Extracts from the Tax Law

4-1 Who must pay income tax

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

4-10 How to work out how much income tax you must pay

(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 .

(3) Work out your income tax for the financial year as follows:

income tax = (taxable income × rate) - tax offsets

4-15 How to work out your taxable income

(1) Work out your taxable income for the income year like this:

taxable income = assessable income - deductions

Method statement

Step 1. Add up all your assessable income for the income year.

Step 2. Add up your deductions for the income year.

Step 3. Subtract your deductions from your assessable income (unless they exceed it). The result is your taxable income. (If the deductions equal or exceed the assessable income, you don't have a taxable income.)

6-5 Income according to ordinary concepts (ordinary income)

(1) Your assessable income includes income according to ordinary concepts, which is called ordinary income.

(4) In working out whether you have derived an amount of ordinary income, and (if so) when you derived it, you are taken to have received the amount as soon as it is applied or dealt with in any way on your behalf or as you direct.

6-10 Other assessable income (statutory income)

(1) Your assessable income also includes some amounts that are not ordinary income.

(2) Amounts that are not ordinary income, but are included in your assessable income by provisions about assessable income, are called statutory income.

(3) If an amount would be statutory income apart from the fact that you have not received it, it becomes statutory income as soon as it is applied or dealt with in any way on your behalf or as you direct.

8-1 General deductions

(1) You can deduct from your assessable income any loss or outgoing to the extent that:

(a) it is incurred in gaining or producing your assessable income; or

(b) it is necessarily incurred in carrying on a business for the purpose of gaining or producing your assessable income.

(2) However, you cannot deduct a loss or outgoing under this section to the extent that:

(a) it is a loss or outgoing of capital, or of a capital nature; or

(b) it is a loss or outgoing of a private or domestic nature; or

(c) it is incurred in relation to gaining or producing your exempt income; or

(d) a provision of this Act prevents you from deducting it.

8-5 Specific deductions

(1) You can also deduct from your assessable income an amount that a provision of this Act (outside this Division) allows you to deduct.

(2) Some provisions of this Act prevent you from deducting an amount that you could otherwise deduct, or limit the amount you can deduct.

(3) An amount that you can deduct under a provision of this Act (outside this Division) is called a specific deduction.

25-10 Repairs

(1) You can deduct expenditure you incur for repairs to premises (or part of premises), or a depreciating asset that you held or used solely for the purpose of producing assessable income.

(2) If you held or used the property only partly for that purpose, you can deduct so much of the expenditure as is reasonable in the circumstances.

(3) You cannot deduct capital expenditure under this section.

25-50 Payments of pensions, gratuities or retiring allowances

(1) You can deduct a payment of a pension, gratuity or retiring allowance that you make to:

(a) an employee; or

(b) a former employee; or

(c) a dependant of an employee or a former employee.

(2) However, you can deduct it only to the extent that it is made in good faith in consideration of the past services of the employee, or former employee, in any business that you carried on for the purpose of gaining or producing assessable income.

25-55 Memberships

You can deduct a payment you make for membership of a trade, business or professional association.

26BB Disposal or redemption of traditional security

(2) Where a taxpayer disposes of a traditional security or a traditional security of a taxpayer is redeemed, the amount of any gain on the disposal or redemption shall be included in the assessable income of the taxpayer of the year of income in which the disposal or redemption takes place.

40-25 Deducting amounts for depreciating assets

(1) You can deduct an amount equal to the decline in value for an income year (as worked out under this Division) of a depreciating asset that you held for any time during the year.

(2) You must reduce your deduction by the part of the asset's decline in value that is attributable to your use of the asset, or your having it installed ready for use, for a purpose other than a taxable purpose.

(7) A taxable purpose is:

(a) the purpose of producing assessable income; or

(b) the purpose of exploration or prospecting; or

(c) the purpose of mining site rehabilitation; or

(d) environmental protection activities.

40-30 What a depreciating asset is

(1) A depreciating asset is an asset that has a limited effective life and can reasonably be expected to decline in value over the time it is used, except:

(a) land; or

(b) an item of trading stock; or

(c) an intangible asset, unless it is mentioned in subsection (2).

