FOR DISCUSSION PURPOSES

OPTION 3 CORE RULES
3rd PRELIMINARY DRAFT
(5 April 2002)

DEMONSTRATION LEGISLATION

Prepared by PricewaterhouseCoopers for the Board of Taxation.

This demonstration legislation is solely for the purpose of benchmarking prototype 4 of the Tax Value Method legislation. It is not intended to be complete or represent Government policy and should not be relied upon in any way as a basis for determining the taxation treatment of transactions or for any other purpose.

Part 1-3—Core rules

Division 4—How to work out the income tax payable on your taxable income

Table of sections

4-1 Who must pay income tax

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

For a full list of who must pay income tax,
see Division #, starting at section #.

Note 1: The actual amount of income tax payable may be nil.

Note 2: An entity that is exempt under [*equivalent of Division 50 of the Income Tax Assessment Act 1997*] does not have to pay income tax.

Note 3: There are special rules in Division ### for applying the Act to entities that are not legal persons.

4-5 Meaning of *you*

If a provision of this Act uses the expression ***you***, it applies to entities generally, unless its application is expressly limited.

Note: The expression ***you*** is not used in provisions that apply only to entities that are *not* individuals.

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***. The income year is the same as the *financial year, except in these cases:

(a) for a company, the income year is the *previous* financial year;

(b) if, in accordance with section 4-11, you adopt an accounting period ending on a day other than 30 June, the income year is the accounting period adopted in place of the financial year or previous financial year, as appropriate.

4-11 Substituted accounting periods

(1) You may, with the leave of the Commissioner, adopt an accounting period being the 12 months ending on some date other than 30 June as your ***income year***. For

the purposes of this Act, your income year in each succeeding year shall end on the corresponding date of that year, unless with the leave of the Commissioner some other date is adopted.

(2) Where the Commissioner has accepted returns from you based on an income year that does not end on 30 June for the purposes of assessment for the last financial year to which the Income Tax Assessment Act 1997 applied, you shall be deemed to have adopted a corresponding income year under this section.

(3) When the Commissioner gives you leave under subsection (1) he or she may impose such conditions as to how this Act will apply as are necessary and reasonable to give effect to this Act during the first such accounting period, if that is not a period of 12 months.

4-12 How to work out your income tax

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

(1) Work out your income tax for the income year as follows if you are an Australian resident throughout the income year:

Method statement

Step 1. Work out your taxable income for the income year.

To do this, see section 4-15.

Step 2. Work out your basic income tax liability on your taxable income using:

(a) the income tax rate or rates that apply to you for the income year; and

(b) any special provisions that apply to working out that liability.

See the *Income Tax Rates Act 1986*.

Step 3. Work out your tax offsets for the income year. A ***tax offset*** reduces the amount of income tax you have to pay.

For the list of tax offsets, see [*list being developed*].

Step 4. Subtract your *tax offsets from your basic income tax liability. The result is how much income tax you owe for the income year.

Excess tax offsets

(2) If you have *tax offsets that are subject to the refundable tax offset rules in Division [67] and whose total exceeds your basic income tax liability, you can, after allowing certain other tax offsets, get a refund of the excess under section [67-30].

(3) If the total of your other *tax offsets exceeds your basic income tax liability, you are not entitled to a refund or to offset the excess against any other liability.

Note: However, some tax offsets can be carried forward to a later year. See, for example:

- Division [65] of this Act, which deals with carrying forward excess tax offsets; and
- [equivalent of section 160AFE of the *Income Tax Assessment Act 1936*], which deals with the carry forward of excess foreign tax credits.

4-15 How to work out your taxable income

(1) Method statement

Step 1.	Add up all your assessable income for the income year.
	To find out about your assessable income, see Division 6.
Step 2.	Add up your deductions for the income year.
	To find out what you can deduct, see Division 8.
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).

(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.

Note: You may, however, have a tax loss for the income year, which may reduce your taxable income in a later income year. See Division [36].

