- Borrowing expenses (section 25-25) - see above
- Expenses of discharging a mortgage (section 25-30) - see above

- Bad debts (section 25-35)
- Loss by theft etc. (section 25-45)
- Travel between workplaces (section 25-100)
- Gifts (section 30-15)
- Tax losses (Division 36)
- Project amounts (section 40-830) - See the relevant authority
- Business Related Costs (section 40-880) - See the relevant authority
- Penalties (section 26-5)
- Leave payments (section 26-10)
- HECS and student assistance (section 26-20)
- Relative's travel expenses (section 26-30)
- Bribes to foreign public officials (section 26-52)
- Bribes to public officials (section 26-53)
- Expenditure relating to illegal activities (section 26-54)
- Entertainment expenditure (see Division 32 of the 1997 Act)
- Section 51AH of the 1936 Act - no deduction allowed where expenses incurred by an employee are reimbursed.
- Consider the situations in which section 26-35 might apply (ie amounts paid to related entities). Some issues:
- Legislation giving effect to this proposal has been implemented, and the core provision is s 26-155 ITAA97. These reforms are mentioned for your awareness only; you will not be tested on the negative gearing changes in session 262.
- See: Treasury Laws Amendment (Tax Reform No. 1) Act 2026, Sch 2, and the Explanatory Memorandum to the related Bill.
- ignore any Div 43 ITAA97 and CGT consequences relating to the old timber shed;
- ignore the capital allowance regime for small business entities in Subdiv 328-D ITAA97; and
- assume Marty is not eligible for any CGT small business concessions in Div 152 ITAA 97.
- Calculate Marty's net capital gain for the 2025-26 income year pursuant to s 102-5 ITAA97. Explain your calculation with reference to relevant legislation, and show all workings.

Chapter 11

- ITAA36 s 82KZMD - statutory apportionment of relevant prepaid expenditure over the eligible service period.
- Eg: Division 6AA ITAA36: Tax rates for minors - See Chapter 1.
- The tax rates on the “eligible taxable income” of an Australia tax resident child (aged under age 18 on 30 June 2026) under Div 6AA ITAA36:
- However, if the child’s income is “excepted” taxable income, then the ordinary resident individual tax rates apply to that part of income. Examples of excepted taxable income include:
- In the absence of Div 6AA, what outcome was Susan hoping to achieve? What is the outcome due to Div 6AA ITAA36?
- Convertibility issues and s 21A ITAA36
- The FBT Act and former s 26(e) ITAA36 - valuation issues
- Eg: Reducing deductions for amounts paid to related entities: section 26-35 of the 1997 Act. Recall the following example from this chapter 10 notes:
- Jeff purchased a block of land in January 2006 for $200,000 near where he lives. He wants to help his adult daughter build a house to live in on the land. On 1 June 2026, Jeff gifts the land to his daughter (meaning for nil consideration). The market value of the land on 1 June 2026 is $800,000. What is Jeff’s capital proceeds (consider s 116-30)? What if instead he transferred the land to his daughter for $1? What is his daughter’s cost base (consider s 112-20)?
- The prepayment provisions (in Pt 3, Subdiv 3-H ITAA36) are an example of a specific anti-avoidance or integrity regime because they target a defined tax planning technique: the use of prepayments to accelerate deductions into an earlier income year. The provisions replace immediate deductibility with statutory apportionment over the eligible service period in some situations.
- Recall: What is the meaning of “incurred” in s 8-1 ITAA97? See Chapter 9 Notes.
- The prepayment provisions in s 82KZL, s 82KZM, s 82KZMA and s 82KZMD ITAA36:
- were enacted to adjust the timing of deductions that would otherwise be available under s 8-1 ITAA97 in certain circumstances. So, the prepaid expense must first meet the nexus requirements in s 8-1 ITAA97.
- operate to defer the timing of a deduction otherwise available under s 8-1 ITAA 1997 where the provisions apply, so the expenditure is not deductible in full when incurred This means that the prepayment provisions link with s 8-1 via the 4th negative limb to alter the s 8-1 result that would otherwise apply.

- Where expenditure satisfies the ordinary deductibility requirements in s 8-1, the effect of s 82KZM ITAA36 is that a taxpayer may still be entitled to an immediate deduction for a prepayment where:
- a “small business entity” (s 328-110 ITAA97), or a medium business entity (s 82KZM(1A) ITAA36), who has chosen not to spread the deduction over the eligible services period.
- In other cases, provided the expenditure is otherwise deductible under s 8-1 ITAA97, the deduction is not available in full in the year the amount is incurred. Instead, the deduction is spread over the eligible service period according to the statutory apportionment formula:
- For the purposes of the prepayment rules, s 82KZL ITAA36 defines “excluded expenditure” to include expenditure that:
- PART IVA OF THE 1936 ACT: THE GENERAL ANTI-AVOIDANCE PROVISIONS
- Specific anti-avoidance provisions apply before Part IVA.
- Part IVA ITAA36 (ss 177A to 177R ITAA36) is Australia’s general anti-avoidance rule for income tax. Practitioners commonly refer to the provisions as “Part IVA”.
- Part IVA is designed to counter schemes that, while technically compliant with the tax law, are entered into or carried out for the dominant purpose of obtaining a tax benefit. Where Part IVA applies, the Commissioner may cancel the relevant tax benefit and make consequential adjustments, including issuing amended assessments.
- In broad terms, Part IVA requires the identification of a “scheme”, a “tax benefit” obtained in connection with that scheme, and an objective conclusion that a person entered into or carried out the scheme, or part of it, for the dominant purpose of enabling the taxpayer to obtain that tax benefit. The provisions operate as a safeguard against artificial or contrived arrangements and are central to the integrity of the Australian income tax system.
- Part IVA requires the intervention of the ATO before it can operate (meaning that the ATO needs to make a Determination). Compare this with many legislative responses to tax avoidance, including those above, which are “self activating”.
- For assessments for the 2004-05 income year and later years, amendments giving effect to a Part IVA determination under s 177F(1) are generally governed by s 170 ITAA36 (including the 4-year period where item 4 in s 170(1) applies). Section 177G ITAA36 separately permits amendment at any time for the purpose of giving effect to a compensating adjustment under s 177F(3).
- Part IVA can only operate where a person has entered into or carried out a scheme for the sole or dominant purpose of enabling a taxpayer to obtain a tax benefit in connection with the scheme.