(2) These intangible assets are depreciating assets if they are not trading stock:

(c) items of intellectual property;

(f) spectrum licences;

(3) This Division applies to an improvement to land, or a fixture on land, whether the improvement or fixture is removable or not, as if it were an asset separate from the land.

(4) Whether a particular composite item is itself a depreciating asset or whether its components are separate depreciating assets is a question of fact and degree which can only be determined in the light of all the circumstances of the particular case.

40-60 When a depreciating asset starts to decline in value

(1) A depreciating asset you hold starts to decline in value from when its start time occurs.

(2) The start time of a depreciating asset is when you first use it, or have it installed ready for use, for any purpose.

40-85 Meaning of adjustable value and opening adjustable value of a depreciating asset

(1) The adjustable value of a depreciating asset at a particular time is:

(a) if you have not yet used it or had it installed ready for use for any purpose - its cost; or

(b) for a time in the income year in which you first use it, or have it installed ready for use, for any purpose - its cost less its decline in value up to that time; or

(c) for a time in a later income year - the sum of its opening adjustable value for that year and any amount included in the second element of its cost for that year up to that time, less its decline in value for that year up to that time.

(2) The opening adjustable value of a depreciating asset for an income year is its adjustable value to you at the end of the previous income year.

40-175 Cost

The cost of a depreciating asset you hold consists of 2 elements.

40-180 First element of cost

(1) The first element is worked out as at the time when you began to hold the depreciating asset (except for a case to which item 3 or 4 of the table in subsection (2) applies). It is:

(b) otherwise - the amount you are taken to have paid to hold the asset under section 40-185.

40-185 Amount you are taken to have paid to hold a depreciating asset or to receive a benefit

(1) This Division applies to you as if you had paid, to hold a depreciating asset or for an economic benefit for such an asset, the greater of these amounts:

(b) the sum of the applicable amounts set out in this table for holding the asset or receiving the benefit.

Amount you are taken to have paid to hold a depreciating asset or to receive a benefit

Item	In this case:	The amount is:
1	You pay an amount	The amount

40-190 Second element of cost

(1) The second element is worked out after you start to hold the depreciating asset.

(2) The second element is the amount you are taken to have paid under section 40-185 for each economic benefit that has contributed to bringing the asset to its present condition and location from time to time since you started to hold the asset.

40-285 Balancing adjustments

(1) An amount is included in your assessable income if:

(a) a balancing adjustment event occurs for a depreciating asset you held and:

(i) whose decline in value you worked out under Subdivision 40-B; or

(ii) whose decline in value you would have worked out under that Subdivision if you had used the asset; and

(b) the asset's termination value is more than its adjustable value just before the event occurred.

The amount included is the difference between those amounts, and it is included for the income year in which the balancing adjustment event occurred.

(2) You can deduct an amount if:

(a) a balancing adjustment event occurs for a depreciating asset you held and:

(i) whose decline in value you worked out under Subdivision 40-B; or

(ii) whose decline in value you would have worked out under that Subdivision if you had used the asset; and

(b) the asset's termination value is less than its adjustable value just before the event occurred.

The amount you can deduct is the difference between those amounts, and you can deduct it for the income year in which the balancing adjustment event occurred.

40-295 Meaning of balancing adjustment event

(1) A balancing adjustment event occurs for a depreciating asset if:

(a) you stop holding the asset; or

(b) you stop using it, or having it installed ready for use, for any purpose and you expect never to use it, or have it installed ready for use, again; or

(c) you have not used it and:

(i) if you have had it installed ready for use - you stop having it so installed; and

(ii) you decide never to use it.