(4) There are cases where taxable income is worked out in a special way:

Special cases

Item	**For this case:**	**See:**
1	A company does not maintain continuity of ownership and control during the income year	[*equivalent of Subdivision 165-B of the Income Tax Assessment Act 1997.*]
	[*Further cases to be added as required*]	

Division 6—Assessable income and exempt income

Table of sections

6-1 Assessable income

(1) If you are an Australian resident, your ***assessable income*** means the *eligible income you *derived directly or indirectly from all sources, whether in or out of Australia, during the income year.

(2) If you are not an Australian resident, your ***assessable income*** means:

(a) the *eligible income you *derived directly or indirectly from all *Australian sources during the income year; and

(b) other *eligible income that a provision includes in your assessable income for the income year on some basis other than having an *Australian source.

6-5 Eligible income

(1) Your ***eligible income*** includes all amounts that you derive except those amounts referred to in section 6-10.

Note: The term "all amounts" is not limited to amounts that are income according to ordinary concepts.

(2) There are provisions of this Act in a table in section 10-5 that add to or change what would otherwise be included in your eligible income under subsection (1)

(3) If an amount that would otherwise be included in your eligible income is changed by a provision referred to in that table, the changed amount is what is included in your eligible income.

(4) In working out whether you have ***derived*** an amount of eligible 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 What is not eligible income

The following amounts are not included in your ***eligible income***:

(a) in the case of an individual or partnership, a *receipt of a private or domestic nature;

(b) repayments of the principal amount of:

(i) a loan made by you; and

(ii) deposits of money held by you, for example, with a financial institution;

(c) on the disposal by you of a bill of exchange, promissory note or similar instrument the repayment to you of the cost of acquiring the bill of exchange etc.

(d) payments to you of the principal amount of moneys held on your behalf by a trustee;

(e) the proceeds of borrowings of a financial arrangement that is equivalent to a borrowing, such as issuing a discounted bill of exchange;

(f) in the case of a company or trustee, the proceeds of an equity raising;

(g) in the case of a partnership or unincorporated joint venture, subscriptions to capital;

(h) in the case of a trustee, an amount or asset settled on the trust;

(i) in the case of a mutual organisation, amounts that come within the mutuality principle;

(j) repayments of *income tax;

(k) the proceeds of transactions that come with Part # [the capital gains tax rules]; and

(l) in the case of an individual, benefits from participating in a loyalty program or the equivalent.

Example: Frequent flyer points.

6-15 Exempt income

(1) An amount that would otherwise be *eligible income is ***exempt income*** if it is made exempt from income tax by a provision of this Act or another Commonwealth law.

(2) If an amount is exempt income, it is not ***eligible income*** or ***assessable income.***

6-20 Consideration not in money

(1) Where, upon any transaction, you are given *consideration otherwise than in *money, you shall be treated as deriving an amount equal to the market value of that consideration, when determining your ***eligible income***.

Example: A solicitor prepares a farmer's will in exchange for the farmer supplying a dressed goose. The solicitor includes in her eligible income the market value of the dressed goose and the farmer includes in his eligible income the market value of preparing the will. These values do not necessarily match.

(2) ***Consideration*** is not limited to contractual consideration and includes consideration provided under non-contractual arrangements and grants.

(3) An amount otherwise included in your eligible income under subsection (1) shall not be so included to the extent that it is consideration for the payment by you of *money.

Example: B pays $1 million to buy a factory. The market value of the factory is not included in B's eligible income.

(4) The market value of mutual rights exchanged pursuant to an agency, licensing or distribution agreement or the equivalent is not an amount that is included in the eligible income of the grantor or recipient of the rights under subsection (1).

Example: X and Y agree that Y will be the sole distributor of X's goods in Australia. The market value of the rights exchanged under the agreement is not eligible income of X or Y.

Z Council agrees to give Y free land, if Y agrees to build a warehouse on the land and distribute X's goods from the site. Although there is an exchange of rights, Y is not Z Council's agent, licensee or distributor. Consequently subsection (3) has no application and the market value of the land is included in Y's eligible income under subsections (1) and (2).