- Section 177A(1) defines a “scheme” to mean:
- A scheme includes a unilateral scheme: s 177A(3). For example, an action taken solely by the trustee of a discretionary trust: PSLA 2005/24, at para 56.
- In FCT v Hart [2004] HCA 26, the High Court confirmed that a scheme need not comprise the whole transaction or arrangement. It may consist of part of a wider arrangement and, in some circumstances, may be confined to a single step.
- The concept of a tax benefit is identified through s 177C and s 177CB ITAA36. Examples of types of tax benefits include:
- However, a tax benefit does not arise if the benefit is attributable to the making of a declaration, agreement, election, selection or choice, the giving of a notice or the exercise of an option by any person expressly provided for under the ITAA36 or ITAA97. But, this carve out does not apply where a scheme was implemented to put the taxpayer into a position to make such an election, choice, etc, to be made: s 177C(2).
- The tax benefit must be determined by having regard to s 177CB. This provision prevents taxpayers from arguing there was no tax benefit because they otherwise would have done nothing.
- Under ss 177CB(2) and 177CB(3), the “would have” test requires consideration of what in fact occurred, disregarding the scheme (called the “annihilation approach”). By contrast, the “might reasonably be expected to have” test requires the identification of a reasonable alternative postulate, assessed by reference to the scheme but excluding its tax consequences (called the “reconstruction approach”).
- Section 177D(1)
- Section 177A(5) - dominant purpose
- Section 177D(b) relevant factors - have regard to the following matters:
- Section 177F
- Compensating adjustments - section 177F(3)
- Amendment of assessments - section 177G.
- Case studies concerning the application of Part IVA
- The Commissioner considers that Part IVA of the ITAA 1936 is likely to apply to cancel any tax benefits obtained in the above circumstances.
- Advise Noah and PP whether Part IVA ITAA36 applies in the circumstances above for the 2025-26 and 2026-27 income years.
- there is a scheme within the meaning of s 177A;

- Noah, PP, or another taxpayer obtained a tax benefit in connection with the scheme within the meaning of s 177C (in doing so, explain the most reasonable alternative postulate);
- having regard to the matters in s 177D, it would be concluded that a person entered into or carried out the scheme, or any part of it, for the dominant purpose of enabling a taxpayer to obtain that tax benefit; and
- if Part IVA applies, what determination the Commissioner may make under s 177F.
- For the purposes of question 1, you need only consider the general anti-avoidance provisions in Part IVA. Also do not consider other tax issues such as CGT, value shifting, Division 7A, and the superannuation guarantee, and also do not consider any company law issues.
- (If time permits) Assume the facts of Ure v FCT 81 ATC 4100 occurred today. The Commissioner argues that the excessive interest deduction should be denied under s 8-1 ITAA97. In the alternative, the Commissioner argues that, if the full deduction is otherwise available, Part IVA ITAA36 applies.
- How would Part IVA apply to the arrangement? In your answer, identify the scheme, the tax benefit, the most reasonable alternative postulate, and whether the dominant purpose test in s 177D is satisfied. Support your answer by reference to relevant legislation, case law and any relevant ATO guidance.

Chapter 12

- TAA53 Sch 1 s 284-90 - base penalty amounts.
- PS LA 2004/14 - ATO access to advice for a corporate board on tax compliance risk.
- The Commissioner has the general administration of the income tax laws: s 8 TAA36; s 1-7 ITAA97; and s 3A Taxation Administration Act 1953 (Cth) ("TAA53").
- Every person must, if required by the Commissioner by legislative instrument, give to the Commissioner a return for a year of income within the period specified in the instrument: s 161 ITAA36.
- The Taxation Laws (Requirement to Lodge a Return for the 2026 Year) Instrument 2026 was made by the Commissioner and registered on 22 May 2026. The instrument sets out who must lodge a return for the 2025-26 income year. For example, it includes all employees who had PAYG withholding applied to their salary or wages for the 2025-26 year: s 6.
- Returns must be lodged in the approved form: s 161A ITAA36. See this link to view the approved form for individual tax returns.
- Failure to lodge or provide required information may constitute an offence: s 8C TAA53.

- Tax return preparation costs may be deductible: s 25-5 ITAA97.
- From tax returns and any other information available to the ATO, the Commissioner must make an assessment of (s 166 ITAA36):
- See also the definition of an "assessment" in s 6(1) ITAA36. An assessment is the Commissioner's formal ascertainment of liability, not merely the paper notice: R v DCT; Ex parte Hooper (1926) 37 CLR 368.
- When a company or complying superannuation fund (which are each an example of a "full self-assessment taxpayer") lodges their return, the Commissioner is deemed to have made an assessment on the lodgment day in accordance with the information in the return, with the return itself becoming notice of the assessment: s 166A(3) ITAA36.
- A default assessment may be made where: no return is provided to the ATO; the ATO is not satisfied with a return provided to it; or the ATO has reason to believe that any person who has not furnished a return has derived taxable income: s 167 ITAA36.
- Default assessments may be based on estimates, data from third parties, or asset betterment analysis (eg comparing declared income with assets, spending, and lifestyle). If the taxpayer disagrees with the default assessment, they must prove the assessment was excessive or otherwise incorrect, and establish the correct amount: s 14ZZK and s 14ZZO TAA53.
- After making an assessment, the Commissioner must serve a notice of assessment on the taxpayer: s 174 ITAA36; which may be by post, delivery or electronic means.
- An assessment is not invalid merely because a provision of the tax law has not been complied with: s 175 ITAA36.
- The production of a notice of assessment is conclusive evidence that the assessment was properly made and that the amount and particulars of the assessment are correct (unless there is a review or appeal underway under Pt IVC TAA53 relating to the assessment): s 350-10(1), TAA53, Sch 1.
- The Commissioner has the power to amend assessments within certain time periods: s 170 ITAA36.
- The amendment period is 4 years after the day of giving the taxpayer a notice of assessment if they have more complex affairs (eg if Part IVA ITAA 36 applies) for other taxpayers with more complex affairs
- See column 3 of the table in s 170(1) ITAA36 for an outline of what is regarded as "complex" tax affairs. Study s 170(1) ITAA36 carefully.

- The applicable amendment period may also be extended in particular circumstances, including where a taxpayer seeks a further amendment to an amended assessment under s 170(3) ITAA36.
- For many taxpayers, income tax is due 21 days after the relevant lodgment date or after notice of assessment, depending on the circumstances: s 5-5(5) ITAA97.
- For companies and complying superannuation funds, income tax is generally due on the first day of the 6th month after income year-end: s 5-5(4) ITAA97.
- Additional tax (and shortfall interest charge) under an amended assessment is generally due 21 days after service of the amended assessment: s 5-5(7) ITAA97.
- General interest charge (GIC) applies to late payment of certain tax liabilities: Pt IIA TAA53.
- The Commissioner may remit GIC in appropriate circumstances: s 8AAG TAA53.
- From 1 July 2025, deductions are no longer available for the GIC under s 25-5 ITAA97.
- A taxpayer is liable to pay the shortfall interest charge (SIC) on an additional amount of income tax that they are liable to pay because the Commissioner amended their assessment for an income year: s 280-100 TAA53, Sch 1.
- The Commissioner may remit SIC in appropriate circumstances: s 280-160 TAA53, Sch 1.
- From 1 July 2025, deductions are no longer available for the SIC under s 25-5 ITAA97.
- The Commissioner may sue for and recover unpaid tax as a debt: s 255-5 TAA53, Sch 1.
- The Commissioner may continue recovery action despite an objection, review or appeal: s 14ZZM and s 14ZZR TAA53.
- As noted previously, a notice of assessment is generally conclusive evidence, which also applies in debt recovery proceedings: s 350-10 TAA53. Sch 1.
- The Commissioner may require a third party owing money to, or holding money for, a tax debtor to pay the Commissioner: s 260-5 TAA53, Sch1.
- The Commissioner may issue a departure prohibition order (DPO) where a tax debtor may leave Australia without discharging, or making satisfactory arrangements for, a tax liability: s 14S TAA53.
- A taxpayer subject to a DPO may apply for a departure authorisation certificate: s 14U TAA53.
- A person aggrieved by the making of a DPO may appeal to the Federal Court or a State Supreme Court against the making of the order: s 14V TAA53.

