

## Extracts from the Tax Law

### 4-1 Individuals, companies and other entities

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

### 4-10 Annual income tax

- (1) You must pay income tax for each year ending on 30 June, called the *financial year*.
- (2) Your income tax is worked out by reference to your taxable income for the *income year*.

### 5-10 How to work out your income tax

Income tax = [Taxable income × Rate(s)] – Tax offsets

### 6-15 How to work out your taxable income for an income year

- (1) Your *taxable income* for an income year is worked out using this formula:

Net income + \*Taxable income adjustment - \* Unused tax losses

- (2) If the result of the formula is a positive amount, it is your *taxable income* for the income year.
- (3) If not, you do not have a *taxable income* for the income year.

### 6-55 How to work out your net income

Receipts – Payments ± Net change in tax value of assets and liabilities

Work out your *net income* for the income year using the following method statement. (The result of any step after step 1 may be a negative amount.)

*Method statement*

- Step 1.* Add up all amounts you received during the income year.
- Step 2.* Subtract from the step 1 result all amounts you paid during the income year.
- Step 3.* Add to the step 2 result the closing tax value of each asset (other than money in hand) that you held at the *end* of the income year.

- Step 4.* Subtract from the step 3 result the opening tax value of each asset (other than money in hand) that you held at the *start* of the income year.
- Step 5.* Subtract from the step 4 result the closing tax value of each liability that you had at the *end* of the income year.
- Step 6.* Add to the step 5 result the opening tax value of each liability that you had at the *start* of the income year.

**6-70 Receipts and payments: amounts that are applied or dealt with for you**

- (1) You are taken to *receive* an amount as soon as it is applied or dealt with in any way on your behalf or as you direct.
- (2) You are also taken to have *paid* the amount at that time, just as if you had received the amount and then applied or dealt with it in that way yourself.

**10-15 Meaning of *asset***

An *asset* is anything that embodies future economic benefits.

**10-20 Who *holds* an asset: general rules**

The table sets out general rules for working out who *holds* an asset (if anyone does).

<b>General rules about who holds an asset</b>		
<b>Item</b>	<b>For this kind of asset:</b>	<b>This is the rule:</b>
1	An asset that is any kind of property	The owner of the property, or the legal owner if there is both a legal and equitable owner, <i>holds</i> the asset
2	An asset that is a legal or equitable right that is not property	The owner of the right, or the legal owner if there is both a legal and equitable owner, <i>holds</i> the asset
3	Information: (a) that an entity acquires from another entity (except one that the first entity engaged to generate the information for it); and (b) whose cost is mainly attributable to the information not being generally available	The acquiring entity <i>holds</i> the asset so long as the information is not generally available
4	Any other asset	No entity <i>holds</i> the asset

**10-40 Tax value of an asset**

(1) The table tells you how to work out the *tax value* at a particular time of an asset you hold.

<b>Tax value of an asset</b>		
<b>Item</b>	<b>For this kind of asset:</b>	<b>The tax value at that time is:</b>
1	A listed zero tax value asset (see Division 68), even if it is also covered by another item in this table	Nil
2	An item of trading stock	The amount worked out under Division 70
3	A depreciating asset	The amount worked out under Division 72 or Subdivision 545-C
4	A market value asset (whose tax value you have chosen under Division 74 to work out on a market value basis)	The asset's market value at that time
5	A financial asset (except a market value asset)	The amount worked out under Division 76
6	An investment asset (any other asset that you hold)	The amount worked out under Division 78 (usually the cost of the asset at that time)

**12-15 Meaning of liability**

- (1) A *liability* consists of one or more obligations to provide future economic benefits. (The entity to which an obligation is owed need not be the entity to which the benefits are to be provided.)
- (4) To avoid doubt, a lessor is taken:
  - (a) to have an obligation to provide to the lessee the future economic benefits embodied in the asset that the lessee holds because of the lease; and
  - (b) to perform that obligation continuously over the term of the lease.

**12-20 Who has a liability: general rules**

The table sets out general rules for working out who *has* a liability (if anyone does).