(5) When an individual becomes a member of a partnership that provides professional services and makes no payment for goodwill or an interest in the assets of the firm, or makes a payment that is less than their market value, the market value of the goodwill and the assets, or the excess of that market value over the payment made (as the case may be) is not an amount that is included in the eligible income of the individual under subsection (1)

(6) If a *government related entity grants you an approval, a permit, a licence, a patent, a right to *explore or prospect for *minerals or quarry materials, a right to *mine or quarry, or any other right to carry on a commercial activity, its market value is not an amount that is included in your eligible income under subsection (1).

(7) If you exercise a right or option to acquire an asset, the market value of the asset acquired in not an amount that is included in your eligible income under subsection (1).

Example: Z Council gives Y an option to acquire land for the nominal amount of $1.00. The market value of the option is included in Y's eligible income under subsections (1) and (2). When the option is exercised no further amount is included.

[*There may be a need to expand the exceptions to subsection (1)*]

Division 8—Deductions

Table of sections

8-1 General deductions

(1) You can deduct any outgoings incurred that are *properly referable to the income year.

(2) An outgoing is not deductible under subsection (1) to the extent that:

(a) its deductibility is determined by a provision of this Act listed in the table in section 12-5; or
(b) a deduction is denied under section 8-5.

8-5 Outgoings that are not deductible

(1) An outgoing is not deductible under section 8-1 to the extent that it is:

(a) in the case of an individual or partnership, a *payment of a private or domestic nature;

(b) incurred in deriving *exempt income;

(c) a repayment of the principal amount of a borrowing by you;

(d) a payment you make by way of a loan or providing financial accommodation equivalent to a loan;

(e) in the case of a company or trustee, the repayment of proceeds of an equity raising;

(f) in the case of a company, a distribution to shareholders;

(g) in the case of a trustee, a distribution to beneficiaries of the trust;

(h) in the case of a partnership or unincorporated joint venture, a distribution to a partner or joint venturer as the case may be;

(i) in the case of a mutual organisation, outgoings that come within the mutuality principle;

(j) *income tax;

(k) in excess of an arm's length amount and its deductibility is not limited or denied by a provision set out in the table in section 12-10; or

(l) by way of a gift or contribution, otherwise than for the purpose of gaining an economic benefit for yourself.

Note: Notwithstanding paragraph (1)(j) certain gifts are deductible. See [Division 30 of Part 2-5].

(2) An outgoing is not deductible under section 8-1 to the extent that its deductibility is limited or denied by a provision set out in the table in section 12-10

(3) An outgoing is not deductible under section 8-1 to the extent that it is included in the cost base of an asset that qualifies for treatment under [Parts 3-1 and 3-3] (the capital gains tax rules).

8-15 Outgoings not in money that were previously assessable income

(1) This section applies when you exchange a thing (including doing something) for another thing (including something done for you) and the thing you receive is

included in your assessable income as a result of sections 6-20, 6-5 and 6-1 applying.

(2) To the extent that you use the thing you receive in circumstances where you could otherwise deduct an outgoing under this Act, you are allowed a deduction under the appropriate provision based on the assessable income you derive from receiving the thing.

Example: Australia Co exchanges coal with China Co for transistors (market value $300,000) that it will sell or barter, stationery (market value $25,000) that it will consume, beer (market value $10,000) that it will use for non-deductible entertainment, and silk spinning plant (market value $1 million) that it will use in Australia. Australia Co's assessable income referable to the transaction is $1,335,000. It obtains an immediate deduction of $300,000 for the transistors (they are trading stock) and of $25,000 for the stationery (they are consumables) under section 8-1, together with a deduction of $1million for the plant over its effective life as a depreciating asset under the capital allowance rules. No deduction is available for the market value of the beer which is used for non-deductible entertainment.

Division 9—Some general rules

Table of sections

9-1 The same amount not taxed twice

An amount is included only once in your assessable income for an income year, and is then not included in your assessable income for any other income year.

9-5 No double deductions

If 2 or more provisions of this Act allow you deductions in respect of the same amount (whether for the same income year or different income years), you can deduct only under the provision that is more appropriate.

9-10 Extended meaning of private or domestic nature

(1) A ***receipt of a private or domestic nature*** includes an amount you derive, to the extent that it:

(a) arises out of your hobbies, amusements or *recreation; or

(b) compensates you for personal injury or loss of income earning capacity; or

(c) is a gift, inheritance or windfall that does not arise out of your employment, or out of your business, investment or other commercial activities.

