

# INDEX

---

## A

accelerated depreciation/company tax rate trade-off · 29–31

accounting principles · 203–5

- convergence of tax and accounting treatments · 204

accruals and realisation · 340–46

- accruals vs realisation · 341
- accruing distributions · 345
- membership interests · 341, 343
- rate of return · 340, 343
- tax values · 340–41, 343–44
- uncertain returns · 341–42

acknowledgements · x

administrative procedures · 146–48

- improved dispute resolution · 147
- redesigning · 146
- small claims · 148

alienation of personal services income · 16, 48–49, 52, 286–94

- deductions · 293–94
- employee-like manner · 291
- equity · 287–88
- implications of recommendation · 292
- interposed entities · 288
- payments · 286–92
- safeguard · 291
- source · 290

alternative minimum company tax · *See* minimum company tax

asset · 158–61

- meaning · 159
- tax value · 158

---

## B

blackhole expenditures · 25, 40, 187–90

- amortisation · 189
- costs of establishing an entity · 187
- different treatments · 188
- feasibility and similar studies · 190

- immediate deduction · 188
- pre-incorporation expenses · 190
- statutory deeming of economic life · 187

Board of Taxation · 18, 35, 47, 96, 103–5, 118–22, 129, 145, 148–50

- establishment and functions · 119
- membership · 121
- support arrangements · 122
- work program · 122

branches · 667–70

building and structures · 311, 321–25

- existing · 321
- new · 321
- valuation issues · 324

---

## C

capital allowances · 53–55

- buildings and structures · 54, 55
- mining and resources · 55
- wasting assets · 53

capital gains (provisions for small business) · 475–78, 481–84, 586–89

- concessions · 587
- eligibility criteria for retirement exemption · 587
- existing provisions · 587
- flexible access to relief · 589
- goodwill exemption · 586
- rollover provisions · 475–78, 481–84, 588

capital gains (taxation) · 33, 42, 49–51, 76, 78, 176, 522, 536, 595–607

- averaging · 76, 595, 599
- capital losses · 596
- collective investment vehicles · 536, 597, 601
- consolidation · 522
- indexation · 76, 595, 600
- individuals · 595
- listed assets · 176
- losses and value shifting · 49–51
  - same business test · 50
- patient capital · 598

- reforms for individuals · 76
  - revenue losses · 597
  - scrip-for-scrip rollovers · 78
  - superannuation and related funds · 596, 601
  - trusts · 597
  - venture capital · 598
  - carry-forward losses · 418–19
    - choice of deductible amount · 418
  - cash accounting · *See* simplified tax system
  - cashflow/tax value approach · 37–39, 155–63
    - calculation of taxable income · 39, 161–63
    - tax value of assets and liabilities · 158–60
    - treatment of expenditure · 157–58
  - cessation of trusts · 478–81
  - Charter of Business Taxation · 31, 35, 96–98, 102–18, 131
    - accountabilities · 109, 117
    - amendment · 110
    - consultation · 107
    - policy responsibility · 107
    - purpose · 104
  - collective investment vehicles · 16, 34, 71, 533–46
    - exclusion from entity taxation · 535
    - foreign source income · 542
    - full distribution requirement · 535, 538
    - partial distribution · 535
    - redemptions · 543
  - company tax rate · 424–25
  - company tax rate/accelerated depreciation trade-off · 29–31
  - compliance · 31–33, 43, 46
  - consolidation · 17, 32, 69–70, 515–29
    - accounting standards · 527
    - asset tax values · 528
    - asset-based model · 527–28
    - Australian based multinationals · 522
    - Australian head entity · 520–21, 529
    - Australian subsidiaries · 520
    - capital gains rollover relief · 522
    - Corporations Law · 527
    - discretionary trusts · 519
    - entity-based model · 527
    - family-owned entity groups · 529
    - goodwill · 527–28
    - hybrid trusts · 519
    - losses, carry-forward · 523–25
    - rollover relief · 529
    - tax values for membership interests · 527
    - valuation of · 527–28
  - consultancies · 773–74
  - consultation · v, ix, 12, 17–18, 761–72
  - contributed capital · 437–42
    - account · 440
    - exempt goodwill gains · 438
    - measurement · 437
    - pre-CGT assets and liquidations · 439
    - prior taxed income · 440
    - sub-accounts · 441
    - transitional contributed capital · 437, 439
  - controlled foreign company
    - active business exemption · 683
  - co-operatives · 471–72
  - cost (tax value) · 196–200
    - definition of · 196
    - improvements to an asset · 197
    - livestock valuation · 200
    - methods of determining · 198
- 
- D**
- debt interests
    - convertible notes · 446
    - converting preference shares · 446
    - debentures · 446
    - redeemable preference shares · 446
  - deferred company tax (imputation) · 32, 62, 411
  - depreciation · 305–20, 330, 581–82
    - balancing charge offset · 319–20
    - buildings and structures · 311
    - commencement of deductions · 314
    - Commissioner of Taxation · 312
    - diminishing value · 314
    - disposal of an asset · 318
    - entitlement to write-off · 309
    - involuntary receipts · 318
    - joint venture partners · *See* partnerships and other joint activities
    - legal ownership · 309