- Administrative penalties are contained in Pt 4-25 TAA53, Sch 1 (see, especially, Divs 284, 286 and 288).
- Reliance on a tax agent may assist only where the taxpayer provided all relevant information and the agent otherwise acted reasonably (eg s 284-75(6) TAA53, Sch 1).
- Statement penalty remission is available under s 298-20 TAA53, Sch1.
- Directors may become personally liable for unpaid company amounts under the director penalty regime: Div 269, TAA53, Sch 1.
- The Commissioner must issue a director penalty notice before commencing recovery: s 269-25 TAA53, Sch 1.
- Promoter penalties apply to promoters of tax exploitation schemes: Div 290 TAA53, Sch 1.
- Tax offence provisions are contained in Pt III, TAA53 (ss 8A to 13CA).
- Failure to lodge or provide information may be an offence: s 8C TAA53.
- Failure to answer questions or produce documents when required may be an offence: s 8D TAA53.
- Taxpayers may object to assessments and other reviewable decisions under Part IVC TAA53. See, for example, s 175A ITAA36.
- A person making a taxation objection must (s 14ZU TAA53):
- lodge it with the Commissioner within the required period (see below - as set out in s 14ZW TAA53); and
- If a taxation objection is made because a taxpayer is dissatisfied with their income tax assessment (pursuant to s 175A ITAA36), then they must lodge their taxation objection within the relevant amendment period that applies to the taxpayer under s 170(1) ITAA36: s 14ZW(1)(aa) TAA53.
- This means that the time limit for lodging an objections against an income tax assessment is generally 2 years after the day the Commissioner gave notice of the assessment on an individual (or a small or medium business entity). It will be 4 years from that date for taxpayers who have more complex tax affairs under s 170(1) ITAA36.
- For amended assessments, if the Commissioner made the amendment and a 2-year or 4-year time limit would otherwise apply to their original assessment, the taxpayer must lodge their objection to the amended assessment by the later of (s 14ZW(1B) and s 14ZW(1BA) TAA53):
- If the taxation objection was lodged on time, the Commissioner must decide whether to (s 14ZY TAA53):

- A taxpayer can give the Commissioner written notice requiring them to make an objection decision. If the Commissioner has not made the objection decision within 60 days after being given the notice, then it results in a deemed decision by the Commissioner to disallow the taxation objection: s 14ZYA TAA53.
- Jade is an individual taxpayer subject to the standard amendment period of 2 years in item 1 of the table in s 170(1) ITAA36.
- If the person is dissatisfied with the Commissioner's objection decision, they may either (s 14ZZ TAA53):
- In either case, the taxpayer is limited to the grounds stated in their taxation objection. And the taxpayer has the burden of proving that the assessment is excessive or otherwise incorrect, and what the assessment should have been: s 14ZZK and s 14ZZO TAA53.
- An application to the ART for review of a taxation objection decision must be made in writing, within 60 days after the person making the application is served with notice of the objection decision by the ATO (unless leave to extend is granted): s 14ZZC TAA53. The application for ART review must also set out a statement of the reasons for the application.
- An appeal to the Federal Court against an objection decision must be lodged with the Court within 60 days after the person appealing is served with notice of the decision by the ATO: s 14 ZZN TAA53.
- If the taxpayer or the Commissioner is dissatisfied with the ART decision, they can appeal to the Federal Court on a question of law: s 172 Administrative Review Tribunal Act 2024 (Cth).
- A tax ruling binds the Commissioner if it applies to the taxpayer and they follow it. If the taxpayer follows the ruling, and the law turns out to be less favourable than the ruling, the taxpayer is protected by the ruling from any adverse consequences: Div 357 TAA53, Sch 1.
- Public rulings are an expression of the ATO’s opinion of the way in which the law applies to entities generally or a class of entities. See Div 358 TAA53, Sch 1. Taxpayers cannot object directly to a public ruling.
- Private rulings are issued under Div 359 TAA53, Sch 1, and they only apply to the applicant and the specific arrangement or issue identified.
- The Commissioner can make oral rulings for individuals about non-business matters under Div 360 TAA53, Sch 1.
- Businesses must keep records in English to explain transactions and support tax positions (generally for at least 5 years): s 262A ITAA36.
- For the purposes of a taxation law, the Commissioner, or individual authorised by them (s 353-15 TAA53, Sch 1):

- The authorised person must provide proof of their authority when requested: s 353-15(2) TAA53, Sch 1.
- An occupier of land premises or place commits an offence if all reasonable facilities and assistance for a valid exercise of the access power is not provided: s 353-15(3) TAA53, Sch 1.
- For the purpose of the administration or operation of a tax law, the Commissioner may by written notice require a person to (s 353-10 TAA53, Sch 1):
- Failing to comply with the notice can be an offence: s 8C or s 8D TAA53.
- The Commissioner may require the information or evidence to be given on oath/affirmation and orally or in writing: s 353-10(2) TAA53, Sch 1.
- The Commissioner can require offshore information or documents be provided: s 353-25 TAA53, Sch 1. The taxpayer generally has 90 days to comply, and non-compliance may prevent the taxpayer from later relying on the information in a dispute.
- Taxation officers are subject to strict confidentiality obligations, unless excepted: Div 355 TAA53, Sch 1.
- External advisers engaged by the ATO may effectively be treated as taxation officers and subject to the same confidentiality requirements: s 355-15 TAA53, Sch 1.
- A uniform administrative penalty regime applies to all “taxation laws” (unless specifically excluded) as defined in ITAA97 s 995-1(1) (TAA s 3AA(2)). Uniform penalties apply irrespective of the type of tax involved, provided the tax is imposed under a relevant taxation law.
- The main regime, TAA Sch 1 Pt 4-25, imposes penalties for:
- A penalty unit is $364 for an offence committed on or after 1 July 2026 and $330 for an offence committed between 7 November 2024 and 30 June 2026 (Crimes Act 1914 s 4AA).
- Unless otherwise specified, this is the percentage of the shortfall amount or, in the case of failure to make a statement, the percentage of the tax-related liability. The base penalty amount can be reduced under TAA Sch 1 s 284-224 to the extent that a taxation law was applied in an accepted way.
- Penalties are doubled for significant global entities (SGEs), as well as group entities of applicable MNE groups in respect of penalties relating to the Minimum Tax law (s 284-90(1A) and (1C)).
- For SGE entering into tax avoidance and profit shifting schemes without a reasonably arguable position penalties are doubled (s 284-155(3): ¶29-180, ¶22-630).