Note: If someone who suffers a loss of income earning capacity receives amounts to replace lost income (rather than to compensate him or her for the loss of income earning capacity), the amounts are not receipts of a private or domestic nature under paragraph (1)(b).

Example: Paragraph (c) would apply where a person or family company is appointed as the beneficiary or object of a family trust.

(2) Paragraph 1(a) does not apply to the extent that the amount is for providing your efforts or skills.

(3) A ***payment of a private or domestic nature*** includes a payment you make, to the extent that it relates to one or more of these matters:

(a) your education and training;

(b) your travel;

(c) your accommodation;

(d) your sustenance;

(e) your health;

but only to the extent that the one or more matters are for the purposes of:

(f) your hobbies, amusements or *recreation;

(g) your employment that has not yet begun; or

(h) your business, investment or other commercial activities that have not yet begun.

(4) To the extent that:

(a) 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;

(vi) your hobbies, amusements or *recreation; and

(b) that use is for the purposes of:

(i) your employment that has not yet begun; 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***.

9-20 Cost of an asset – general

(1) At a particular time, the ***cost*** of an asset you hold is 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).

(2) 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).

Note: These are examples of amounts included in the first element:

- in the case of an asset you acquire from someone else: the amount you paid for the asset;
- in the case of an asset you create: amounts you paid in order to create it;
- amounts you paid incidental to acquiring or creating the asset.

(3) 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.

Note: These are examples of amounts included in the second element:

- amounts you paid for improving the asset or otherwise increasing its economic value;
- amounts you paid for making the asset ready for use or sale.

(4) However, an amount is included in the ***first element*** or ***second element*** only to the extent that the amount is *reasonably attributable to the asset.

Additional items included for some private or domestic payments relating to land.

(5) 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.

Note: These are examples of items covered by this subsection:

- interest on money borrowed in order to pay for the land;
- rates and land tax.

9-25 Cost of an asset – exclusions

(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.

Note: An amount does not become included in the cost of an asset held by an individual or partnership if paragraph 8-5(1) (payments of a private or domestic nature) has prevented some or all of the amount from being deducted under subsection 8-1(1) for an earlier income year. There is a similar rule for collectables held by an individual or partnership: see subsection [12A-7(5)].

(2) If the asset is *land, its cost includes an item covered by subsection (1) of this section, but only to the extent that subsection 9-20(5) provides.

9-30 Cost of an asset – special rules

The rules in the table have effect despite sections 9-20 and 9-25. If more than one item covered the asset, apply the first item that covers it.

Special rules about cost

Item	In this case:	This is the rule:
1	You start holding an asset pursuant to a right that you hold, and as a result all or part of the right ends	The first element of the asset's *cost is: (a) if the right is part of another asset – the amount by which the other asset's tax value falls because all or part of the right ends; or (b) if the right is an asset – the tax value of the right just before it ends, or the amount by which its tax value falls because part of the right ends, as appropriate.
2	You start holding an asset because it has devolved to you as the *legal personal representative of a person who has dies	The *first element of the asset's *cost is the asset's tax value at the time of the person's death.
3	An asset is an animal you hold as live stock, and you acquired it by natural increase	The *first element of the asset's *cost is the amount worked out under [section 70-55]
4	The Minister for Finance has determined a cost for you, for an asset, under 49A, 49B, 50A, 50B, 51A or 51B of the *Airports (Transitional) Act 1996.*	The *first element of the asset's *cost is the cost so determined.

Special rules about cost		
Item	**In this case:**	**This is the rule:**
5	Just before an asset becomes a partnership asset, one or more of the partners hold the asset (whether or not any other entity also has an interest in the asset or a right in respect of it)	For the partnership, the "first element of the asset's *cost is the asset's *market value when the partnership starts to hold it.
6	[Luxury car limit]	

9-55 Proceeds of realising an asset - general rule

The ***proceeds of realising*** an asset are the total of 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).

Note: If because you stop holding the asset you get non-cash consideration, section 6-20 treats you as receiving an amount.