<b>General rules about who has a liability</b>		
<b>Item</b>	<b>For this kind of liability:</b>	<b>This is the rule:</b>
1	A liability that consists of a present legal or equitable obligation	The entity that owes the obligation <i>has</i> the liability
2	Any other liability	No entity <i>has</i> the liability

**12-40 Tax value of a liability**

- (1) The table tells you how to work out the *tax value* at a particular time of a liability you have.

<b>Tax value of a liability</b>		
<b>Item</b>	<b>For this kind of liability:</b>	<b>The tax value at that time is:</b>
1	A listed zero tax value liability (see Division 68), even if it is also covered by another item in this table	Nil
2	A depreciating liability	The amount worked out under Division 72
3	A market value liability (whose tax value you have chosen under Division 74 to work out on a market value basis)	The liability's market value at that time
4	A financial liability (except a market value liability)	The amount worked out under Division 76
5	The amount of a company's paid up share capital	That amount
6	[ <i>Similar rule for trusts.</i> ]	
7	Any other liability	The proceeds (as at that time) of incurring the liability

**14-20 Cost of an asset**

- (1) At a particular time, the *cost* of an asset you hold is the total of:
- each amount that has been included in the first element at or before that time (or nil if no amount has been so included); and
  - each amount that has been included in the second element at or before that time (or nil if no amount has been so included).

**14-25 First element of cost**

- (1) An amount you pay in order to start holding the asset is included in the *first element* when you pay it, or when you start to hold the asset (if that happens later).

**14-30 Second element of cost**

- (1) An amount you pay in order to bring the asset to its condition and location from time to time is included in the *second element* when you pay it.

*Additional items included in second element for some private or domestic payments relating to land*

- (4) If the asset is land, each amount you pay, to the extent that it is reasonably attributable to the land and is of a private or domestic nature, is included in the *second element* when you pay it.

#### **14-35 Items excluded from cost of an asset**

- (1) The *cost* of an asset does *not* include:
  - (a) interest on money borrowed; or
  - (b) an amount to the extent that you have paid it in order to maintain, repair or insure the asset; or
  - (c) rates or land tax.

#### **14-40 Proceeds of realising an asset**

The *proceeds of realising* an asset are the total of:

- (a) each amount you receive, before or at the time when you stop holding the asset, because you stop holding it (to the extent that the amount is reasonably attributable to the asset)

#### **14-75 Proceeds of incurring a liability**

- (1) At a particular time, the *proceeds of incurring* a liability you have are the total of:
  - (a) each amount that has been included in the first element at or before that time (or nil if no amount has been so included); and
  - (b) each amount that has been included in the second element at or before that time (or nil if no amount has been so included).

#### **14-80 First element of proceeds**

- (1) If:
  - (a) you start to have the liability because you receive one or more amounts; or
  - (b) you receive one or more amounts because you start to have the liability;each amount is included in the *first element* when you receive it, or when you start to have the liability (if that happens later).

#### **14-85 Second element of proceeds**

- (1) If:
  - (a) the liability increases because you receive one or more amounts; or
  - (b) you receive one or more amounts because the liability increases;each amount is included in the *second element* when you receive it or at the time of the increase (if that happens later).

**14-90 Cost of extinguishing a liability**

The *cost of extinguishing* a liability is the total of:

- (a) each amount you pay, before or at the time when you stop having the liability, in order to stop having it (to the extent that the amount is reasonably attributable to the liability)

**16-10 Amounts you are taken to receive or pay**

An amount that you are taken to receive or pay for something because of this Division is taken into account (for example, in working out the cost of an asset under section 14-20) *in addition to*:

- (a) any amount that you *actually* receive or pay for that thing; and
- (b) any other amount that you are taken to receive or pay because of this Division or any other provision of this Act.

**16-15 Treatment of debtor and creditor**

- (1) This section treats amounts as being received and paid if:
  - (a) under an arrangement, an entity (the *debtor*) starts to have a financial liability to another entity (the *creditor*); and
  - (b) the financial liability is covered by item 2 of the table in section 76-115; and
  - (c) the only economic benefits that the debtor gets under the arrangement are the one or more non-cash benefits that the financial liability is for; and
  - (d) the only economic benefits that the creditor gets under the arrangement are:
    - (i) the financial asset corresponding to the financial liability; and
    - (ii) any amounts that the debtor pays.
- (2) Amounts are taken to have been received and paid when the debtor started to have the financial liability. Those amounts are worked out under the table in subsection (4) by reference to the financial liability’s tax value at that time (the *base amount*).
- (4) This is the table.