- The Commissioner is required to provide written notice of a penalty and the reasons why the taxpayer is liable to pay the penalty (TAA Sch 1 s 298-10).
- The rules relating to the recovery of income tax (¶25-510) also generally apply in relation to administrative penalties. Assessments of penalties and, with certain exceptions, decisions relating to the remission of penalties are reviewable in accordance with TAA Pt IVC (TAA Sch 1 s 298-30; Huang 2025 ATC ¶20-978; [2025] FCA 1314; ¶28-000, ¶29-410). The Commissioner's power to assess penalties under s 298-30(1) is not "spent" once exercised; the Commissioner can still amend the penalty after a notice of penalty assessment has been issued (Ziegler; Wellton Holdings Pty Ltd 2025 ATC ¶20-983; [2025] FCAFC 168).
- Circumstances that give rise to a liability for penalties may also constitute an offence. Failing to lodge a return or making a false or misleading statement are 2 examples. If a prosecution is initiated, the related administrative penalty is withdrawn under TAA s 8ZE (¶29-700). The remission of administrative penalties would be limited to where related criminal proceedings result in a conviction under proposed reforms noted below…

Chapter 13

- For the 2025-26 income year, assume FBC does not apply the simplified depreciation rules in Subdiv 328-D ITAA97.
- Sally voluntarily attends a shooting range approximately every 2 months outside her rostered working hours to improve her firearm skills. The practice is not required, directed or supervised by the QPS and does not form part of its official training program. During the 2025-26 income year, Sally incurred $250 in unreimbursed ammunition expenses for this practice. She used a privately owned firearm of the same type as her service firearm, and all ammunition was used exclusively for target practice at the shooting range.
- Before lodging FBC's 2025-26 company income tax return, Sally (on behalf of the company) considers the tax treatment of the $1,800 incurred in travelling to Western Australia to inspect the bus that FBC ultimately decided not to acquire. She searches the ATO's website and legal database and finds Taxation Ruling TR 2011/6, which concerns deductions for business-related capital expenditure under s 40-880 ITAA97. Sally also finds several documents in the "Edited private advice" section of the ATO's legal database involving unsuccessful expenditure on proposed acquisitions in apparently similar circumstances.
- Calculate FBC's net capital gain for the 2025-26 income year pursuant to s 102-5 ITAA97. Explain your calculation with reference to key legislative provisions. Show all workings; and

APPENDIX B

Case and Authority Guide

This authority register brings together the cases, rulings and authorities used throughout the book. The substantive chapters explain why each authority matters; the blue links open the judgment, ATO material or other authoritative source.

Chapter 1

- Matthews v Chicory Marketing Board (1938) 60 CLR 263.
- It must be contestable and not arbitrary: MacCormick v FCT 84 ATC 4230.
- FCT v The Myer Emporium Ltd 87 ATC 4363.
- * Zobory v FCT 95 ATC 4251
- *Federal Coke Company Pty Ltd v FCT 77 ATC 4255.
- *FCT v Cooke & Sherden 80 ATC 4140
- *Payne v FCT 96 ATC 4407
- Eisner v Macomber (1920) 252 US 189 - capital was compared to a tree and
- Constable v FCT (1952) 86 CLR 402; [1952] HCA 64
- FCT v La Rosa 2003 ATC 4510 (26-54 ITAA97 now overrides the deductibility
- income producing activities. Eg Martin v FCT (1953) 90 CLR 470
- 1. What if the taxpayer is in the business of gambling? Eg Case K25 78
- Eg Kelly v FCT 85 ATC 4283
- Explain why the receipts in FCT v Cooke & Sherden 80 ATC 4140 and FCT v Payne 96 ATC 4407 were not assessed to the taxpayers as ordinary income.

Chapter 2

- Read Taxation Ruling TR 2023/1. The ATO says in TR 2023/1 (at paras 19-21, 29-30):
- *Lysaght v IRC [1928] AC 234
- *Levene v IRC [1928] AC 217
- Consider the following Example 1 from TR 2023/1 (at paras 111 to 113):
- *Applegate v FCT 79 ATC 4307 - 'Permanent' in the context of the domicile test does not mean 'everlasting' but, rather, something that is 'more than temporary or transitory'.

- FCT v Jenkins 82 ATC 4098 - a stay outside Australia for a fixed period can still be “permanent” rather than “temporary” if the period is of a substantial duration (eg 3 years in this case, although the taxpayer returned early after 18 months due to ill health).
- The ATO says in TR 2023/1 (at 65-66 and 77):
- The ATO says in TR 2023/1 (at 90):
- Consider Taxation Ruling TR 2018/5.
- The ascertainment of the actual source of a given income is a practical, hard matter of fact: Nathan v FCT (1918) 25 CLR 183.
- *FCT v French (1957) 98 CLR 398 - in this case, the source of personal exertion income was the place where work is performed.
- But see FCT v Mitchum (1965) 113 CLR 401, where the High Court held that there is no rule of law that wages are always sourced where work is performed. In that case, the nature of the contract raised doubt whether it was simply wages for work performed in Australia.
- The location of the fund of profits which is distributed as a dividend is the place where those profits are made: Esquire nominees Ltd v FCT 72 ATC 4076.
- DCT (SA) v Executor Trustee and Agency Co of South Australia Ltd (Carden’s case) (1938) 63 CLR 108 - sole medical practitioner.
- Henderson v FCT (1970) 119 CLR 612 - large accounting practice.
- FCT v Firstenberg 76 ATC 4049 - sole practitioner with one employee.
- FCT v Dunn 89 ATC 4141 - sole practitioner with a few employees (mostly family)
- Barrat & Ors v FCT 92 ATC 4275 - partners in a pathology practice, with many staff who generated sizeable income.
- The case law and the Tax Office (see, for example, Taxation Ruling TR 1998/1) have established that the following factors are relevant to deciding which method to use:
- The point of derivation usually occurs when a recoverable debt is created (ie when the taxpayer is legally entitled to an ascertainable amount as a result of having performed an agreed task (see paras 9-11 of Taxation Ruling TR 98/1)).
- Ballarat Brewing Co v FCT (1951) 82 CLR 364.
- *Arthur Murray (NSW) Pty Ltd v FCT (1965) 114 CLR 314.
- Interest - note that interest credited to an account is received constructively. There are obviously exceptions here. For example, the interest income of financial institutions is usually derived on a daily accrual basis (Taxation Ruling TR 93/27).

- Do these additional facts change the timing of when Hillary's June 2026 salary is included in her assessable income? If so, how? Provide reasons to support your answer, including with reference to Brent v FCT 71 ATC 4195.

Chapter 3

- The nexus test may still be satisfied even if an amount is consideration for past or future services (Hochstrasser v Mayes [1960] AC 376); is paid by a 3rd party (Kelly v FCT 85 ATC 4283, Dean & Anor v FCT 97 ATC 4762); or is the product of an isolated act of service (Brent v FCT 71 ATC 4195).
- *Brent v FCT 71 ATC 4195
- *Scott v FCT (1966) 117 CLR 514
- *Kelly v FCT 85 ATC 4283
- Calvert (Inspector of taxes) v Wainwright (1947) 27 TC 475
- *FCT v Dixon (1952) 86 CLR 540
- The meaning given to the phrase 'value to the taxpayer' by Bowen CJ in Donaldson v FCT 74 ATC 4192 is 'what a prudent person in [the taxpayer's] position would be willing to give for [the item] rather than fail to obtain [it].'
- Contrast this with the valuation rule under s 6-5 ITAA97. The valuation rule under s 6-5 is the 'realisable value' of the relevant benefit: Donaldson v FCT 74 ATC 4192. Presumably this means the amount that a willing but not anxious purchaser would be prepared to pay for the relevant benefit (akin to the market value?). Also consider s 21 ITAA36 and the "money value" of the consideration provided.
- *FCT v Cooke and Sherden 80 ATC 4140
- *Smith v FCT (1987) 164 CLR 513; 87 ATC 4883
- *Payne v FCT 96 ATC 4407
- *Kelly v FCT 85 ATC 4283
- *Case Z9 92 ATC 144; AAT Case 7752 (1992) 23 ATR 1057
- *Higgs v Olivier [1951] Ch 899
- Advise Jackson whether the $24,000 would be included in his assessable income pursuant to s 6-5 or s 15-2 ITAA97, and if so, when it is included. In doing so, consider Higgs (Inspector of Taxes) v Olivier (1951) 1 Ch 899.