- luxury cars · 330
  - pooling · 315–18
    - low-value items · 316
    - write-off rate · 318
  - primary producer provisions · *See* small business
  - prime cost · 314
  - private use calculation · 582
  - project development costs · 315
  - removal of
    - accelerated depreciation · 305–20
    - tax-induced distortions · 305
  - self-assessment · 313
  - small business · *See* small business
  - submissions to the Review · 306
  - tax exempt assets · 311
  - the ‘effective life’ of an asset · 312
  - transition to new rates · 305–20
  - treatment of wasting assets · 308
  - write-off method · 314
  - derivatives
    - cash settled · 354–55
    - physically deliverable · 354–55
  - disposal of · 352–61
    - convertible instruments · 354
    - converting instruments · 354
    - exclusions · 352
    - principle · 352
  - distributions · 64, 429–33, 449–68
    - associate entities · 463
    - cancellation of membership interests · 454
    - contributed capital · 449
    - creation of membership interests · 449
    - definition · 429
    - discounts · 431
    - non-commercial loans · 457
    - private use assets · 465
    - widely held entities · 431
  - dividend streaming and franking credit trading
    - rules · 47–48, 247–49
    - 45 day rule · 248
    - discretionary trust · 249
    - exemption threshold · 249
  - dividend withholding tax
    - foreign pension funds · 415
  - Division 16D · 393
  - Documents of the Review · 759–60
    - A Platform for Consultation* · 759
    - A Strong Foundation* · 759
    - An International Perspective* · 759
  - double taxation agreements · 677–80
  - duplication of realised losses · 256–58. *See* consolidation
    - carry-forward tax losses · 256
    - continuity of ownership test · 256
    - inter-entity
      - equity interests · 257
      - loss multiplication · 256
    - listed public companies · 257
    - majority underlying ownership · 256–57
    - same business test · 256–57
    - temporary duplication · 257
  - duplication of unrealised losses · 258–60. *See* consolidation
    - Canadian-based model · 260
    - continuity of ownership test · 258
    - majority underlying ownership · 258, 260
    - net realised loss · 258
    - same business test · 258, 260
    - United Kingdom-based model · 260
- 
- E**
- easements · 378
  - elective market valuation · 56, 337–40
    - asset classes · 339
    - mark-to-market election · 337
    - revenue safeguards · 337, 339
    - scope of election · 337–39
  - entity regime · 273–74, 424, 481, 483
    - ‘closely held’ and ‘widely held’ · 273
    - commencement date · 424
    - discretionary trusts · 274
    - rollover relief · 481
    - transitional rollover · 483
  - equity · *See* membership interest
  - excluded trusts · 546–51
    - constructive trusts · 549
  - Division 6 · 546
    - purchaser trusts · 549
    - stakeholder arrangements · 549

extinguishment of liabilities · 250–55  
 financial distress · 254  
 limited recourse debt · 255  
 natural love and affection · 255

---

**F**

financial assets and liabilities · 56–59, 250–55, 337–67  
 elective market valuation · 56, 337–40  
 hedges · 58, 346–52  
 hybrids · 58, 59  
 financial assets and liabilities — transitional arrangements · 365–67  
 balancing adjustment · 365, 367  
 exclusions from new regime · 365  
 material alterations · 365–67  
 new regime election · 365–67  
 focus group and other meetings · 761–65  
 foreign dividend account · *Also see* foreign income account  
 arrangements · 649  
 provisions · 647  
 foreign expatriates · 674–77  
 foreign income account · *Also see* foreign dividend account  
 holding companies · 649  
 foreign investment fund · 683  
 foreign investment in Australia · 81  
 foreign source income · 32, 48, 52, 79, 625–44, 681–88  
 foreign trust distributions · 632  
 resident trusts · 632  
 'stapled stock' arrangements · 631  
 streaming of foreign source dividends · 629  
 transferor trust measures · 634  
 underlying tax · 628  
 foreign trusts · 634–35  
 deemed present entitlement rules · 635  
 foreign source income rules · 634  
 forward work program for business taxation · 36, 123, 130  
 franchises · 377  
 franking account simplification · 419–21. *See* imputation