9-60 Proceeds of realising an asset - special rules

The rules in the table have effect despite section 9-55. If more than one item covers the asset, apply the first item that covers it.

Special rules about proceeds of realising an asset		
Item	**In this case:**	**This is the rule:**
1	You stop holding an asset because you die, and it devolves to your *legal personal representative	The *proceeds of realising the asset are equal to the asset's tax value just before your death
2	Just before an asset becomes a partnership asset, one or more of the partners hold the asset (whether or not any other entity also has an interest in the asset or a right in respect of it)	For the one or more partners, the *proceeds of realising the asset are equal to the asset's *market value when the partnership starts to hold it.

9-65 How much of an amount is reasonably attributable to something (such as an asset

If some but not all of an amount is reasonably attributable to something (for example, an asset), how much of the amount is ***reasonably attributable*** to that thing must be worked out having regard to the relative *market values, at the time when the amount is paid or received, of:

(a) that thing; and

(b) everything else to which any of the amount is reasonably attributable.

9-70 No double counting

To avoid doubt:

(a) the *cost of an asset you hold does not include an amount, to the extent that the amount is included in the cost of another asset (even if the tax value at a particular time of one or both of the assets is not worked out by reference to cost);

(b) your *proceeds of realising an asset do not include an amount, to the extent that the amount is included in your proceeds of realising another asset.

9-75 Timing of assessable income and deductions

(1) This section has effect subject to the other provisions of this Act.

(2) The treatment that would result from applying accounting standards in Australia, that would apply if you were a reporting entity, will determine whether assessable income is ***derived*** during, or an outgoing is ***properly referable*** to, an income year.

(3) In applying subsection (2) you will ignore those aspects of accounting standards that treat certain amounts as non-material.

(4) Notwithstanding subsection (2), individuals may choose to calculate their taxable income using either a cash receipts and payments method, or a simplified accruals method that is not entirely consistent with accounting standards provided the simplified accruals method gives a reasonable result.

(5) A partnership consisting predominantly of partners who are individuals, or the trustee of a family trust that has made an election under section [272-75], may choose to calculate taxable income using either of the calculation methods referred to in subsection (4) provided that the method chosen gives a reasonable result, in particular having regard to the business and capitalisation of the partnership or trust, and in the case of a partnership, the number of partners, and the ratio of employees to partners.

Examples: A partnership consisting of Bob and Evelyn has 20 employees. It is unlikely that a cash receipts method will produce a reasonable result as much of the income of the partnership will be generated from the effort of employees.

Joan and Mary are partners in a hairdressing business. They have one employee. A cash receipts method would usually produce a reasonable result for them.

Jack and Cyril are a partnership that deals in second hand cars. They have two employees and their turnover is $3 million annually. A simplified accruals method is more likely to produce a reasonable result, than a cash receipts method, as they are dealing in trading stock.

(6) Where plant or equipment is sold and leased back to the vendor or an *associate of the vendor, payments under the lease by the lessee to the lessor and a default in such payments shall be treated as amounts of principal and interest owing by the lessee to the lessor under a loan, and the lessor shall be treated as having acquired the plant for no cost.

Note: Subsection (6) will not affect the tax treatment for the vendor of the consideration on the sale of the plant or equipment.

(7) A choice under subsection (4) or (5) shall be of no effect in determining the assessable income or deductions referable to a deferred interest security or discounted security or similar instrument where it is reasonably likely there is deferral by more than 12 months of the receipt of an effective return that is accruing and exceeds 1.5 per cent per annum.

Note: The effect of subsection (1) is that the subsections which follow it will not apply to the extent that other more specific provisions of this Act apply, such as the capital allowances rules [Divisions 40 to 42] and the rules applying to accrued leave [section 26-10]. The effect of subsection (7) is that assessable income and deductions referable to certain types of securities will be determined for *all* taxpayers under generally accounting standards in Australia.

9-80 No assessable income or deductions lost on change of timing treatment

If you change the timing treatment for recognising assessable income or deductions as a result of section 9-75 applying , or for any other reason, so that an amount that would otherwise be included in your assessable income for an income year will not be included in your assessable income for any income year, or a deduction which you would otherwise obtain, will not be obtained for any income year, your taxable income for the income year of the change shall be calculated on the basis that the amount of assessable income is included and the deduction is obtained in that income year.

