Australian Taxation Law

Session 4
Statutory Income
Non assessable income

OBJECTIVES
Statutory Income
Return to work payments
Interest on overpayments tax
Assessable recoupments
Trading Stock
Non-cash Business Benefits
Dividends & Imputation Credits

OBJECTIVES
Non Assessable Income
• Amounts not ordinary or statutory income
• Exempt income
• Non assessable non exempt income
STATUTORY INCOME

- Relationship between ordinary income and statutory income
- Precedence - ordinary & statutory
- Statutory takes precedence s 6-25

Many statutory income ITAA 1997 rules have minor application

EG. s 15-20(1) Your assessable income includes an amount that you receive as or by way of royalty within the ordinary meaning of "royalty" ... if the amount is not assessable as * ordinary income under section 6-5.

ITAA 1997 statutory income provisions

s 6-10(2) Amounts that are not ordinary income, but included in your assessable income by provisions about assessable income, are called statutory income (limited role for most statutory income rules)
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<td>• Amount – lease obligation to repair s 15-25</td>
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<td>• Interest on over-payments of Tax and early payments of tax – s 15-35</td>
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Assessable Recoupments
ss 20-20, 20-30

- Brings the recoupment of some deductible expenses into assessable income

2 types:

- Insurance or indemnities ss 20-20(2)
- Listed recoupments ss 20-20(3) – see table in ss 20-30

- Disposal of leased car subdiv 20-B
- Meals – in house dining to non-employees ss 32-70
- Leased plant Div 45
Trading Stock Div.70

Generally, Div 70 trading stock rules apply to all businesses that have trading stock.

Trading Stock Div 70

• Div 70 has four parts:
  • What is Trading stock?
  • Acquiring Trading Stock
  • Accounting for Trading Stock
  • Disposals of Trading Stock

• Trading stock-
  • Anything produced, manufactured or acquired that is held for the purposes of manufacture, sale or exchange in the ordinary course of business, and livestock but excludes Div 230 financial arrangements.
Acquiring trading stock deductions

- s 8-1 deductible when incurred
- s 70-20 use market value for non-arms length transactions
- s 70-25 trading stock is not capital
- s 70-30 bringing into trading stock an item you own

Accounting for trading stock

- s 70-35 if you carry on a business and have TS on hand:
  - Excess of clos. stock over open stock = AI
  - Excess of open stock > clos. stock = Deduction

Accounting for trading stock

When is stock on hand?

*Sutton Motors*

Goods in transit?

*FCT v All States Frozen Foods*
Value of opening stock

- Equals closing stock year 70-40

Value of closing stock 3 methods

- Cost
- Market selling value
- Replacement price method

Value of closing stock

- Special valuation rules
Disposals of trading stock - income per subdiv 70-D

- s 6-5 generally applies
- Disposals outside the ordinary course of business s 70-90

- Disposal when you stop holding trading stock, s 70-100
- Death of owner s 70-105

- You stop holding trading stock but still own it s 70-110
- Compensation for lost trading stock s 70-115
Small Business Entities
sub-div 328-E

Difference in value of the trading stock on hand at the start and end of an income year is $5,000 or less

Then a SBE does not have to:
Value each item of trading stock at year end
• Account for any changes in the value of trading stock

Franking credits Div 207
Taxation financial arrangements Div 230
Financial transactions Div 240
Foreign currency gains Div 775

ITAA 1936
statutory income provisions
• Non-cash Business Benefits –
• ss 21, 21A
• Benefit treated as being convertible to cash
• What is arms length value?
Dividends – s 44(1)
Australian resident shareholders are assessable on all dividends paid out by an Australian resident or foreign resident company out of profits from any source.

Imputation Credit attached to Franked Dividends
Paid to Certain Shareholders

• Example
Melinda receives a dividend of $660 which has an imputation credit of $340. What is income?
$1,000 is income dividend of $660 s 44(1) and $340 imputation credit s 207-20

3. NON ASSESSABLE INCOME
3 TYPES
• 3.1 Amounts that are not ordinary or statutory income s 6-15(1)

• 3.2 Exempt income s 6-20(1)

• 3.3 Non assessable non exempt income s 6-15(3)
3.1 Amounts that are not ordinary or statutory income s 6-15(1)

3.2 Exempt Income

• 2 sources
• Exempt entities
• Exempt income

EXEMPT ENTITIES
Div. 50

• Charitable, public educational, scientific and religious institutions s 50-5
• Non-profit organisations established for community service purposes s 50-10
• Trade Union and employer associations s 50-15
• Friendly societies s 50-20

• Local Government, municipal corporation or Commonwealth Public Authorities s 50-25
• Income of Public & Non-profit Hospitals and organisations s 50-30

• Non-profit organisations to promote the development of primary and secondary resources and tourism s 50-40
• Non-profit organisations to promote the development of sports, culture, film and recreation s 50-45
ITAA 1997 Exempt Amounts
Division 51

- Defence s 51-5
- Certain Commonwealth Education and training grants s 51-10

ITAA 1997 Exempt Amounts
Division 51

- Maintenance s 51-30

Certain Pensions, Benefits, and Allowances Div 52

- Certain Pensions, benefits Div 52
- ie certain Social Security payments Exempt s 52-10
- Veterans Entitlement pensions s 52-65
• Div 53
  Various Exempt payments

• Div 54
  • Personal injury annuities and lump sums

ITAA 1936 Exempt Amounts

• Non cash business benefit s 23L(2)

Non assessable and non exempt income s 6-23

  — applies to ordinary or statutory income if a provision states that it is non – assessable non exempt income
GST and assessable income Div 17 ensures a neutral interaction with the GST

s17-5 excludes from assessable income and exempt income:

- GST payable
- Increasing adjustment relating to a supply

Other non assessable and non exempt income

- bonus payments to older Australians: s 59-5
- compensation under firearms surrender arrangements: s 59-10
- mining payments to Aboriginals and distributing bodies subject to withholding tax: s 59-15
- taxable amounts relating to franchise fees windfall tax: s 59-20
- Commonwealth places windfall tax taxable amounts: s 59-25

Payments that are not exempt, Div 55 ITAA 1997

Division 55 of ITAA 1997 lists payments that are not exempt from income tax