<b>Notional receipts and payments</b>			
<b>Item</b>	<b>This entity</b>	<b>Is taken to have received an amount equal to the base amount:</b>	<b>And is taken to have paid the same amount:</b>
1	The debtor	because of starting to have the financial liability	for the one or more non-cash benefits that the debtor got
2	The creditor	for the one or more non-cash benefits that the debtor got	for the financial asset that the creditor starts to hold and that corresponds to the financial liability

### **16-25 How a two-sided non-cash transaction is treated**

- (1) You are treated as having received and paid amounts if:
  - (a) under an arrangement, you give one or more non-cash benefits; and
  - (b) under the same arrangement, you get one or more non-cash benefits; and
  - (c) the arrangement is not covered by section 16-15 (about short-term trade credit).
- (2) For the one or more non-cash benefits you *give*, you are taken to *receive* an amount equal to the market value, or the total of the market values, of the one or more non-cash benefits you *get*. (The market value of each non-cash benefit you get is determined as at when you get it.)
- (3) For the one or more non-cash benefits you *get*, you are taken to *pay* the amount you are taken to receive under subsection (2).

### **16-55 Getting a non-cash benefit for nothing**

If:

- (a) you get from another entity a non-cash benefit consisting of, or including, something other than an uncertain obligation that the other entity starts to have; and
- (b) you pay nothing, and you give no non-cash benefit, to any entity at any time for the non-cash benefit you get;

you are taken:

- (c) to receive an amount equal to the market value of the benefit; and
- (d) to pay the same amount for the benefit;

at the time when you get the benefit.

### **16-60 Giving a non-cash benefit for nothing**

If:

- (a) you give to another entity a non-cash benefit consisting of, or including, something other than an uncertain obligation that you start to have; and
- (b) you receive no payment, and you get no non-cash benefit, from any entity at any time for the non-cash benefit you give;

you are taken:

- (c) to pay an amount equal to the market value of the benefit; and
- (d) to receive the same amount for the benefit;

at the time when you give the benefit.

### **68-10 What are listed zero tax value assets and liabilities**

- (1) Each of these is a *listed zero tax value asset*:
  - (a) a routine right (see section 68-45);
  - (b) your consumable stores and spare parts that are not your trading stock;
  - (c) your office supplies that are not your trading stock;

- (d) standing crops, or timber, that you have established for sale, or for environmental works on rural land;
- (e) the results of your mining or quarrying exploration or prospecting activities;
- (f) an item of intellectual property whose subject matter is advertising material, unless you acquired the item from another entity (except one that you engaged to generate the advertising material for you);
- (g) a right to receive an amount from a company:
  - (i) in respect of a share in the company that you hold; and
  - (ii) otherwise than because you stop holding the share;
- (h) a right of a company or trust to receive a capital contribution from a member or beneficiary.

*Listed zero tax value liabilities*

- (2) Each of these is a ***listed zero tax value liability***:
  - (a) a routine liability (see section 68-45);
  - (b) a liability of a company to pay a dividend to a member.

**68-45 Routine rights and liabilities**

- (1) If, at the end of an income year:
  - (a) you hold an asset consisting of a right arising under a contract; and
  - (b) you also have a liability arising under the same contract; and
  - (c) subsection (2) or (3) is satisfied;the right is taken to have been a ***routine right*** at all times when you held it during the income year, and the liability is taken to have been a ***routine liability*** at all times when you had it during the income year.

*Rights and liabilities under unperformed contract*

- (2) This subsection is satisfied if, as at the end of the income year, the contract is entirely unperformed.

*Rights and liabilities where benefits received match benefits provided*

- (3) This subsection is satisfied if, as at the end of the income year:
  - the total value of the economic benefits you have provided through performance of the contract (as a proportion of the total value of all economic benefits you have so provided and will so provide);is substantially the same as:
  - the total value of the economic benefits you have received through performance of the contract (as a proportion of the total value of all the economic benefits you have so received and will so receive).