alignment of years · 419  
 standard rate of franking · 419  
 tax-paid basis · 419  
 friendly societies · 489–513  
 taxation of non-insurance activities · 500  
 taxation rate on ordinary insurance business · 500  
 fringe benefits · 42–46, 52, 217–227  
 alignment of tax years · 227  
 business entertainment expenses · 219  
 entertainment · 44  
 entertainment allowances · 220  
 exempt and rebatable employers · 45–46  
 FBT-exempt and rebatable employers · 225  
 impact on car sales · 224  
 motor vehicle · 45  
 on-premises car parking · 44, 222  
 revenue implications · 219  
 specific exclusions · 227  
 tax liability · 217  
 tax-exempt bodies · 222  
 transition process · 219  
 valuation of car benefit · 223  
 futures · 355–56

---

**G**

general anti-avoidance rule · 37, 241–50  
*Also see* Part IVA 137–138  
 provisions · 37  
 reasonable hypothesis test · 246  
 gold hedges · 349–51  
 production hedges · 349–50  
 rollover · 349  
 safeguards · 349  
 goodwill · 332–34  
 government grants and subsidies · 217–31  
 current treatment · 230  
 immediately taxed · 229  
 tax deferred · 229  
 tax-free · 229  
 group entities · 529. *Also see* consolidation  
 growth dividend · 19–22  
 behavioural responses · 19  
 compliance dividend · 22

modelling · 20, 21

---

## H

hedges · 57–58, 346–52  
 exclusions · 346–47  
 internal hedges · 346–49  
 safeguards · 346–49  
 tax recognition · 346, 348  
 hire purchase · 391

---

## I

imputation · 32, 62–63, 409–23, 627  
 deferred company tax · 32, 62, 411  
 double taxation  
   inter-entity distributions · 416  
   tax-preferred income · 412  
 entity distributions · 411  
 foreign dividend withholding tax · 414, 627.  
   *See* dividend withholding tax  
 franking account · *See* franking account  
   simplification  
 refunds to non-portfolio foreign investors  
   · 413  
 resident dividend withholding tax · 411  
 unfranked inter-entity distributions · 411  
 in-substance 359–361  
   assignment · 359–61  
   defeasance · 359–61  
 integrated tax code · 97, 129–32  
   accountabilities · 129  
   architecture and scope · 130  
   simplification paramount · 131  
 integrated taxation design process · 34, 36,  
 95–101, 110, 117–18, 129, 131, 146  
   accountabilities · 100  
   cross-functional project teams · 97, 99,  
   109  
   cultural change · 101  
   inter-agency coordination · 95–101  
 inter-agency design committee · 98–100,  
 110, 117–18, 130  
 interest · 190–92  
   deductibility · 190  
 interest withholding tax

government securities · 654–55  
 international competitiveness · 14, 29, 78  
 involuntary receipts · 42, 231–35  
   coverage · 232  
   defining involuntary · 232  
   guiding principle · 231  
   involuntary realisations · 233  
   no realisation · 234  
   transfer of pre-CGT status · 234

---

## J

joint activities · *See* partnerships and joint  
 activities

---

## L

lease assignments · 400–406  
 leases and rights (depreciable assets) · 382–  
 91, 399–400  
   assets used offshore · 399–400  
   hire purchase · 391  
   luxury car leases · 391  
   non-routine leases · 383, 387  
   routine leases · 382  
   sale and leasebacks · 391  
 leases and rights (non-depreciable assets) ·  
 371–81  
   balancing charge · 371  
   easements · 378  
   franchises · 377  
   non-routine rights · 374–81  
   perpetual rights · 376  
   personal services · 373  
   restrictive covenant · 378  
   right to take something from another's  
   land · 377, 381  
   rights granted by non-residents · 381  
   routine rights · 373  
   uncertain payments · 375  
   where there is no specific underlying asset  
   · 376  
 leases and rights (overview) · 59–61  
   assignment of leases · 61  
   overseas use of assets · 60  
   tax-exempt entities · 59–60

leases and rights (tax exempts) · 392, 393–99  
 abolition of section 51AD · 392  
 predominant interest test · 394, 398–99  
 replacing Division 16D · 393–99  
 routine leases · 393, 395

leasing · *See* small business

liability · 155–59  
 meaning of · 159  
 tax value · 155

life insurance companies · 489–513  
 taxation rate on ordinary insurance  
 business · 500

life insurance policyholders · 69, 507–13  
 allowable deductions · 510  
 bonuses on new investment policies · 507  
 existing policies · 512

life insurers · 16, 66–68, 489–513  
 commencement date · 497  
 franking accounts · 495  
 immediate annuity business · 493  
 superannuation business · 68, 502  
 taxable income · 489  
 taxation rate on ordinary insurance  
 business · 500  
 taxation regime for life insurers · 66  
 transitional arrangements for existing  
 business · 499  
 valuation of policy liabilities · 491  
 virtual pooled superannuation trusts · 501

