BEVACQUA | MARSDEN | MORGAN | MORTON | DEVOS | VERMA

AUSTRALIAN TAXATION

FOURTH EDITION

WILEY

Australian taxation

FOURTH EDITION

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WILEY

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PREFACE

Wiley's *Australian Taxation* is the final instalment in Wiley's collection of texts for accounting majors. Most Australian taxation texts are written from a predominantly legalistic perspective, whereas *Australian Taxation* is written with accounting students in mind. The text is concise, to the point, easy to digest, and applied rather than legalistic. *Australian Taxation* aims to demystify legal jargon and legal technicality without sacrificing essential core legal knowledge and meaning. Importantly, the text provides the requisite foundation for business students who intend to later undertake the professional programs of either the CPA Australia or the Chartered Accountants Australia and New Zealand (CA ANZ).

Australian Taxation fourth edition builds on the strengths of the third edition and has been comprehensively updated to reflect the 2025–2026 tax rates, including measures announced in the 2024 and 2025 Federal Budgets. This edition continues to prioritise accessibility for accounting students, with expanded coverage of inclusion and diversity, including Indigenous perspectives where relevant. Case law integration has been further strengthened across chapters. The 'Ethics in practice' and 'Technology in action' features have been refreshed to reflect developments in the crypto economy, blockchain, and digital taxation. The fourth edition also maintains alignment with Tax Practitioners Board standards, ensuring coverage of key professional accreditation requirements.

Executive summary — key changes in each chapter

Chapter	Key changes
Chapter 1 The Australian taxation system and the tax formula	• Updated tax thresholds, rates, and statistics for 2025–26 • Inclusion and equity considerations expanded • Legal system updates including Federal Court hierarchy and current initiatives • Expanded content on Inspector-General of Taxation and Taxation Ombudsman
Chapter 2 Residency and source of income	• Updated examples and income tax rates for 2025–26 • New TR 2023/1 incorporated; older rulings removed • Coverage of proposed residency reforms and July 2023 consultation • Indigenous content added, including permanent residency pathways • Australia/Iceland DTA and OECD Pillar Two measures included
Chapter 3 Assessable income/income tax	• Updated legislation and case law • Inclusion and equity themes reinforced throughout
Chapter 4 Capital gains tax	• Expanded CGT events and modification rules • Enhanced coverage of cryptoassets and roll-over reliefs • Greater depth on capital proceeds and CGT for small businesses and trusts • New section on foreign resident capital gains withholding (FRCGW)
Chapter 5 Fringe benefits tax	• Updated FBT rates and thresholds for 2025 • New ATO declarations and examples added • Expanded coverage of electric vehicle exemptions and salary sacrifice arrangements • Inclusion of 2025 FBT return extracts across benefit categories • New section on amendments, objections, reviews and appeals
Chapter 6 General deductions	• Additional discussion on expense categories and substantiation requirements • Additional case on deductions

(continued)

(continued)

Chapter	Key changes
Chapter 7 Specific deductions and applications of deductibility	• Updated rates and expanded case coverage • Revised guidance on home office expenses • Additional section on shortcut method for calculating cost of charging fully electric vehicles • Additional section on losses on non-commercial business activities
Chapter 8 Capital allowances	• Updated depreciation rules and tax return extracts for 2025 • Removal of outdated incentives • New content on build-to-rent buildings and updated car cost limits
Chapter 9 Tax accounting and trading stock	• Updated examples and tax return extracts for 2025 • Expanded coverage of stock valuation and personal consumption rules
Chapter 10 Taxation of individuals	• Updated PSI guidance and redundancy thresholds • New content on royalties and trust investment income • Revised tax offsets and Medicare levy thresholds
Chapter 11 Taxation of companies	• Updated examples and tax rates for 2025–26
Chapter 12 Taxation of partnerships, joint ventures, trusts and superannuation entities	• Updated examples and tax year references
Chapter 13 Goods and services tax	• Updated GST statistics and case law • Revised input tax credit rules and car cost limits • New content on GST fraud and ethical considerations • Updated coverage on annual tax periods
Chapter 14 Tax administration, tax avoidance and tax evasion	• Updated penalty rates and references to the revised Taxpayers' Charter • Updated examples and rates for 2025–26 • Updated sections on pre-filling and nudging

ABOUT THE AUTHORS

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John Bevacqua, LLB, BCom, PhD, is a Professor and Head of Department of Business Law and Taxation at Monash University. His prior roles include positions as Associate Dean (Learning and Teaching) for the Monash Business School, Academic Director of La Trobe Online and Director of Teaching and Learning for the School of Law at La Trobe University. During these roles, John has developed a significant expertise in developing innovative and engaging curriculum for business students studying law subjects. During his academic career, he has been responsible for business law and taxation-related curriculum development, quality assurance and delivery at both undergraduate and postgraduate levels. John is an active researcher in tax administration and taxpayer rights and is published regularly in leading Australian and international tax journals. John is also a qualified lawyer admitted to practice in multiple jurisdictions and had a 10-year career as a commercial and tax lawyer, working at top-tier commercial law firms prior to becoming a full-time academic.

Stephen Marsden

Stephen Marsden is a full-time lecturer employed in the Business School at the Queensland University of Technology (QUT), Brisbane. In this role, he is responsible for lecturing and tutoring a wide range of undergraduate and postgraduate financial accounting and taxation law subjects. Prior to that, he worked at KPMG for several years in their business advisory and management consultancy divisions. Stephen has a Master of Business (Accountancy) and is a member of the Chartered Accountants Australia and New Zealand, CPA Australia, the Australian Institute of Company Directors and the National Tax and Accountants Association. He is also a Chartered Tax Adviser of the Taxation Institute of Australia. Over the past 33 years, Stephen has presented numerous professional development seminars and workshops in the areas of financial accounting, taxation, GST and FBT for a range of professional associations, accounting firms, listed companies, non-profit organisations and government departments. Stephen is also a registered tax agent, where he provides tax advice and attends to the taxation affairs of a variety of clients in the public, private and not-for-profit sectors.