Chapter 4

- Martin v FCT (1953) 90 CLR 470
- Case K25 78 ATC 243
- Ferguson v FCT 79 ATC 4261

- FCT v Walker 85 ATC 4179
- *Stone v FCT 2005 ATC 4234
- Also, see Taxation Ruling TR 97/11 at paragraph 13 for a helpful summary.
- *FCT v Cooke & Sherden 80 ATC 4140
- *Payne v FCT 96 ATC 4407
- *Federal Coke Company Pty Ltd v FCT 77 ATC 4255
- *FCT v Cooke & Sherden 80 ATC 4140 and s 21A ITAA36.
- *The Squatting Investments Co Ltd v FCT (1954) 88 CLR 413 (Privy Council)
- Section 15-10 ITAA97 - Bounties and Subsidies. When does this section apply? You could also refer to Taxation Ruling TR 2006/3.
- Example: *Memorex Pty Ltd v FCT 87 ATC 5034
- *Californian Copper Syndicate Ltd v Harris (Surveyor of Taxes) (1904) 5 TC 159
- Rutledge v IRC (1929) 14 TC 490
- FCT v Whitfords Beach Pty Ltd 82 ATC 4031
- *FCT v Myer Emporium Ltd 87 ATC 4363
- Taxation Ruling TR 92/3
- Taxation Ruling TR 92/4
- *Westfield v FCT 91 ATC 4234
- FCT v Myer Emporium Ltd 87 ATC 4363
- The Commissioner’s views on the application of the decision in Myer are contained in Taxation Ruling 1992/3. The extract below is a summary of the Commissioner’s view as set out in paragraphs 15 and 16 of the Ruling.
- In relation to the situation where a taxpayer makes a loss on an isolated transaction, the Commissioner outlines his view in Taxation Ruling 1992/4 as follows:
- According to paragraphs 12 and 13 of TR 92/3, the ATO considers that “[f]or a transaction to be characterised as a business operation or a commercial transaction, it is sufficient if the transaction is business or commercial in character.
- The following examples are extracted from Taxation Ruling TR 92/3 and Taxation Ruling TR 92/4.
- The profit made on the sale of the shares is not income. The transaction was merely an investment, not a business operation or commercial transaction.” [See Example 1 from TR 92/3.]

- Mr Leary's profit is not income because the acquisition and sale of the residential property was not a business operation or commercial transaction. It was the acquisition and sale of an investment, even if a significant purpose of Leary in acquiring the property was profit-making." [See Example 2 from TR 92/3.]
- The profit of $10,000 is income and assessable under s [6-5]. It can be inferred from the objective circumstances (especially the quick sale following a rise in price and the fact that the asset had no immediate use other than as an object of trade) that profit-making was a significant purpose of Goldfinger in acquiring the gold bars. Furthermore, the substantial amounts of money involved and the nature of the asset traded lead to the conclusion that the transaction was commercial in nature." [See Example 4 from TR 92/3.]
- What if the gold bars had been sold for $85,000? Consider TR 92/4.

Chapter 5

- A lease premium is usually characterized as capital because it is a payment to secure access rather than use of a premises: Case C2 71 ATC 8. However, the application of the CGT provisions needs to be considered in this context (eg CGT Events F1 to F5).
- the taxpayer is in the business of receiving lease premiums: Kosciusko Thredbo Pty Ltd v FCT 84 ATC 4043; or
- the lease premium is a disguised payment of additional rent: Case E34 73 ATC 282.
- McCauley v FCT (1944) 69 CLR 235: a royalty payment is a payment that is calculated based on the quantity/value of a substance taken or the usage of intellectual property rights.
- The McCauley case is often contrasted with the decision in Stanton v FCT (1955) 92 CLR 630.
- Egerton-Warburton & Ors v DFCT (1934) 51 CLR 568: the full amount of the regular annuity payments were treated as ordinary income.
- McLaurin v FCT (1961) 104 CLR 381 - whole sum treated as capital. Where a payment is received for unliquidated damages, courts are reluctant to apportion the sum into income and capital components.
- *C of T (Vic) v Phillips (1936) 55 CLR 144
- *FCT v Smith 81 ATC 4114
- *Heavy Minerals v FCT (1966) 115 CLR 512
- Van Den Berghs Ltd v Clark [1935] AC 431
- Californian Oil Products Ltd v FCT (1934) 52 CLR 28

- FCT v Wade (1951) 84 CLR 105
- FCT v The Myer Emporium Ltd 87 ATC 4363 - 2nd strand: compensation for the interest that would have been received was income.
- C of T (Vic) v Phillips (1936) 55 CLR 144
- FCT v Dixon (1952) 86 CLR 540
- *Keily v FCT 83 ATC 4248

Chapter 6

- Another example is the building in Wangaratta Woollen Mills v FCT 69 ATC 4095, which is regarded as ‘plant’ (discussed in a later chapter).
- Take the example of Mr Goldfinger from Taxation Ruling 1992/3:
- Example: Take the example of Mr Goldfinger from Taxation Ruling 1992/3. What are the tax implications if Mr Goldfinger acquired the gold bars for $100,000 and sold them 10 days later for $70,000?

Chapter 7

- *The Herald & Weekly Times Ltd v FCT (1932) 48 CLR 113
- *Charles Moore & Co (WA) Pty Ltd v FCT (1956) 95 CLR 344
- *Lunney & Hayley v FCT (1958) 100 CLR 478
- In Ronpibon Tin NL v FCT; Tongkah Compound NL v FCT (1949) 78 CLR 47, the High Court said:
- More recently, in Hall v FCT [2026] FCAFC 43, Thawley J (in the Full Federal Court) said the following of the first positive limb of s 8-1:
- “The [first] positive limb in s 8-1(1) asks a question of connection or occasion: whether the loss or outgoing is incurred in gaining or producing assessable income; “it is both sufficient and necessary that the occasion of the loss or outgoing should be found in whatever is productive of the assessable income” - see: Ronpibon Tin NL v Commissioner of Taxation [1949] HCA 15; 78 CLR 47 at 57. Mere formal connection is not sufficient. It is necessary to look to the essential character of the expenditure, rather than the subjective purpose for which an item of expenditure has been incurred: Lunney v Commissioner of Taxation [1958] HCA 5; 100 CLR 478 at 497-9.
- Does the expenditure need to be incurred in the same income year in which the income it is intended to produce is derived? No - see FCT v Smith (1981) 147 CLR 578; 81 ATC 4114 (re deductibility of premiums for an income protection insurance policy - discussed in Chapter 5):
- *FCT v Snowden Wilson Pty Ltd (1958) 99 CLR 431