**72-30 What is a *depreciating asset***

- (1) An asset is a *depreciating asset* if, and only if, the total period for which it can be used (whether by the entity that currently holds it, a future holder, or anyone else) is limited.
- (2) To *use* an asset means to consume economic benefits from the asset, or receive economic benefits in respect of the asset.
- (3) However, none of these is a *depreciating asset*:
  - (a) an item of trading stock;
  - (b) a financial asset;
  - (c) a share;
  - (d) a collectable that section 234-40 prevents from being a depreciating asset;
  - (e) an interest in a collectable if section 234-40 prevents the interest from being a depreciating asset.

**72-35 Tax value of depreciating asset**

- (1) The *tax value*, at the end of an income year, of a depreciating asset you hold is:
  - (a) if the asset started to decline in tax value during or before the income year—the asset's base value for the income year less its decline in tax value for the income year; or
  - (b) if, as at the end of the income year, the asset has not yet started to decline in tax value—the asset's cost (as at the end of the year).
- (2) The *base value* of the asset for the income year is:
  - (a) if the asset started to decline in tax value during the income year—the asset's cost (as at the end of the year); or
  - (b) if the asset started to decline in tax value before the income year—the sum of:
    - (i) the asset's opening tax value for the income year; and
    - (ii) each amount included during the income year in the asset's cost.
- (3) The asset *starts to decline in tax value* when you first use it, or have it installed ready for use, for any purpose at or after the time when you start to hold it.
- (4) The *tax value* of the asset at the start of an income year is its opening tax value for that income year.
- (5) The *tax value* of the asset at a time *other than* the start or end of an income year is worked out under this Division as if that time were the end of the income year in which it occurs.

**72-45 What is a *depreciating liability***

- (1) A *depreciating liability* is a liability under which economic benefits will be provided for only a limited period.
- (2) However, none of these is a *depreciating liability*:
  - (a) a financial liability;
  - (b) the amount of a company's paid up share capital;

(c) [*Similar rule for trusts.*].

### 72-50 *Tax value of a depreciating liability*

- (1) The **tax value**, at the end of an income year, of a depreciating liability you have is:
  - (a) if the liability started to decline in tax value during or before the income year—the liability’s base value for the income year less its decline in tax value for the income year; or
  - (b) if, as at the end of the income year, the liability has not yet started to decline in tax value—the proceeds of incurring the liability (as at the end of the current year).
- (2) The **base value** of the liability for the income year is:
  - (a) if the liability started to decline in tax value during the income year—the proceeds of incurring the liability (as at the end of the year); or
  - (b) if the liability started to decline in tax value before the income year—the sum of:
    - (i) the liability’s opening tax value for the income year; and
    - (ii) each amount included during the income year in the proceeds of incurring the liability.
- (3) The liability **starts to decline in tax value** when you first provide economic benefits under the liability.
- (4) The **tax value** of the liability at the start of an income year is its opening tax value for that income year.
- (5) The **tax value** of the liability at a time *other than* the start or end of the income year is worked out under this Division as if that time were the end of the income year in which it occurs.

### 76-10 *Meaning of financial asset*

A **financial asset** is an asset that consists only of one or more of the following:

- (a) a right to receive an amount (whether denominated in Australian currency or foreign currency);
- (b) a right to receive:
  - (i) an asset that is a financial asset because of any other application or applications of this definition; or
  - (ii) part of such an asset;
- (c) foreign currency (except a collectable).

**76-15 Tax value of financial assets**

The table tells you how to work out the *tax value* at a particular time of a financial asset you hold (other than a market value asset). If more than one item covers the asset, apply the first item that covers it.