Annette Morgan

Annette is an experienced senior lecturer and Clinical Professional at Curtin University, is the Course Lead of Taxation within the Curtin Law School, and is the Director of her own SME accounting practice in Perth. Her substantial practical experience is supported by qualifications in commerce, accounting and taxation, including a Master of Taxation. Professional accreditations include being a Certified Practising Accountant (FCPA) and a Chartered Tax Adviser (CTA). Annette's principal clinical activities are centred around the Curtin Tax Clinic (CTC). As co-founder, Clinic Director, and the registered Tax Agent, she is directly responsible for the continued performance of the CTC as both an educational tool and niche tax practice, and recently was appointed as the Director of the Industry and Community Hub with the Faculty of Business and Law at Curtin University to oversee all the Practice Based Learning within the faculty. This is supplemented by her role as the Study Tour Director for the successful national and international tax study tours operating at Curtin University. Annette is the the Chair of the Women in Tax in WA and a member of several other Taxation Institute committees, both at a state and national level. She represents the National Tax Clinic program at the Dispute Resolution Working Group within the Australian Taxation Office. Annette is a member of the Tax Practitioner Stewardship Group of the Australian Taxation Office. Annette is also a member of the Legal Costs Committee of WA appointed by the WA Government in 2022.

Elizabeth Morton

Dr Elizabeth Morton, BCom (Hons), PhD, FTI, CA, is a Senior Lecturer in the Curtin Law School at Curtin University. Lizzie currently coordinates taxation units across both undergraduate and post graduate programs. During her academic career, Elizabeth has taught across the commerce discipline, and has been involved in course development and online learning resources, including the production of a tax podcast series and an ATO short training course on tax and crypto. Her research is directed towards tax agent services and tax practitioner competencies, with a particular focus on the TASA Code of Conduct and Tax

Practitioners Board, along with the tax implications of the digital economy. Elizabeth regularly publishes in peer-reviewed academic and professional tax journals and engages with industry through discussion groups, policy submissions, articles, blogs, seminars, podcasts and more. Previous to academia, Elizabeth worked as an accountant in small business taxation in regional Victoria. Her professional experience includes various aspects of accounting and taxation services for all entity types, including matters in relation to capital gains tax and investments, GST and FBT compliance, as well as superannuation.

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Swapna Verma

Swapna Verma, LLM (Taxation), Grad Dip in Legal Practice, LLB and BSc (Psychology), is a Lecturer and a PhD candidate in Taxation Law, and Director of Undergraduate Coursework in the Department of Business Law and Taxation at Monash University. She is a unit leader for undergraduate taxation law units and has lectured across numerous undergraduate and postgraduate taxation law courses. She also manages the accreditation of units in her department with external professional bodies such as the Tax Practitioner's Board, Chartered Accountants Australia & New Zealand and CPA Australia. Swapna is also a recipient of Monash Business School's Dean's Commendation in Teaching Excellence Award, the Department's Commendation in Teaching Excellence Award, and a joint winner of Australasian Tax Teachers Association's 'Best Teaching Presentation' Award. As an early career researcher, Swapna's research areas include international tax law, tax policy and educational scholarship (such as hybrid-flexible learning modalities). Her PhD research involves examining the adaptability of Australia's individual tax residence rules to an era of increased global mobility in the workforce, with a view to modernising the legal framework. Swapna has also published in highly ranked Australian tax journals and internationally acclaimed academic textbooks, and presented at numerous Australian and international conferences. Swapna is a qualified lawyer and, prior to becoming a full-time academic, practiced in commercial law firms and a 'Big 4' professional services firm.

HOW TO USE THIS TEXT

The structure of *Australian Taxation* is aligned to the typical taxation course taught in Australian universities. Each chapter is supported by the following features.

Learning objectives
Each major section of every chapter is accompanied by a learning objective that describes what the student should be able to do after studying each section.

CHAPTER 4

Capital gains tax

LEARNING OBJECTIVES

After studying this chapter, you should be able to:

4.1 explain how taxpayers pay tax on their capital gains in Australia
4.2 define CGT assets
4.3 describe the major types of CGT events
4.4 determine the cost base or reduced cost base of CGT assets
4.5 describe and apply CGT exemptions
4.6 calculate the net capital gain or loss from all CGT events for an income year
4.7 understand SBE concessions in relation to CGT
4.8 understand the basic CGT treatment of cryptoassets
4.9 understand the concepts of foreign resident capital gains withholding (FRCGW).

Chapter overview
At the beginning of every chapter there is a short introduction to the topic covered in that chapter.

Overview

This chapter outlines the taxation rules relating to capital allowances. 'Capital allowances' is a broad term that refers to the taxation treatment of depreciable assets under Division 40 and Division 43 of the ITAA97. This term also encompasses the special rules afforded to businesses that incur certain types of business-related capital expenditure in accordance with section 40-880 of the ITAA97.

The chapter provides an overview of Division 40, including the general rules allowing a taxpayer a deduction for the decline in the value of a 'depreciating asset' that is owned and used by a taxpayer in the course of gaining or producing assessable income. Two methods for calculating decline in value are explained — the prime cost (PC)_method and the diminishing value (DV) method.

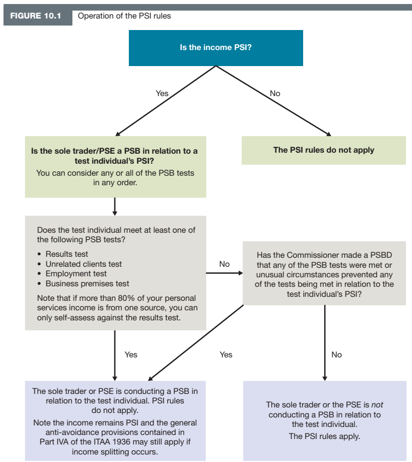
The depreciation rules contained in Division 40 differ depending on the type of taxpayer. This chapter outlines the depreciation rules applicable to individual taxpayers, small business entities and large business taxpayers.