- In Re Magna Alloys & Research Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia [1980] FCA 150, Deane and Fisher J said:
- What is required is that the relevant expenditure be appropriate and adapted for the ends of the business carried on for the purpose of earning assessable income: see, Ronpibon Tin NL v FC of T; Tongkah Compound NL v FC of T, supra, 78 CLR at 55-56; 4 AITR at 245; FC of T v Snowden & Willson Pty Ltd, supra, 99 CLR at 444 and 447; 7 AITR at 317 and 320.
- "The Act must operate upon the result of a taxpayer's activities as it finds them": per Williams J, Tweddle v FC of T [1942] HCA 40…" [Emphasis added; para breaks inserted]
- FCT v La Rosa 2003 ATC 4510 - see (now) s 26-54 ITAA 97
- FCT v Cooper 91 ATC 4396
- FCT v Day 2008 ATC 20-064
- FCT v Anstis 2010 ATC 20-221 - see (now) s 26-19 ITAA97
- Example: See *Ronpibon Tin NL v FCT; Tongkah Compound NL v FCT (1949) 78 CLR 47, where the High Court said:
- "…It is important not to confuse the question how much of the actual expenditure of the taxpayer is attributable to the gaining of assessable income with the question how much would a prudent investor have expended in gaining the assessable income. The actual expenditure in gaining the assessable income, if and when ascertained, must be accepted. The problem is to ascertain it by an apportionment. It is not for the Court or the commissioner to say how much a taxpayer ought to spend in obtaining his income, but only how much he has spent: see per Ferguson J. in Tooheys Ltd. v. Commissioner of Taxation (1922) 22 SR (NSW) 432, at p 440 ; per Williams J. in Tweddle v. Federal Commissioner of Taxation [1942] HCA 40; (1942) 7 ATD 186, at p 190 . The question of fact is therefore to make a fair appointment to each object of the companies' actual expenditure where items are not in themselves referable to one object or the other. But this must be done as a matter of fact and therefore not by this Full Court."
- FCT v Collings 76 ATC 4254
- FCT v Vogt 75 ATC 4073
- FCT v Payne 2001 ATC 4027 and s 25-100 ITAA97.
- Taxation Ruling TR 2021/1 When are deductions allowed for employees' transport expenses?
- Taxation Ruling 95/34: Employees carrying out itinerant work
- *Handley v FCT 81 ATC 4165; and FCT v Forsyth 81 ATC 4157
- *Swinford v FCT 84 ATC 4803

- *Hall v FCT [2026] FCAFC 43
- Taxation Ruling TR 93/30: Deductions for home office expenses
- FCT v Finn (1961) 106 CLR 60
- *FCT v Hatchett 71 ATC 4184
- *FCT v Studdert 91 ATC 5006
- FCT v Anstis 2010 ATC 20-221, and s 26-19 ITAA97
- Taxation Ruling TR 2024/3 Income tax: deductibility of self-education expenses incurred by an individual.
- FCT v Edwards 94 ATC 4255
- Mansfield v FCT 96 ATC 4001
- Morris and Others v FCT 2002 ATC 4404 - sun protection items (eg sunglasses, sunhats, and sunscreen) deductible for employees required to work outdoors.

Chapter 8

- The words ‘in gaining or producing’ are read to mean ‘in the course of gaining or producing’: Amalgamated Zinc (de Bavay’s) Ltd v FCT (1935) 54 CLR 295. With the words ‘in carrying on a business’ emphasis is often placed on the ‘carrying on’ component.
- FCT v Maddalena 71 ATC 4161
- *Softwood Pulp & Paper Ltd v FCT 76 ATC 4439 - Consider:
- *Steele v FCT 99 ATC 4242.
- Also note that the security for the borrowing is irrelevant in determining the deductibility of the interest: FCT v Munro (1926) 38 CLR 153.
- The ATO says in Taxation Ruling TR 2004/4 at para 9, that:
- The general position is that expenditure incurred after the cessation of a business is not deductible under section 8-1 because it is not incurred in carrying on a business etc (section 8-1(1)(b)) and/or is capital expenditure (and therefore denied deductibility under section 8-1(2)(a)). See, for example, Amalgamated Zinc (de Bavay’s) Ltd v FCT (1935) 54 CLR 295.
- *Placer Pacific Management Pty Ltd v FCT 95 ATC 4459
- FCT v Brown 99 ATC 4600
- As part of your revision, you are encouraged to read all of Taxation Ruling TR 2024/3: Income Tax:
- FCT v Finn (1961) 106 CLR 60
- FCT v Hatchett 71 ATC 4184
- FCT v Studdert 91 ATC 5006

- FCT v MI Roberts 92 ATC 4787.
- In TR 2024/3, compare Examples 1, 11, and 13. What is the basis for the ATO's conclusion in each of
- Ting v FCT [2015] AATA 166, and
- TR 2024/3 at paras 81 to 85, and Example 21.
- Regarding the role of examples in a tax ruling, note paragraph 8 of TR 2024/3, as well as the following
- observations of Senior Member Evans-Bonner in YDXM v FCT [2022] AATA 2382 (at para 41):
- YDXM v FCT [2022] AATA 2382 - the taxpayer's JD costs were not deductible.
- Assefa v FCT [2009] AATA 2 - the taxpayer's tuition costs for her nursing degree were not
- NT91/37 v FCT [1991] AATA 290 - the taxpayer's pre-admission course at the College of Law
- Masters v FCT [2017] AATA 1042 - the taxpayer was permitted deductions for some of the

Chapter 9

- Vallambrosa Rubber Co Ltd v Farmer (1910) 5 TC 529.
- British Insulated & Helsby Cables v Atherton (1926) 10 TC 155
- *Sun Newspapers Ltd; Associated Newspapers Ltd v FCT (1938) 61 CLR 337
- *Broken Hill Theatres Pty Ltd v FCT (1952) 85 CLR 423
- *National Australia Bank Ltd v FCT 97 ATC 5153
- The Commissioner in Taxation Ruling TR 97/7 (at para 6) provides a good summary of the relevant principles established by case law on when a loss or outgoing is incurred.
- Wangaratta Woollen Mills v FCT 69 ATC 4095
- FCT v Faichney 72 ATC 4245
- Carpentaria Transport Pty Ltd v FCT 90 ATC 4590

Chapter 10

- See the relevant authority which explains the test for the deductibility of interest under s 8-1 ITAA97 as confirmed by the High Court in Steele v DFCT 99 ATC 4242. Interest is also not normally a capital expense.
- Students are encouraged to read Taxation Ruling TR 97/23: Income tax: deductions for repairs.