<b>Tax value of a financial asset</b>		
<b>Item</b>	<b>For this kind of financial asset:</b>	<b>The tax value at that time is:</b>
1	A financial asset that: (a) consists of your right to receive an amount that is due and payable; and (b) is not covered by item 2	The amount you have the right to receive
2	A financial asset consisting of your right to receive an amount for giving a non-cash benefit (other than a financial asset) if the amount: (a) must be paid within 12 months after the day when the asset comes into existence; or (b) would have to be paid within those 12 months if each uncertain obligation that the financial liability corresponding to the asset consists of or includes were a certain obligation	The amount you actually have the right to receive, or nil if you do not actually have at that time the right to receive any of the amount
4	A financial asset that has a certain gain	The amount worked out under Subdivision 76-C
5	Any other financial asset	The cost of the asset at that time

**76-110 Meaning of financial liability**

A *financial liability* is a liability that consists of one or more of the following:

- (a) an obligation to pay an amount (whether denominated in Australian currency or foreign currency);
- (b) an obligation to provide a financial asset or part of one.

**76-115 Tax value of financial liabilities**

The table tells you how to work out the *tax value* at a particular time of a financial liability you have (other than a market value liability). If more than one item covers the asset, apply the first item that covers it.

<b>Tax value of a financial liability</b>		
<b>Item</b>	<b>For this kind of financial liability:</b>	<b>The tax value at that time is:</b>
1	A financial liability to pay an amount that is due and payable (except a financial liability covered by item 2)	The amount you are liable to pay

<b>Tax value of a financial liability</b>		
<b>Item</b>	<b>For this kind of financial liability:</b>	<b>The tax value at that time is:</b>
2	A financial liability to pay an amount for getting a non-cash benefit (other than a financial asset) if the amount: (a) must be paid within 12 months after the day when the liability comes into existence; or (b) would have to be paid within those 12 months if each uncertain obligation that the liability consists of or includes were a certain obligation	The amount you are actually liable at that time to pay, or nil if you are not actually liable at that time to pay any of the amount
3	A financial liability that has a certain loss	The amount worked out under Subdivision 76-D

### 78-10 Meaning of *investment asset*

An *investment asset* is an asset other than:

- (a) a listed zero tax value asset; or
- (b) an item of trading stock; or
- (c) a depreciating asset; or
- (d) a market value asset; or
- (e) a financial asset.

### 78-20 Tax value of investment assets generally

- (1) The tax value at a particular time of an investment asset you hold is the asset's cost at that time.

### 222-5 Application

#### *Individuals*

- (1) This Division applies in working out an individual's taxable income.

### 222-10 Payments

- (1) The amount of a payment you make during the income year is *not* taken into account under step 2 of the net income formula to the extent that:
  - (a) the payment is a payment of a private or domestic nature (see section 222-15); or
  - (b) the amount becomes included during the income year in the cost of a private asset you hold; or
  - (c) the amount becomes included during the income year in the cost of extinguishing a liability that:
    - (i) you stop having during the income year; and
    - (ii) is a private liability immediately before you stop having it.

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- (2) Paragraph (1)(a) does *not* apply to the extent that the amount becomes included during the income year in:
- (a) the cost of an asset that you hold that is *not* a private asset; or
  - (b) the cost of extinguishing a liability that:
    - (i) you stop having during the income year; and
    - (ii) is *not* a private liability immediately before you stop having it.

### **222-15 Extended meaning of *payment of a private or domestic nature***

- (1) A *payment of a private or domestic nature* includes a payment you make, to the extent that:
- (a) it relates to one or more of these matters:
    - (i) your education or training;
    - (ii) your travel;
    - (iii) your accommodation;
    - (iv) your sustenance;
    - (v) your health; and
  - (b) the one or more matters are for the purposes of:
    - (i) a field of employment you have not yet entered; or
    - (ii) your business, investment or other commercial activities that have not yet begun.
- (2) A *payment of a private or domestic nature* includes a payment you make, to the extent that it relates to your hobbies or recreation.

### **222-20 Receipts**

- (1) An amount you receive during the income year is *not* taken into account under step 1 of the net income formula to the extent that:
- (a) it is a receipt of a private or domestic nature (see section 222-25); or
  - (b) it becomes included during the income year in the proceeds of incurring a private liability that you have; or
  - (c) it becomes included during the income year in the proceeds of realising an asset that:
    - (i) you stop holding during the income year; and
    - (ii) is a private asset immediately before you stop holding it.
- (2) Paragraph (1)(a) does *not* apply to the extent that the amount becomes included during the income year in:
- (a) the proceeds of incurring a liability that you have that is *not* a private liability; or
  - (b) the proceeds of realising an asset that:
    - (i) you stop holding during the income year; and
    - (ii) is *not* a private asset immediately before you stop holding it.