The tax treatment of computer software is also looked at briefly as, while it is an intangible asset, it is considered a depreciating asset for tax purposes.

The chapter discusses the taxation implications where a depreciating asset is sold that generates a gain and/or loss for accounting purposes. It also briefly discusses how CGT can apply when a depreciating asset is sold at higher than its original cost.

Diagrams
Throughout each chapter, diagrams describe processes, decision-making steps and relationships between topics or categories of elements that are featured throughout the text.

FIGURE 10.1 Operation of the PSI rules



Source: Australian Taxation Office, *Income tax: personal services income and personal services businesses* (TR 2022/3, 24 April 2025).

10.1.4.1 Employment termination payments

An employment termination payment (ETP) is a payment received by an employee when they leave a job as a result of being terminated or dismissed or through resignation. The payment is generally taken in cash and includes, for example, payments on retirement, death and resignation. Section 82-130(1) of the ITAA97 defines an ETP as follows.

(1) A payment is an employment termination payment if:
(a) it is received by you:
(i) in consequence of the termination of your employment, or
(ii) after another person's death, in consequence of the termination of the other person's employ-

Examples
Conceptual and mathematical examples of the application of taxation law and principles appear throughout each chapter.

EXAMPLE 4.1

Collectables-to-collectables rule

During the 2025–26 income year, Joe sold some shares that he acquired two years earlier and made a gain of $3000. He also incurred a loss of $500 from the sale of a painting and generated a gain of $300 from the sale of an antique chair. Consequently, Joe made a net capital gain of $3000 from the sale of shares and a net capital loss of $200 from collectables, which is calculated as the gain of $300 (antique chair) minus the loss of $500 (the painting).

What is Joe's assessable income in relation to these transactions for the 2025–26 income year?

The net capital gain of $3000 will be included in Joe's assessable income for this income year. Joe cannot reduce this net capital gain by the $200 capital loss from collectables in this income year. Instead, he will need to carry forward this capital loss of $200 from collectables into the future income year(s) to offset any future capital gains from collectables (ss 108-10(1) and (4)).

EXAMPLE 4.2

Capital losses from the sale of personal use assets

Maria purchased a speed boat several years ago for $15 000 which she sold within the 2025–26 income year for $8000, thus making a capital loss of $7000. During the same year, she earned a capital gain of $10 000 from the sale of her investment property.

What is the appropriate tax treatment of the transactions?

Maria has made a capital gain of $10 000 from the sale of her investment property. She *cannot* reduce this capital gain by the $7000 capital loss from the sale of her personal items. Further, Maria *cannot* carry forward this loss into future income years because the law disregards this type of capital loss.

How would your answer change if the speed boat cost $9500?

In this situation, as the speed boat value is less than $10 000, capital gains does not apply to the sale of the speed boat.

Ethics in practice
These feature boxes use the tacit code of conduct as a guide to address practical scenarios, highlighting elements of the code.

ETHICS IN PRACTICE

Ethics in capital gains tax

Your client has recently sold their investment property and has asked you to work out the CGT that will be applicable. During the ownership of the property, the client has been claiming the capital works deduction against the assessable income generated by this property. You explain to the client that you will need to adjust the cost base of the property to reflect the amount that has already been claimed. The client is not happy about this, as they argue they will be paying more tax on the sale of the property than they wanted to, and give instructions for you not to undertake this reduction on the cost base.

What considerations would you take into account in resolving this ethical dilemma?

Are you meeting your requirements under the TPB Code of Conduct as a registered tax agent?

Would your behaviour be ethical and in line with your professional obligations if you followed your client's wishes?

What could you do to advise your client of their taxation responsibilities?

Would losing your client — and their fee — be an option if they stood by their decision to not reduce the cost base?

Technology in action
Feature boxes in each chapter highlight how technology is being used in taxation law, with a focus on cryptocurrency and blockchain examples.

TECHNOLOGY IN ACTION

Crypto donations

As already seen, the mere fact that cryptoassets are not 'money' or 'currency' (instead property) creates challenges for taxpayers to apply principles of tax law. In a recent article, Morton and Curran consider the implications of non-business taxpayers donating cryptoassets to deductible gift recipients (DGRs).[102] They note that, although it may appear comparable to donating Australian currency, Division 30 of the ITAA97 outlines separate conditions with respect to property.[103]

Importantly, depending on the category of property, different rules apply. One category, for example, addresses shares in a listed public company. For property more generally, such as cryptoassets, categorisation (and therefore tax treatment) is based on factors including the way they were obtained (purchased or acquired in some other way); whether they were obtained within 12 months, or at least 12 months prior; and whether their value is either (1) $5000 or less, or (2) more than $5000.[104] Depending on the combination of factors (and assuming the recipient is a DGR and the gift is a 'true gift'), a taxpayer may be able to claim a tax deduction based on either:

- a valuation obtained from the Commissioner, or
- the lesser of the market value on the day of donation and the amount paid for the cryptoassets.[105]

However, in some instances, there will be no valid approach to claim a tax deduction — for example, where the property (in this context, cryptoassets) is:

- not purchased but acquired in some other way, and
- regardless of the length of time held, is also valued at less than $5000.[106]

Importantly, given cryptoassets will often be CGT assets,[107] the taxpayer must also consider the CGT implications for donating cryptoassets. As Morton and Curran note, where cryptoassets are donated, although there may be a tax deduction available, there may also be a taxable gain to report (i.e. donating cryptoassets will likely result in CGT event A1).[108] As such, tax compliance for crypto donations can quickly become more complex, particularly when compared with the donation of Australian dollars. In the Board of Taxation's final report into digital assets and transactions in Australia, it noted that the complexities in donating cryptoassets can be avoided by 'simply liquidating the crypto asset prior to donation'.[109] As such, the role of educating clients and tax planning where clients are engaging with the crypto economy is highlighted here; however, this may not take into account broader issues of philanthropy and cultural perspectives related to the participants of the 'metaverse'.