40-305 Amount you are taken to have received under a balancing adjustment event

(1) This Division applies to you as if you had received, under a balancing adjustment event, the greater of these amounts:

(a) the sum of the amounts you have deducted or can deduct, or has been or will be taken into account in working out an amount you can deduct because of the balancing adjustment event and any amount by which the amount so deductible was reduced because of a case described in the table in this subsection; and

(b) the sum of the applicable amounts set out in that table:

Amount you are taken to have received under a balancing adjustment event

Item	In this case:	The amount is:
1	You receive an amount	The amount
3	You are granted a right to receive an amount or an amount to which you are entitled is increased	The amount of the right or increase when it is granted or increased

40-880 Business related costs

(1) You can deduct amounts for capital expenditure you incur that is one of these:

(a) expenditure to establish a business;

(b) expenditure to convert your business structure to a different structure;

(c) expenditure to raise equity for your business;

(d) expenditure to defend your business against a takeover;

(e) costs to your business of unsuccessfully attempting a takeover;

(f) costs of liquidating a company that carried on a business and of which you are a shareholder;

(g) costs to stop carrying on a business;

to the extent that the business is or was carried on for a taxable purpose.

(2) The amount you can deduct is 20% of the expenditure:

(a) for the income year in which you incur it; and

(b) for each of the next 4 income years.

70-10 Meaning of trading stock

Trading stock includes:

(a) anything produced, manufactured or acquired that is held for purposes of manufacture, sale or exchange in the ordinary course of a business; and

(b) live stock.

70-25 Cost of trading stock is not a capital outgoing

An outgoing you incur in connection with acquiring an item of trading stock is not an outgoing of capital or of a capital nature.

70-35 You include the value of your trading stock in working out your assessable income and deductions

(1) If you carry on a business, you compare:

(a) the value of all your trading stock on hand at the start of the income year; and

(b) the value of all your trading stock on hand at the end of the income year.

(2) Your assessable income includes any excess of the value at the end of the income year over the value at the start of the income year.

(3) On the other hand, you can deduct any excess of the value at the start of the income year over the value at the end of the income year.

70B Deduction for loss on disposal or redemption of traditional securities

(2) Where a taxpayer disposes of a traditional security or a traditional security of a taxpayer is redeemed, the amount of any loss on the disposal or redemption is allowable as a deduction from the assessable income of the taxpayer of the year of income in which the disposal or redemption takes place.

(4) If:

(a) a taxpayer disposes of a traditional security or a traditional security of a taxpayer is redeemed; and

(b) there is a loss on the disposal or redemption; and

(c) in the case of a disposal or redemption of a marketable security:

(i) the taxpayer did not acquire the security in the ordinary course of trading on a securities market; and

(ii) at the time the taxpayer acquired the security, it was not open to the taxpayer to acquire an identical security in the ordinary course of trading on a securities market; and

(d) in the case of a disposal of a marketable security - the disposal did not take place in the ordinary course of trading on a securities market; and

(e) having regard to:

(i) the financial position of the issuer of the security; and

(ii) perceptions of the financial position of the issuer of the security; and

(iii) other relevant matters;

it would be concluded that the disposal or redemption took place for the reason, or for reasons that included the reason, that there was an apprehension or belief that the issuer was, or would be likely to be, unable or unwilling to discharge all liability to pay amounts under the security;

a deduction is not allowable to the taxpayer under this section in respect of so much of the amount of the loss as is a loss of capital or a loss of a capital nature.

82KZMD Business expenditure (except by a small business taxpayer)

(1) **Definitions.** In this Subdivision, unless the contrary intention appears:

"***eligible service period***", in relation to an amount of expenditure incurred under an agreement, means the period from the beginning of:

(a) the day, or the first day, on which the thing to be done under the agreement in return for the amount of expenditure is required, or permitted, as the case may be, to commence being done; or

(b) if the expenditure is incurred on a later day - the day on which the expenditure is incurred;

until the end of:

(c) the day, or the last day, on which the thing to be done under the agreement in return for the amount of expenditure is required, or permitted, as the case may be, to cease being done; or

(d) if that day or last day ends more than 10 years after the beginning of the period - 10 years after the beginning of the period;

"***excluded expenditure***" means an amount of expenditure:

(a) less than $1,000;

(b) required to be incurred by a law, or by an order of a court, of the Commonwealth, a State or a Territory;

(c) under a contract of service; or

(d) to the extent that it is of a capital, private or domestic nature;

(2) For each year of income containing all or part of the eligible service period for the expenditure, the taxpayer may deduct the amount worked out using the formula:

$$\text{Expenditure} \times \frac{\text{Number of days of eligible service period in the year of income}}{\text{Total number of days of eligible service period}}$$

102-5 Assessable income includes net capital gain

(1) Your assessable income includes your net capital gain (if any) for the income year. You work out your net capital gain in this way: Working out your net capital gain

Step 1.	Reduce the capital gains you made during the income year by the capital losses (if any) you made during the income year.
Step 2.	Apply any previously unapplied net capital losses from earlier income years to reduce the amounts (if any) remaining after the reduction of capital gains under step 1 (including any capital gains not reduced under that step because the capital losses were less than the total of your capital gains).
Step 5.	Add up the amounts of capital gains (if any) remaining after step 4. The sum is your net capital gain for the income year.