- The ATO summarises the meaning of ‘repairs’ in TR 97/23 as follows (at paras 13 to 16):
- And at paras 21 and 22 of TR 97/23, the ATO says:
- Can maintenance work be a repair? On this issue, the ATO says in TR 97/23:
- The following Example is extracted from TR 97/23 (at para 164):
- The following Example is extracted from TR 97/23 (at para 172):
- “Mary Fabrica owns a factory in which the bitumen floor laid on a gravel base needs repairing. She replaces it with a new floor consisting of an underlay of concrete topped with granolith (a paving stone of crushed granite and cement). The new floor, from a functional efficiency (rather than an appearance) point of view, is not superior in quality to the old floor. The new floor performs precisely the same function as the old and is no more satisfactory. In fact, the new floor is more expensive to repair than the old. Because the new floor is not a substantial improvement, it is a repair and its cost is deductible under section 25-10: Case T75 (1968) 18 TBRD 377; (1968) 14 CTBR (NS) Case 40.”
- The following Example is extracted from TR 97/23 (at para 162):
- *Lindsay v FCT (1961) 106 CLR 377
- The following Example is extracted from TR 97/23 (at paras 165 to 167):
- *FCT v Western Suburbs Cinema Ltd (1952) 86 CLR 102
- The following Example is extracted from TR 97/23 (at paras 171):
- According to the Commissioner in TR 97/23, you can only deduct repair expenditure if the relevant property was held or used for bona fide income producing purposes.
- An example of the circumstances where this might be an issue is in TR 97/23 (at para 72):
- The following Example is extracted from TR 97/23 (at para 171):
- *W Thomas & Co Pty Ltd v FCT (1965) 115 CLR 58.
- The following Example is extracted from TR 97/23 (at paras 177 to 179):
- The following Example is extracted from TR 97/23 (at para 186):
- The following Example is extracted from TR 97/23 (at para 187):
- What is the relationship between section 25-10 and section 8-1? The ATO provides a summary of this issue in TR 97/23 (at para 74):

- "Generally speaking, section 8-1 produces the same result as section 25-10 in relation to the deductibility of repair costs. Section 8-1 has its own tests for deductibility. There may be occasions, however, where section 8-1 allows a deduction for repair expenditure that would otherwise not be deductible under section 25-10. Section 8-1 might allow a deduction, for example, after a taxpayer ceases to hold, etc., property for income purposes even though section 25-10 would not allow a deduction (see Placer Pacific Management Pty Ltd v FC of T 95 ATC 4459; (1995) 31 ATR 253)."

Chapter 11

- *Ure v FCT 81 ATC 4100
- Fletcher & Ors v FCT 91 ATC 4950
- FCT v Cooke & Sherden 80 ATC 4140
- In FCT v Hart [2004] HCA 26, the High Court confirmed that a scheme need not comprise the whole transaction or arrangement. It may consist of part of a wider arrangement and, in some circumstances, may be confined to a single step.
- *FCT v Spotless Services Ltd 96 ATC 5201
- FCT v Hart & Anor 2004 ATC 4599
- (If time permits) Assume the facts of Ure v FCT 81 ATC 4100 occurred today. The Commissioner argues that the excessive interest deduction should be denied under s 8-1 ITAA97. In the alternative, the Commissioner argues that, if the full deduction is otherwise available, Part IVA ITAA36 applies.

Chapter 12

- See also the definition of an "assessment" in s 6(1) ITAA36. An assessment is the Commissioner's formal ascertainment of liability, not merely the paper notice: R v DCT; Ex parte Hooper (1926) 37 CLR 368.
- Example (adapted from TR 2011/5, at para 123 to 125)
- Industrial Equity Ltd v DCT (1990) 170 CLR 649 - the High Court held that the Commissioner can use the information gathering powers to collect information in a random audit.
- A notice must be sufficiently certain to enable the recipient to identify what is required: ANZ Ltd v Konza [2012] FCAFC 127.

Chapter 13

- Before lodging FBC's 2025-26 company income tax return, Sally (on behalf of the company) considers the tax treatment of the $1,800 incurred in travelling to Western Australia to inspect the bus that FBC ultimately decided not to acquire. She searches the ATO's website and legal database and finds Taxation Ruling TR 2011/6, which concerns deductions for business-related capital expenditure under s 40-880 ITAA97. Sally also finds several documents in the "Edited private advice" section of the ATO's legal database involving unsuccessful expenditure on proposed acquisitions in apparently similar circumstances.
- Advise FBC on the extent to which it can rely on TR 2011/6 and the edited private advice it researched when preparing its 2025-26 company income tax return. What alternative is available to FBC to obtain advice from the ATO, and what protection would that advice provide if FBC relies on it? Support your answer with references to relevant legislation.

APPENDIX C

Final Exam Attack Sheet

Use this as a final issue-spotting sequence. It is not a substitute for the chapter rules.

1. Taxpayer + year
Identify entity, residency status and relevant income year.

2. Receipts
For each receipt: ordinary income? statutory income? exempt/NANE? capital?

3. Jurisdiction
Residency, source and derivation/ timing.

4. Deductions
s 8-1 positive limb; then capital/ private/exempt/denial limbs; then specific deduction provisions.

5. CGT
Event → asset → time → proceeds → cost base → gain/loss → current losses → prior losses → discount/ concessions → net capital gain.

6. Capital allowances
Div 40 / Div 43 / repairs / borrowing costs / other specific provisions.

7. Integrity
Specific anti-avoidance rule first; then Part IVA scheme → tax benefit → alternative postulate → dominant purpose → s 177F determination.

8. Administration
Return → assessment → amendment → penalty/interest → objection → review/appeal → ruling/ reliance.

IRAC writing formula

ISSUE — write the precise tax question.
RULE — statute first, broken into elements; then cases/ATO authorities explaining each element.
APPLICATION — apply each element to the facts and show calculations.

CONCLUSION — state the tax character, amount and any administrative consequence.

APPENDIX D

AGLC4 Quick Reference for Taxation Law Students

Tax assignments require both correct legal analysis and accurate authority. Use AGLC4 consistently and check your institution's assessment instructions.

Legislation

Income Tax Assessment Act 1997 (Cth) s 8-1.

Cases

Commissioner of Taxation v Myer Emporium Ltd (1987) 163 CLR 199.

ATO materials

Cite the ruling/determination/guideline using its official title and identifier, for example Taxation Ruling TR 2024/3, with pinpoint paragraph references where relevant.

Writing rule

Use each authority only for the proposition it establishes and connect that proposition to the statutory rule and facts.

APPENDIX E

Chapter Alignment and Reading Guide

This guide preserves the chapter sequence and prescribed PTL reading ranges so the book and textbook can be studied together.

Prescribed: Sadiq, K et al, *Principles of Taxation Law* (Thomson Reuters, Sydney, 2026) (PTL). Recommended: Sadiq, K and Pinto, D, *Fundamental Tax Legislation* (Thomson Reuters, Sydney, 2026).