REFLECTION

Depending on the characterisation of the cryptoassets gifted, do you imagine that the resulting impact on taxable income could vary substantially? Consider how.

Case law summaries
Each of the brief case law summaries has been structured to present the facts and the decision of each case, as well as provide an explanation and commentary about the case.

Hayes v FCT [1956] HCA 21

Facts: The taxpayer, Mr Hayes, was an accountant employed by Mr Richardson as an accountant and general financial adviser to his business for which he received a salary. The business subsequently was incorporated as a company in which Mr Hayes held shares and was a director and secretary. He was paid from the company for his services. Mr Richardson subsequently purchased the shares held by Mr Hayes in order to retain exclusive control of the business. Mr Hayes remained secretary of the company and was paid for that work. Ultimately, the business was a success and Mr Richardson decided to gift shares in his successful company to a number of people and organisations, including Mr Hayes. There was evidence that the relationship between Mr Hayes and Mr Richardson was one of personal friendship as described by the Court as follows.

> … it may be truly said that there was a close business relationship between the two men, and he [Hayes] and his wife and Richardson and his wife were on terms of personal friendship. Richardson often discussed business matters with him, and asked and received his advice in an informal way on matters connected with the business of the companies and as to his own private investments and affairs. One gathers that the advice was generally accepted, and the result seldom, if ever, regretted. There can be no doubt, I think, that in 1950, when the public company was formed and Richardson felt that he had 'made a success of things', he was disposed to give a real measure of credit for that success to advice and assistance received over the years from his business associate and personal friend.[5]

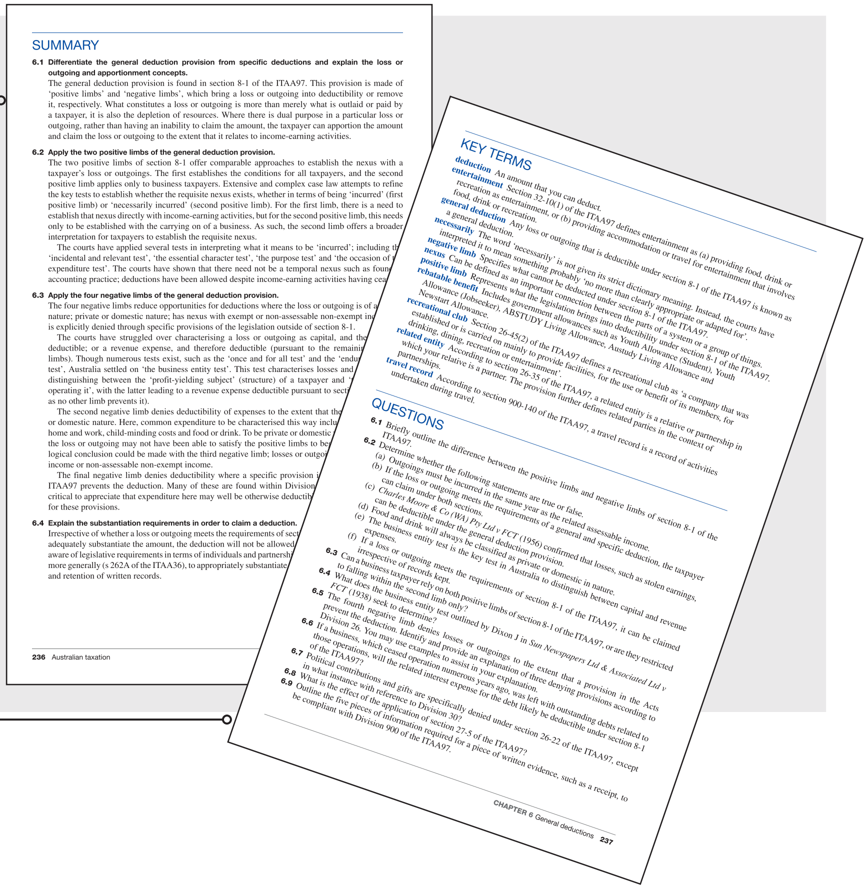
As such, the key issue for the High Court was whether the transfer of the shares to Mr Hayes, although voluntary and a 'gift' in the sense that there was no obligation on the part of Mr Richardson to make it, was income in the hands of Mr Hayes.

Held: The shares were a non-assessable gift rather than ordinary income. Relevant factors included the motive of the donor which the Court described as 'a general feeling of goodwill arising from a close relationship which had both a business aspect and a personal aspect'.[6]

However, the decisive factor for the Court was the character of the receipt in the hands of the recipient which the Court described as follows: '… it is impossible to relate the receipt of the shares by Hayes to any income-producing activity on his part. It is impossible to point to any employment or "personal exertion", of which the receipt of the shares was in any real sense an incident, or which can fairly be said to have produced that receipt'.[7]

Chapter summaries
At the end of each chapter there is a summary where each learning objective is concisely summarised.

End-of-chapter questions
There are short answer questions and problems at the end of each chapter. The short answer questions test basic recall and students' understanding of key concepts. The applied problems require students to make scenario-based decisions.