104-10 Disposal of a CGT asset: CGT event A1

(1) CGT event A1 happens if you dispose of a CGT asset.

(2) You dispose of a CGT asset if a change of ownership occurs from you to another entity, whether because of some act or event or by operation of law. However, a change of ownership does not occur:

(a) if you stop being the legal owner of the asset but continue to be its beneficial owner; or

(b) merely because of a change of trustee.

(3) The time of the event is:

(a) when you enter into the contract for the disposal; or

(b) if there is no contract - when the change of ownership occurs.

(4) You make a capital gain if the capital proceeds from the disposal are more than the asset's cost base. You make a capital loss if those capital proceeds are less than the asset's reduced cost base.

(5) A capital gain or capital loss you make is disregarded if:

(a) you acquired the asset before 20 September 1985; or

(b) for a lease that you granted:

(i) it was granted before that day; or

(ii) if it has been renewed or extended - the start of the last renewal or extension occurred before that day.

104-35 Creating contractual or other rights: CGT event D1

(1) CGT event D1 happens if you create a contractual right or other legal or equitable right in another entity.

(2) The time of the event is when you enter into the contract or create the other right.

(3) You make a capital gain if the capital proceeds from creating the right are more than the incidental costs you incurred that relate to the event. You make a capital loss if those capital proceeds are less.

(4) The costs can include giving property: see section 103-5. However, they do not include an amount you have received as recoupment of them and that is not included in your assessable income, or an amount to the extent that you have deducted or can deduct it.

(5) CGT event D1 does not happen if:

(a) you created the right by borrowing money or obtaining credit from another entity; or

(b) the right requires you to do something that is another CGT event that happens to you; or

(c) a company issues or allots equity interests in the company; or

(d) the trustee of a unit trust issues units in the trust; or

(e) a company grants an option to acquire equity interests or debentures in the company; or

(f) the trustee of a unit trust grants an option to acquire units or debentures in the trust.

110-25 General rules about cost base

(1) The cost base of a CGT asset consists of 5 elements, subject to subsections (7), (8) and (9).

(2) The first element is the total of:

(a) the money you paid, or are required to pay, in respect of acquiring it; and

(b) the market value of any other property you gave, or are required to give, in respect of acquiring it (worked out as at the time of the acquisition).

(3) The second element is the incidental costs you incurred:

(a) to acquire the CGT asset; or

(b) that relate to a CGT event that happens in relation to the asset.

(4) The third element is the non-capital costs of ownership of the CGT asset you incurred (but only if you acquired the asset after 20 August 1991). These costs include:

(a) interest on money you borrowed to acquire the asset; and

(b) costs of maintaining, repairing or insuring it; and

(c) rates or land tax, if the asset is land; and

(d) interest on money you borrowed to refinance the money you borrowed to acquire the asset; and

(e) interest on money you borrowed to finance the capital expenditure you incurred to increase the asset's value.

(5) The fourth element is capital expenditure you incurred to increase the asset's value. However, the expenditure must be reflected in the state or nature of the asset at the time of the CGT event.

(6) The fifth element is capital expenditure that you incurred to establish, preserve or defend your title to the asset, or a right over the asset.

110-35 Incidental costs

(1) There are 5 incidental costs you may have incurred:

(a) to acquire a CGT asset; or

(b) that relate to a CGT event.

(2) The first is remuneration for the services of a surveyor, valuer, auctioneer, accountant, broker, agent, consultant or legal adviser. However, remuneration for

professional advice about the operation of this Act is not included unless it is provided by a recognised tax adviser.