**222-25 Extended meaning of receipt of a private or domestic nature**

- (1) A *receipt of a private or domestic nature* includes an amount you receive, to the extent that it:
- arises out of your hobbies or recreation; or
  - compensates you for any wrong, injury or illness you suffer personally and does not represent the replacement of salary, wages or other earnings; or
  - is a gift, inheritance or windfall that does *not* arise out of your employment, or out of your business, investment or other commercial activities.

**222-40 In working out net income, disregard private assets**

- (1) An asset that was a private asset at the *end* of the income year is *not* taken into account under step 3 of the net income formula.
- (2) An asset that was a private asset at the *start* of the income year is *not* taken into account under step 4 of the net income formula.

**222-45 Meaning of private asset**

- (1) An asset that you hold is a *private asset* as shown in the table.

<b>Meaning of private asset</b>		
<b>Item</b>	<b>This kind of asset:</b>	<b>Is a private asset:</b>
1	An item of trading stock	Never
2	A financial asset	Never
3	A collectable, or an interest in a collectable	As set out in section 234-35
4	An investment asset not covered by item 3	Never
5	Any other asset (except one consisting of a right to hold another asset that you do not hold)	If: (a) you intend to use the asset solely for private or domestic purposes so long as you hold it; or (b) the asset is for you essentially private or domestic in nature
6	Any other asset consisting of a right to hold another asset that you do not hold	If: (a) you intend to use the <i>other</i> asset solely for private or domestic purposes so long as you hold the other asset; or (b) the <i>other</i> asset is for you essentially private or domestic in nature

**222-50 Extended meaning of using an asset for private or domestic purposes**

- (1) To the extent that:
- you use an asset for one or more of these purposes:

- (i) your education or training;
  - (ii) your travel;
  - (iii) your accommodation;
  - (iv) your sustenance;
  - (v) your health; and
  - (b) that use is for the purposes of:
    - (i) a field of employment you have not yet entered; or
    - (ii) your business, investment or other commercial activities that have not yet begun; and
  - (c) apart from this section, that use is not for your private or domestic purposes;
- the use is taken to be for your *private or domestic purposes*.
- (2) To the extent that you use an asset for the purposes of your hobbies or recreation, the use is taken to be for your *private or domestic purposes*.

**222-80 In working out net income, disregard private liabilities**

- (1) A liability that was a private liability at the *end* of the income year is *not* taken into account under step 5 of the net income formula.
- (2) A liability that was a private liability at the *start* of the income year is *not* taken into account under step 6 of the net income formula.

**222-85 Meaning of *private liability***

A liability that you have is a *private liability* as shown in the table.

<b>Meaning of <i>private liability</i></b>		
<b>Item</b>	<b>This kind of liability:</b>	<b>Is a <i>private liability</i>:</b>
1	A financial liability	If it is for you solely a liability of a private or domestic nature, having regard to: (a) how the proceeds of incurring the liability are currently applied; and (b) the purposes for which, and the reasons why, you began to have the liability
2	A liability to provide an asset that you hold	If the asset is for you a private asset
3	Any other liability	If it is for you solely a liability of a private or domestic nature

**222-90 Extended meaning of *liability of a private or domestic nature***

- (1) A *liability of a private or domestic nature* includes a liability you have, to the extent that:
  - (a) it relates to one or more of these matters:
    - (i) your education or training;
    - (ii) your travel;
    - (iii) your accommodation;

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- (iv) your sustenance;
  - (v) your health; and
  - (b) the one or more matters are for the purposes of:
    - (i) a field of employment you have not yet entered; or
    - (ii) your business, investment or other commercial activities that have not yet begun.
- (2) A *liability of a private or domestic nature* includes a liability you have, to the extent that it relates to your hobbies or recreation.