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Steele v DFCT (1999) 197 CLR 459 Chapter 7, p. 288
Stevens v Brodribb Sawmilling Co Pty Ltd (1986) 160 CLR 16 Chapter 10, p. 386
STNK v FCT (2021) AATA 3399 Chapter 13, p. 517
Stockton v Commissioner of Taxation [2019] FCA 1679 Chapter 2, pp. 47, 48
Stone v FCT (2005) 59 ATR 50 Chapter 10, p. 367
Strick (Inspector of Taxes) v Regent Oil Co Ltd (1966) AC 295 Chapter 6, p. 213
Sun Newspapers Ltd & Associated Ltd v FCT (1938) 61 CLR 337 Chapter 6, pp. 213, 214, 215, 216, 235
Swinford v FCT (1984) 15 ATR 1154 Chapter 7, pp. 281, 282
Sydney Water Board Employees' Credit Union v FCT [1973] HCA 47 Chapter 3, p. 80
Thomas v FCT (1972) 3 ATR 165 Chapter 3, p. 88
Trautwein v FCT (1936) 56 CLR 196 Chapter 3, p. 89 and Chapter 10, p. 367
United Dominions Corporation Ltd v Brian Pty Ltd (1985) 157 CLR 1 Chapter 12, p. 464
Ure v FCT (1981) 81 ATC 4100 Chapter 6, pp. 201, 205, 206
Vallambrosa Rubber Company Ltd v Farmer (Surveyor of Taxes) [1910] SC 519 Chapter 6, pp. 213, 214, 216
Van den Berghs Ltd v Clark (Inspector of Taxes) [1935] AC 431 Chapter 4, p. 111
Victoria v Commonwealth (1957) 99 CLR 575 Chapter 1, p. 8
W Nevill & Co Ltd v FCT (1937) 56 CLR 290 Chapter 6, p. 203 and Chapter 9, p. 340
W Thomas & Co Pty Ltd v FCT (1965) 115 CLR 58 Chapter 7, pp. 243, 245, 248
Weeks v Commissioner of Taxation (2013) FCAFC 2 Chapter 10, p. 375
Westfield v FCT [1991] 21 ATR 1398 Chapter 3, p. 94
Whiting v FCT (1943) 68 CLR 199 Chapter 12, p. 470
Wulf v FCT [2022] AATA 3094 Chapter 7, p. 246
World Book Australia (1992) 92 ATC 4237 Chapter 10, p. 386
Yalos Engineering Pty Ltd v FC of T (2010) ATC 10-139 Chapter 10, p. 371

CHAPTER 1

The Australian taxation system and the tax formula

LEARNING OBJECTIVES

After studying this chapter, you should be able to:

1.1 describe the basic legal structure of the Australian tax system
1.2 explain the key sources of Australian tax law
1.3 describe the key ethical responsibilities of tax professionals
1.4 describe different types of taxes
1.5 describe different types of taxpayers
1.6 explain the fundamental income tax formula for calculating income tax liability.

Overview

This chapter introduces the basic structure of Australia's taxation system. The discussion will include an outline of the background and purpose of the Australian taxation system and describe the sources of tax law. Key bodies involved in Australia's tax system and its administration are also introduced, together with an introduction to the ethical responsibilities of tax practitioners.

The chapter will also set the foundation for the chapters that follow by introducing the main types of Australian taxes, different types of taxpayers and the fundamental income tax formula which underpins income tax liability calculations.

1.1 The Australian taxation system

LEARNING OBJECTIVE 1.1 Describe the basic legal structure of the Australian tax system.

The Australian tax system is complex. When Commonwealth, State and Local government taxes are taken into account, Australia has well in excess of 100 different taxes. Table 1.1 shows the revenue collected from various Commonwealth, State and Local government taxes and gives a sense of the breadth and quantum of taxes collected in Australia.

TABLE 1.1 **Total tax revenue by level of government and jurisdiction**

	2020–21	2021–22	2022–23	2023–24
	$m	$m	$m	$m
Commonwealth Government	481 032	550 830	617 876	649 363
Less: Intergovernmental taxes	15	26	5	1
Tax revenue net of intergovernmental taxes	481 017	550 804	617 871	649 362
State government				
New South Wales	34 115	39 509	40 227	44 983
Victoria	23 905	31 010	32 823	37 471
Queensland	16 192	20 010	20 600	22 659
South Australia	4 965	5 753	6 098	6, 89
Western Australia	9 980	11 584	12 327	13 526
Tasmania	1 386	1 556	1 626	1 778
Northern Territory	530	741	715	761
Australian Capital Territory	2 059	2 424	2 587	2 609
Total	**93 132**	**112 588**	**117 003**	**130 575**
Less: Intergovernmental taxes	1 102	922	1 151	1 288
Tax revenue net of intergovernmental taxes	92 029	111 666	115 852	129 287
Local government				
New South Wales	5 193	5 362	5 550	5 855
Victoria	5 760	5 985	6 108	6 335
Queensland	4 337	4 567	4 936	5 276
South Australia	1 696	1 749	1 827	1 984
Western Australia	2 517	2 614	2 758	2 948
Tasmania	441	459	485	529

Northern Territory	146	151	160	173
Total	**20 089**	**20 888**	**21 824**	**23 100**
Less: Intergovernmental taxes	30	29	28	32
Tax revenue net of intergovernmental taxes	20 059	20 859	21 796	23 068
Total all levels of government	**593 105**	**683 329**	**755 519**	**801 716**

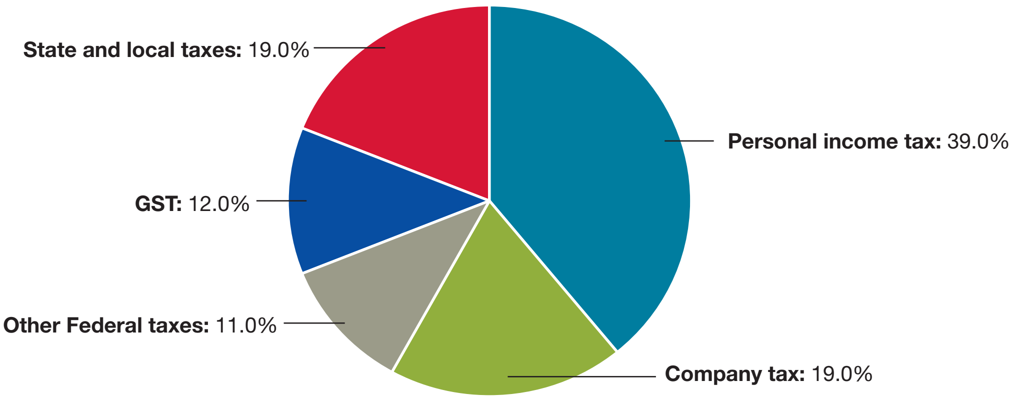
Source: Australian Bureau of Statistics, *Taxation Revenue, Australia, 2023–24* (22 April 2025) www.abs.gov.au/ausstats/abs@.nsf/mf/5506.0.