(3) The second is costs of transfer.

(4) The third is stamp duty or other similar duty.

(5) The fourth is:

(a) if you acquired a CGT asset - costs of advertising to find a seller; or

(b) if a CGT event happened - costs of advertising to find a buyer.

(6) The fifth is costs relating to the making of any valuation or apportionment for the purposes of this Part or Part 3-3.

116-20 General rules about capital proceeds

(1) The capital proceeds from a CGT event are the total of:

(a) the money you have received, or are entitled to receive, in respect of the event happening; and

(b) the market value of any other property you have received, or are entitled to receive, in respect of the event happening (worked out as at the time of the event).

118-20 Reducing capital gains if amount otherwise assessable

(1) A capital gain you make from a CGT event is reduced if, because of the event, a provision of this Act (outside of this Part) includes an amount (for any income year) in:

(a) your assessable income or exempt income

118-24 Depreciating assets and section 73BA depreciating assets

(1) A capital gain or capital loss you make from a CGT event that is also a balancing adjustment event that happens to a depreciating asset or a section 73BA depreciating asset (within the meaning of section 73BB of the Income Tax Assessment Act 1936) is disregarded if the asset was:

(a) an asset you held; or

(b) if you are a partner, an asset of the partnership; or

(c) if you are absolutely entitled to the asset as against the trustee of a trust (disregarding any legal disability), an asset of the trustee;

where the decline in value of the asset was worked out under Division 40 or Division 328, or would have been if the asset had been used.

118-25 Trading stock

(1) A capital gain or capital loss you make from a CGT asset is disregarded if, at the time of the CGT event, the asset is:

(a) your trading stock; or

(b) if you are a partner, trading stock of the partnership; or

(c) if you are absolutely entitled to the asset as against the trustee of a trust (disregarding any legal disability), trading stock of the trustee.

118-37 Compensation, damages etc

(1) A capital gain or capital loss you make from a CGT event relating directly to any of these is disregarded:

(a) compensation or damages you receive for any wrong or injury you suffer in your occupation;

(b) compensation or damages you receive for any wrong, injury or illness you or your relative suffers personally;

(c) gambling, a game or a competition with prizes;

(d) a re-establishment grant under section 52A of the Farm Household Support Act 1992 ;

(e) a dairy exit payment within the meaning of the Farm Household Support Act 1992.

245-15 What is a "debt"

(1) Subject to this section, a "debt" is an enforceable obligation imposed by law on a person to pay an amount to another person.

245-25 What constitutes a "commercial debt"

(1) A debt is a "commercial debt" if subsection (2), (3) or (4) provides that the debt is a commercial debt.

(2) Subject to subsection (4A), a debt is a commercial debt if the whole or any part of interest, or of an amount in the nature of interest, paid or payable in respect of the debt:

(a) is or would be allowable as a deduction to the debtor; or

(b) would be so allowable apart from the operation of an exception provision.

245-35 What constitutes forgiveness of a debt

(1) A debt is forgiven if the debtor's obligation to pay the debt is released or waived, or is otherwise extinguished.

245-105 How "total net forgiven amount" is to be applied

(5) The total net forgiven amount is to be applied first, in accordance with sections 245-110 to 245-120, in reduction of deductible revenue losses (if any) incurred by the debtor in years of income before the forgiveness year of income.

(6) To the extent to which the total net forgiven amount cannot be applied as mentioned in subsection (5), it is to be applied, in accordance with sections 245-125 to 245-135, in reduction of deductible net capital losses (if any) incurred by the debtor in respect of years of income before the forgiveness year of income.

(7) To the extent to which the total net forgiven amount cannot be applied as mentioned in subsections (5) and (6), it is to be applied, in accordance with sections 245-140 to 245-160, in reduction of deductible expenditures (if any) that are to be taken into account in the assessment of the debtor's taxable income of the forgiveness year of income or any later year of income.

(8) To the extent to which the total net forgiven amount cannot be applied as mentioned in subsections (5), (6) and (7), it is to be applied, in accordance with sections 245-165 to 245-190, in reduction of the relevant cost bases of certain assets of the debtor at the beginning of the forgiveness year of income.