Chapter	Topic	PTL / recommended reading
Chapter 1	Foundations of Australian Taxation Law and the Income Tax Formula	PTL [1.000]-[1.190]; [3.000]-[3.190]; [5.00]-[5.170]; [15.00]-[15.40]; [15.80]; [15.100]; [15.160]; [15.170]; [15.210]; [24.160]; Appendix B items 1-5
Chapter 2	Jurisdiction, Residency, Source and Derivation	PTL [4.00]-[4.290]; [16.10]-[16.100]
Chapter 3	Income from Personal Exertion, Employment, Gifts, Prizes and Benefits	PTL [6.00]-[6.250]; [7.000]-[7.100]; [7.310]-[7.350]
Chapter 4	Business Income, Non-Cash Benefits and Isolated Profit-Making Transactions	PTL [8.00]-[8.280]
Chapter 5	Returns from Property, Compensation Receipts and Periodicity	PTL [9.00]-[9.210]; [10.000]-[10.120]; [10.150]-[10.290]; [5.130]; [5.90]
Chapter 6	Capital Gains Tax: Events, Assets, Cost Base, Losses and Discounts	PTL [11.00]-[11.80]; [11.100]; [11.130]; [11.170]-[11.250]; [11.270]-[11.320]; [11.380]-[11.580]
Chapter 7	General Deductions: Nexus, Positive and Negative Limbs, Apportionment and Boundaries	PTL [12.00]-[12.230]; [12.270]-[12.300]; [12.320]-[12.350]; [12.370]-[12.440]; [12.580]-[12.780]; [12.800]; [12.810]-[12.850]

Chapter	Topic	PTL / recommended reading
Chapter 8	Deductions Across Time: Preliminary, Post-Cessation, Interest and Self-Education	Integrated chapter coverage; review the relevant PTL provisions and authorities identified in the chapter.
Chapter 9	Capital v Revenue, When Expenditure Is Incurred, Division 40 and Division 43	PTL [16.120]-[16.186]; [12.230]-[12.260]; [13.00]-[13.110]; [13.180]; [14.00]-[14.118]; [14.125]; [14.165]-[14.215]
Chapter 10	Specific Deductions, Borrowing Costs, Repairs and Deduction Denials	PTL [12.310]; [23.00]-[23.150]; [23.160]; [23.260]-[23.310]
Chapter 11	Tax Planning, Tax Avoidance, Integrity Rules and Part IVA	PTL [24.00]-[24.620]
Chapter 12	Tax Administration: Returns, Assessments, Penalties, Objections, Rulings and ATO Powers	Integrated chapter coverage; review the legislation, cases, ATO authorities and procedures identified in the chapter.
Chapter 13	Final Examination Revision: Integrated Australian Taxation Law	Whole-book revision

BIBLIOGRAPHY

Bibliography

Books

Sadiq, K et al, *Principles of Taxation Law* (Thomson Reuters, Sydney, 2026).

Sadiq, K and Pinto, D, *Fundamental Tax Legislation* (Thomson Reuters, Sydney, 2026).

Legislation

Income Tax Assessment Act 1997 (Cth); *Income Tax Assessment Act 1936* (Cth); *Taxation Administration Act 1953* (Cth); *A New Tax System (Goods and Services Tax) Act 1999* (Cth); *Fringe Benefits Tax Assessment Act 1986* (Cth), together with other legislation identified in the chapters and Statute Guide.

Cases and ATO materials

See Appendix B, the chapter authority maps and the Resources section. Electronic case and authority links are provided throughout the book.

INDEX

Index

A quick subject index for the principal topics. Use the Glossary for concise definitions and the Statute/Case Guides for authorities.

Assessable income — Chapter 1

Residency — Chapter 2

Source — Chapter 2

Derivation — Chapter 2

Employment income — Chapter 3

Gifts and prizes — Chapter 3

Non-cash benefits — Chapter 3

Business income — Chapter 4

Isolated transactions — Chapter 5

Compensation — Chapter 5

Capital gains tax — Chapter 6

CGT discount — Chapter 6

General deductions — Chapter 7

Apportionment — Chapter 7

Self-education — Chapter 8

Interest — Chapter 8

Capital v revenue — Chapter 9

Division 40 — Chapter 9

Division 43 — Chapter 9

Borrowing costs — Chapter 10

Repairs — Chapter 10

Part IVA — Chapter 11

Tax avoidance — Chapter 11

Assessments — Chapter 12

Penalties — Chapter 12

Objections — Chapter 12

Rulings — Chapter 12

Final revision — Chapter 13

RESOURCES

Resources

Use primary law first, then authoritative interpretative material and commentary. Blue text in the electronic edition is functional: click it to open the relevant legislation, judgment, ATO material, research platform or chapter.

Primary and research sources

1. AustLII - Commonwealth legislation - legislation and judgments.
2. AustLII - Commonwealth Acts database.
3. ATO Legal Database - rulings, determinations, PCGs, legislative instruments and decisions.
4. AustLII - ATO materials.
5. ATO - Law.
6. Federal Register of Legislation - official Commonwealth legislation.
7. Income Tax Assessment Act 1997 (Cth).
8. Income Tax Assessment Act 1936 (Cth).
9. Taxation Administration Act 1953 (Cth).
10. A New Tax System (Goods and Services Tax) Act 1999 (Cth).
11. Fringe Benefits Tax Assessment Act 1986 (Cth).
12. Superannuation Guarantee (Administration) Act 1992 (Cth).
13. Fuel Tax Act 2006 (Cth).
14. Excise Act 1901 (Cth).
15. Australian Treasury - policy, explanatory materials, treaties, BEPS, MAAL and DPT.
16. Queensland Revenue Office - duties, land tax and payroll tax.
17. Queensland Legislation - official Queensland Acts and regulations.
18. Lexis+ Australia - subscription commentary, cases and CaseBase.
19. Westlaw Australia - subscription commentary, cases and citator.
20. Thomson Reuters Australia - publisher of the prescribed and recommended taxation texts.

Prescribed and recommended texts

Prescribed: Sadiq, K et al, *Principles of Taxation Law* (Thomson Reuters, Sydney, 2026) (PTL).

Recommended legislation text: Sadiq, K and Pinto, D, *Fundamental Tax Legislation* (Thomson Reuters, Sydney, 2026).

Study discipline: a textbook explains the law; it does not replace the law. For assessed work, verify the current statutory words and the status of the relevant authority.

ABOUT THE AUTHOR



Dr Adrian Adams is an entrepreneur, educator and experienced business leader whose career has spanned healthcare, property, investment and international enterprise.

Over more than two decades, Adrian has built, owned and operated businesses across Australia and overseas, advised companies and leaders, and developed a practical understanding of commerce, regulation and real-world decision-making.

Now nearing completion of his Juris Doctor at Bond University, Adrian combines business experience with legal study to make complex areas of law clearer, more practical and easier for students to understand. His goal is to help students learn with confidence, think critically and apply the law effectively.

ABOUT THE BOOK

Taxation Law in Australia is designed to make one of the most important and technically demanding areas of legal study clearer, more approachable and easier to apply. It brings together Australian taxation legislation, leading authorities, worked examples, tax calculations, tutorials, practical applications, revision tools and high-distinction model answers in a structured and accessible format.

From the income tax formula, assessable income, deductions and capital gains tax through to statutory interpretation, tax administration and practical problem solving, each chapter is crafted to build both knowledge and confidence. Extensive quizzes, short-answer questions, tutorial integration, problem questions and worked IRAC answers help readers move beyond memorising rules and begin using them.

Whether you are studying Law, the Juris Doctor, Business Law or Legal Studies, this book is designed to help you understand Australian taxation law, apply it with confidence and enjoy learning it.

KEY FEATURES

- Australian taxation law coverage
- Exact statutes, cases and practical application
- Tutorial guidance, issue spotting and IRAC method
- Extensive quizzes and model answers
- Exam-focused revision and mixed-topic practice