The four main Commonwealth Government taxes are:

- **income tax**
- **capital gains tax (CGT)**
- **fringe benefits tax (FBT)**
- **goods and services tax (GST)**.

It is important to recognise, however, that there are many other Commonwealth Government taxes including customs duties, fuel excises and resource taxes and that these other taxes may be relevant to the individual circumstances of a taxpayer. Figure 1.1 shows the contribution of the various Commonwealth Government taxes to the total Commonwealth Government revenue. There are also many State and Territory taxes that apply to taxpayers depending on their circumstances. These include various stamp duties, payroll taxes, motor vehicle taxes, gambling taxes and land taxes.

FIGURE 1.1 Composition of tax revenue — all levels of government



Source: Australian Treasury, 'At a glance' (Web Page) https://treasury.gov.au/review/tax-white-paper/at-a-glance.

There are a number of different regulatory and professional bodies engaged in various aspects of administering the taxation system and regulating tax professionals. The **Commissioner of Taxation** is the official with the primary tax administration and Federal revenue collection powers and responsibilities. The Commissioner oversees the **Australian Taxation Office (ATO)** to exercise these powers and responsibilities on his or her behalf.[1] The tax administration system and the ATO are overseen by the independent Office of the Inspector-General of Taxation and Taxation Ombudsman (IGTO).[2] We discuss the powers and responsibilities of the ATO and the function of the IGTO in some detail in a later chapter on tax administration; however, a brief introduction to both (along with the other key bodies involved in aspects of our tax system) follows. The ATO website states the following.

> Our role is to effectively manage and shape the tax and superannuation systems that support and fund services for Australians, including:
>
> - collecting revenue
> - administering the goods and services tax (GST) on behalf of the Australian States and Territories

1 References to the Commissioner of Taxation and the ATO are interchangeable.
2 The link to the Inspector-General of Taxation website is at: www.igt.gov.au.

- administering a range of programs that provide transfers and benefits to the community
- administering the major aspects of Australia's superannuation system
- being custodian of the Australian Business Register.[3]

A good source of information about the ATO are the Annual Reports prepared by the Commissioner and presented to Parliament. The ATO also publishes tax statistics which provides useful information.[4]

Familiarity with the ATO website is important, both in your studies and in your careers, as tax professionals and as taxpayers. The site divides information into categories for individuals, businesses, not-for-profit organisations, tax advisers and those seeking information about superannuation.

The site also serves as a portal for online services and, given the ATO has committed itself to a 'digital by default' approach to interacting with taxpayers, these online services are increasingly becoming the primary avenue for tax information and ATO service provision, as discussed further in a later section.

The ATO website hosts a range of tax forms and background information sheets that can be quite helpful in providing a basic understanding of various tax laws. There are also a number of calculators. These can assist in providing estimates of tax liability or the applicability of various tax provisions.[5]

The ATO website is also an invaluable resource for finding tax law. It has a legal database which contains relevant Australian and international tax cases, legislation, and ATO rulings and determinations as well as information containing the ATO official interpretation and stance on the full gamut of controversial and complex tax matters.[6] It is advisable to become familiar with how to use the ATO legal database.

The **Inspector-General of Taxation (IGTO)** is an independent officer appointed by the Commonwealth Governor-General. The services of the IGTO are free for taxpayers and the IGTO makes recommendations to the ATO following its investigations or reviews. These recommendations are not binding on the Commissioner of Taxation but will usually be followed. The purpose of the IGTO is to:

- improve the administration of taxation laws for the benefit of the community
- provide independent advice to the Minister, the Government and Parliament
- improve accountability and provide assurance to the community through independent investigation and reporting that Australian taxation laws are being administered with integrity — that is, fairly, equitably and transparently, as intended by Parliament and in accordance with community expectations of fairness
- support the integrity of the tax and superannuation systems to engender community trust, confidence and willing participation.[7]

The powers of the IGTO were strengthened in 2025 to require the Commissioner of Taxation to use their best endeavours to assist the IGTO in the performance of the Ombudsman's functions.[8]

The Board of Taxation is another body involved in our tax system. The Board is a non-statutory advisory body charged with contributing a business and broader community perspective to improve the design of taxation laws and their operation.[9] Among the activities of the Board is the task of reviewing and reporting on specific issues if requested by the Federal Treasurer and providing other tax policy advice to the government on various tax, economic and budgetary initiatives. A good example of the work of the Board is in the next chapter, where we consider the recommended changes to Australia's tax residency rules resulting from a self-initiated review of those rules by the Board. The Board of Taxation also administers a collaborative space, 'Sounding Board', which allows users to submit and prioritise ideas to improve the tax system. Further information can be found at Sounding Board.

The Australian Government Treasury also plays a significant role in our tax system. The Treasury describes its role on its website as follows.

> It is the role of the Treasury to provide advice on effective tax and retirement income arrangements that contribute to the overall fiscal outcome, influence strong sustainable economic growth for the good of the Australian people. The Treasury is responsible for assessing and advising on the general design of the tax system and its components, and retirement income policy, in relation to economic efficiency, equity, income distribution, budgetary requirements and economic feasibility.[10]

3 Australian Taxation Office, 'Who we are' (Web Page, 23 April 2025) www.ato.gov.au/about-ato/who-we-are.
4 The Annual Reports and tax statistics are available from the ATO website: www.ato.gov.au.
5 The link to the ATO's simple income tax calculator is at: www.ato.gov.au/calculators-and-tools/simple-tax-calculator.
6 The link to the ATO Legal Database portal is at: www.ato.gov.au/Law/#Law.
7 Inspector-General of Taxation and Taxation Ombudsman, 'Our Purpose' (Web Page, 23 April 2025) https://www.igt.gov.au/about-us/our-purpose.
8 The IGTO statement on the 2025 amendments and a link to the amending legislation is at: https://www.igt.gov.au/media-releases/inspector-general-of-taxation-welcomes-new-powers-as-part-of-the-governments-response-to-robodebt.
9 The website for the Board of Taxation is at: https://taxboard.gov.au.
10 The website for the Australian Government Treasury is at: https://treasury.gov.au/policy-topics/taxation.