Part 1-4—Checklists of what is covered by concepts used in the Core Rules

10-5 List of additions and changes to eligible income

The provisions in the following table add to or change what would otherwise be included in your ***eligible income*** under section 6.5.

Item	This kind of addition or changes is made to eligible income:	See:
1	Changes in the value of trading stock that you hold	Section [70-35]
2	Some debts that you owe are included in your eligible income when they are forgiven	Division # of Part #
3	Your net capital gain	Part #
4	Shares or rights to shares you receive under an employee share scheme	Division # of Part #
5	Changes in the value of assets you hold in respect of which an election has been made under the Taxation of Financial Arrangements rules	Section #
6	Balancing adjustments arising under the capital allowances regime	Section #
7	Avoidance of tax: General Profits shifted out of Australia	 Section # Section #
8	Imputation credits on franked dividends	Section #

[This is a sample of the additions and changes. Section 10-5 of the 1997 Act has a long list of such provisions. It is anticipated that this list under Option 3 would be shorter.]

12-5 List of provisions about deductions

The provisions in the table contain rules about specific types of deductions:

Item	Type of deduction	See:
1	Tax related expenses	Section [25.5]
2	Borrowing expenses	Section [25.25]
3	Bad debts	Section [25.35]
4	Loss by theft etc	Section [25.45]
5	Payments to associations	Section [255.5]
6	Entertainment	Division 32, sections 51AEA to 51 AEC

[This is an indicative list only – to provide a sample of what might be omitted from Division 25. Many items from other areas of the legislation need to be added to the list, in particular capital allowance rules.

Deliberately omitted from the list are sections 25-10 (repairs), 25-15 (amount paid for lease obligation to repair), 25-20 (lease document expenses), 25-30 (discharging a mortgage), 25-40 (loss from profit-making undertaking or scheme), 25-50 (payments of pensions, gratuities or retiring allowances – assuming that a deduction is not denied under section 8-5(1)(i) of Option 3).

The omitted sections are unnecessary (with the possible exception of section 25-50) under Option 3. This gives some idea of the efficiency/simplicity benefits. Many more items would, however, need to be listed..]

Part XX—Dictionary

Division 995-Dictionary

995-1 Dictionary

Money includes:

(a) currency (whether of Australia or of any other country); and

(b) promissory notes and bills of exchange; and

(c) any negotiable instrument used or circulated, or intended for use of circulation, as currency (whether of Australia or of any other country); and

(d) postal notes and money orders; and

(e) whatever is supplied as payment by way of:

(i) credit card or debit card; or

(ii) crediting or debiting an account; or

(iii) creation or transfer of a debt

(f) a promise to pay money.

However, it does not include:

(g) a collector's piece; or

(h) an investment article; or

(i) an item of numismatic interest; or

(j) currency the market value of which exceeds its stated value as legal tender in the country of issue.

Minimalist Approach Option 3 Legislation

6.1 Assessable income

(3) If you are an Australian resident, your ***assessable income*** includes all income according to ordinary concepts, * capital gains and *statutory amounts *derived directly or indirectly from all sources, whether in or out of Australia, during the income year.

(4) If you are not an Australian resident, your ***assessable income*** includes:

(a) all income according to ordinary concepts, *capital gains and *statutory amounts *derived directly or indirectly from all *Australian sources during the income year; and

(b) other *ordinary income, *capital gains and *statutory amounts that a provision includes in your assessable income for the income year on some basis other than having an *Australian source.

(5) ***Capital gains*** includes gross amounts as well as net amounts.

(6) ***Statutory amounts*** are amounts that a provision other than this section includes in your assessable income.

(7) In working out whether you have ***derived*** *assessable 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.

Notes: (1) Should subsection (5) be limited to income according to ordinary concepts?

(2) Sections 6-5 and 6-10 of the Option 3 Legislation extended approach can be omitted.

(3) Other provisions can be retained, except that they should be modified, to take account of the elimination of section 6-5 and the concept of “eligible income”.