It is good practice to be familiar with various initiatives being considered by Treasury. For example, Treasury recently sought consultation on a proposal to extend the powers of the Administrative Review Tribunal to pause or modify ATO debt recovery actions against taxpayers. Tax advisers need to be aware of such proposals when advising their clients as to their rights and obligations.

The Australian National Audit Office (ANAO) has a longstanding role in auditing the performance of the ATO in carrying out its duties. Its performance audits have focused on identifying areas where the ATO could improve its own performance within the existing environment. Further information about the role and current activities of the ANAO insofar as taxation is concerned is available on their website.[11] The ANAO will focus its work program on key aspects of tax administration. For example, one of the 2020–21 ANAO initiatives was to examine the ATO's data governance practices. This is especially significant given the increasing use of technology by the ATO to carry out its duties.[12]

The State regulators include State-based revenue authorities, which are listed in table 1.2. In some States, this function forms part of the relevant Finance or Treasury Department.

TABLE 1.2 State and Territory revenue authorities

State	Authority	Website
Victoria	State Revenue Office Victoria	www.sro.vic.gov.au
New South Wales	Revenue NSW	www.revenue.nsw.gov.au
Queensland	Queensland Revenue Office	https://qro.qld.gov.au
Tasmania	State Revenue Office of Tasmania	www.sro.tas.gov.au
Australian Capital Territory	ACT Revenue Office	www.revenue.act.gov.au
Northern Territory	Territory Revenue Office	http://treasury.nt.gov.au/dtf/territory-revenue-office
South Australia	Revenue SA	www.revenuesa.sa.gov.au
Western Australia	WA Department of Finance	www.wa.gov.au/organisation/department-of-finance

There are also a number of bodies involved in registration, regulation and professional development of tax advisers. The Tax Practitioners Board (TPB) is the national body responsible for the registration and regulation of tax agents, business activity statement (BAS), agents and tax (financial) advisers.[13] Tax agents must also comply with the *Tax Agent Services Act 2009* (Cth) (TASA). This Act contains a Code of Professional Conduct which includes obligations to act honestly, with integrity, confidentiality, and with independence and competency. We deal with these obligations and the role of the TPB and other bodies in enforcing them in detail in our discussion of ethics later in this chapter. There are also many recognised associations for professionals involved in providing various types of financial and taxation advice.[14]

In addition, the taxation system is constantly changing and evolving through various interpretations and refinements of existing laws and regular legislative amendments. For example, the annual Commonwealth Budget typically contains dozens of separate measures involving various changes to the tax and superannuation system.

To stay abreast of these amendments, a good practice is to refer to the ATO updates.[15] As a tax professional, it is vital to keep up-to-date with changes such as these and it is useful when studying tax to understand the ever-changing nature of tax law.

When tax laws are introduced into Parliament, they are accompanied by an Explanatory Memorandum. The Explanatory Memorandum usually sets out the background and purpose of the proposed tax law.

11 The website for the ANAO is at: https://www.anao.gov.au.
12 For more information on this review, see: https://www.anao.gov.au/work.
13 Tax Practitioners Board, 'Overview' (Web Page, 23 April 2025) www.tpb.gov.au/tpb-overview.
14 For a comprehensive list of these, see: www.tpb.gov.au/recognised-professional-associations.
15 Australian Taxation Office, 'Latest news on tax law and policy' (Web Page, 28 March 2025) www.ato.gov.au/general/new-legislation/latest-news-on-tax-law-and-policy.

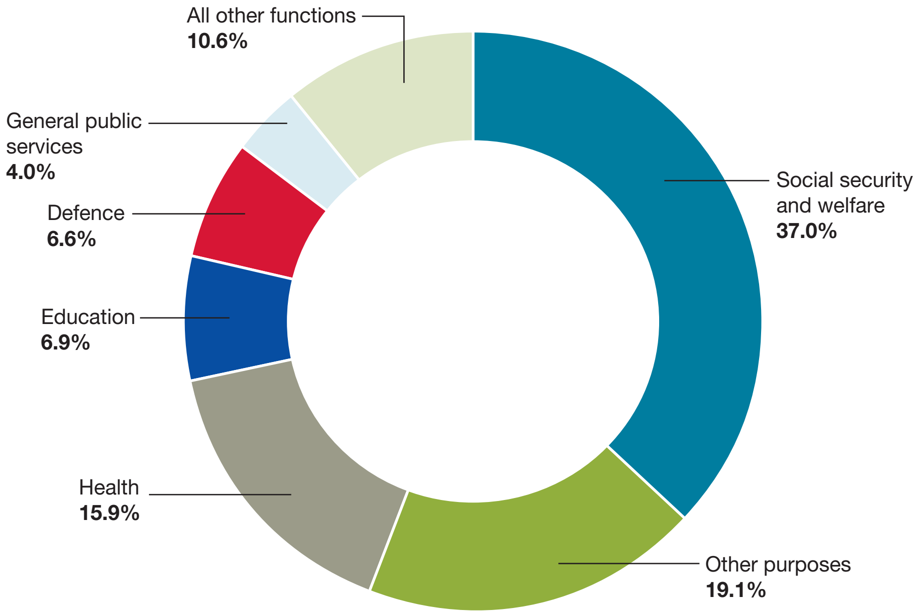
Explanatory Memoranda are an excellent source for understanding both the intent and purpose of a tax and the intended meaning of particular tax provisions.[16]

1.1.1 Purposes of taxes

Different taxes have different purposes. For example, customs and excises, when originally introduced, were aimed at addressing 'sins' or vices such as smoking and alcohol consumption. To some extent, the large excise duties which continue to be imposed on cigarettes and alcohol retain this social goal of discouraging use of these harmful products.

Specific-purpose taxes aside, the goals of taxation are generally to fund the important functions of government. For example, taxes are used to fund governmental welfare programs, to fund the military and protection of our national borders, to establish and fund important regulators such as environmental authorities, and to fund important community services such as State schools and hospitals, and the criminal justice system. Figure 1.2 shows the projected distribution of Commonwealth Government taxes in the 2025–26 financial year.

FIGURE 1.2 Distribution of Commonwealth Government taxes



Source: Australian Government, *Budget 2025–26: Budget strategy and outlook: Budget paper no. 1* (25 March 2025) https://budget.gov.au/content/bp1/download/bp1_2025-26.pdf, p. 118.

Taxes and their administration can have significant effects on economic activity, such as business investment and consumer spending. Hence, tax laws are an important tool for economic policy. Taxes also play an important social policy role. For example, taxes play an important role in equitably redistributing income and reducing social inequality, as well as funding aid for those in need. Increasingly, there is also an appreciation of the need for inclusivity, accessibility, equity and cultural awareness in taxation and tax administration. Throughout this text, where possible, the discussion, examples and problems will highlight aspects of this important social context. This is important as these issues are critical core features of an effective tax system.

Celebrated economist Adam Smith set out four core features ('canons') of a well-designed tax system in his seminal economic text — *An Inquiry into the Nature and Causes of the Wealth of Nations* — in 1776: equality, certainty, convenience and economy.[17]

Equality is essentially the idea that taxes should be imposed relative to an individual's capacity to pay. **Certainty** was described by Adam Smith in the following terms.

16 The link to the Explanatory Memoranda is at: http://classic.austlii.edu.au/au/legis/cth/bill_em.

17 Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776) 825.

> The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid ought all to be clear and plain to the contributor, and to every other person.[18]

Convenience is the idea that a tax should only be imposed at a time and in a manner which minimises inconvenience. According to Smith, **economy** means:

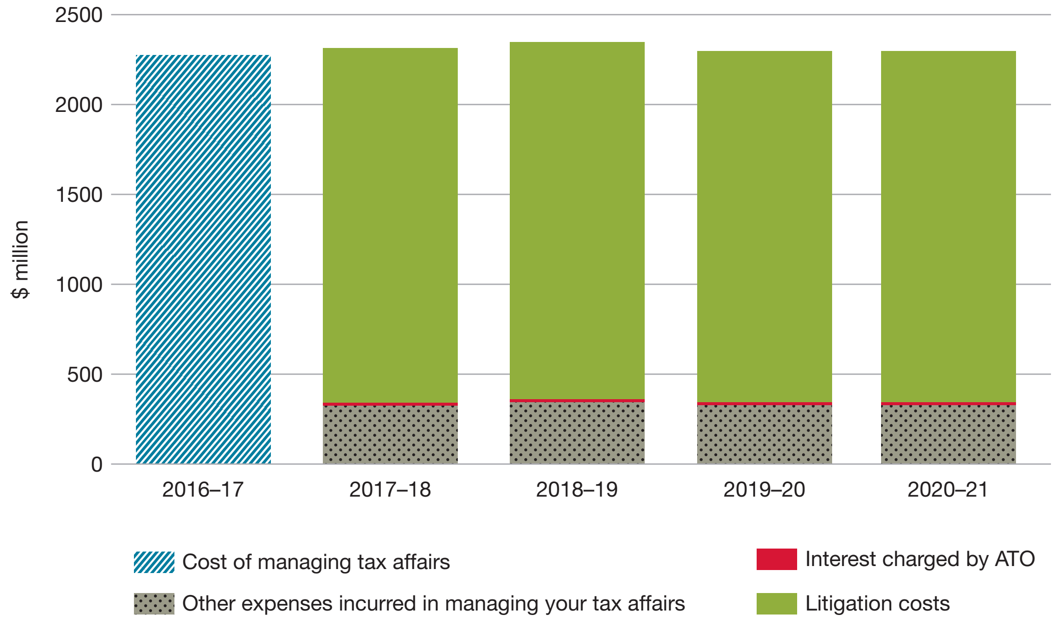
> Every tax ought to be so contrived as both to take out and keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state.[19]

Building upon these four basic canons, significant modern-day attention is also paid to the aim of ensuring taxes do not impose any unnecessary compliance costs. In large part, this and the other fundamental canons of a desirable tax system have driven a significant recent focus on tax simplification and the elimination of tax complexity. In terms of complexity, a 2016 Treasury White Paper found that:

> The complexity of the Australian tax system reduces integrity and transparency, and imposes unnecessary compliance costs on taxpayers, as well as other costs on the Australian economy.[20]

The ATO publishes tax compliance cost data in its Annual Statistics publications. Figure 1.3 presents the latest available data at the time of writing.

FIGURE 1.3 Cost of managing tax affairs — individuals



Source: Australian Taxation Office, 'Cost of tax compliance statistics' (Web Page, 8 June 2023) https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Taxation-statistics/Taxation-statistics-2020-21/?page=16#Cost_of_tax_compliance_statistics.

1.1.2 Legal structure

A good starting point for understanding the structure of Australia's tax system is an overview of the constitutional arrangements governing the powers of the Australian Commonwealth and State Governments to levy taxes and a little of the history which gave rise to those constitutional arrangements.[21]

Prior to Federation in 1901, the Australian colonies were economically separate and imposed their own taxes and levies on their people. The enactment of the *Commonwealth Constitution* in 1901 brought together those colonies into the Australian Federation we know today.

18 Ibid.
19 Ibid 826.
20 The link to the White Paper is at: https://treasury.gov.au/review/tax-white-paper/at-a-glance.
21 For an excellent summary of the history of the Australian tax system, see this link: https://treasury.gov.au/publication/economic-roundup-winter-2006/a-brief-history-of-australias-tax-system.