life reinsurers · 491

loans · 457–62  
 definition of commercial loan · 462  
 transitionals · 461

loss cascading · 260. *See* consolidation  
 asset rollover · 260  
 company group concessions · 260  
 consolidated tax treatment · 260  
 loss assets · 260  
 loss transfer · 260

loss quarantining · 176  
 listed assets · 177

losses · 478–81  
 continuity of ownership test · 479  
 current and prior year loss tests for  
 non-fixed trusts · 480  
 same business test · 479

luxury cars · *See* depreciation

---

**M**

membership interest · 442–48, 454, 457  
 ‘non-commercial’ loan · 446  
 cancellation · 454  
 debt interests · 445–48  
 employment contracts · 445  
 equity · 443  
 nominal value debt tests · 448  
 non-commercial arrangements · 448  
 present value debt tests · 448  
 proportionate cancellations · 457  
 some exclusions · 445

minimum company tax · 51–53, 279–86

mining and resources · 325–30  
 excess deduction rules · 328  
 exploration and prospecting expenditures  
 · *See* tax values  
 receipts from sale of mining information ·  
 327  
 removal of overburden · 329  
 self-assessment of effective life · 327

modelling  
 data · 740  
 methodology · 740

multiple purpose trusts · 472–73  
 child maintenance trusts · 474  
 common trustee · 472  
 distributions to minors · 473

mutuality exception · 217–29  
 principle · 228

---

**N**

national taxation objectives · 13, 95–96, 98,  
 100–107, 112, 114, 118–19  
 economic growth · 102–5  
 equity · 102–5  
 simplification and certainty · 102, 106

non-arm’s-length transactions · 266–68  
 high level rule · 266  
 specific arm’s-length tests · 266

non-commercial activities · 16, 49, 294–300  
 loss offset · 294–300



- assets used · 297
- rental of property · 295
- safeguard · 298
- taxable income (3 out of 7 years) · 295
- turnover · 295–96
- non-contingent rights and obligations · 445
- non-resident investor tax credit · 414–15, 648
- non-residents · 381, 653–54
  - avoidance · 653–54

---

## O

- offshore investment trusts · 542

---

## P

- partial disposal principle · 356
- partnerships and other joint activities · 72, 546–72
  - disposal of interests · 551. *See* depreciation
  - elective hybrid approach · 566
  - fractional interest approach · 551, 553, 559
  - hybrid approach · 555
  - joint approach · 551, 554, 563
  - unincorporated joint ventures · 551, 553
- pooled superannuation trusts · 504–5
- preface · ix–x
- prepayments · 171–73
  - allocation · 171
  - cash basis taxpayers · 172
  - transitional arrangements · 172–73
- press releases · 759–60
- primary producer provisions · 311. *See* small business
- private receipts, expenditures and assets · 163–86
  - collectables and other non-depreciable assets · 183, 186
  - current treatment · 184
  - depreciable assets · 183, 185
  - land and buildings · 183, 185
  - private use of assets · 182
- private use assets · 465–68
  - other assets · 466

- principal residence · 465–68
- production hedges · *See* gold hedges
- profits first rule · 433–36
  - accounting records · 434
  - available profits · 433
  - compliance cost · 434
  - exceptions · 435
- provisions · 200–203
  - bad debts · 202
  - employee entitlements · 200
  - warranties · 200
- public seminars · 11, 761–63

---

## R

- R&D tax concession · 330
- redemptions
  - collective investment vehicle units · 543
- refunding imputation credits · 421–24
  - early refunds · 421
  - tax-exempt members · 423
- residents departing Australia · 674–77
- restrictive covenants · 378
- retranslation election · 346
- revenue · 18, 23–24, 28, 694–736
  - estimation · 694–736
    - costing assumptions · 694
    - methodology · 704
    - policy benchmark · 694
    - source data · 694
- Review members · viii
- review of tax preferences · 268–76
- Review processes · 10
- rollover relief for entity restructuring · 481–86
  - ongoing rollover relief · 481
  - transitional rollover relief · 483
- rulings system · 37, 137–45
  - administration, procedure and collection · 137–38
  - class order rulings · 143
  - default issue · 140–41
  - facts from other sources · 140–42
  - fee for selected rulings · 144
  - hypothetical arrangements · 139
  - material difference · 140

new facts introduced · 141–42  
 penalties · 143  
 public information on ATO technical  
 decisions · 141–43  
 rulings on fact · 138

---

**S**

scrip-for-scrip · 598, 615–22  
 Corporate Law Economic Reform  
 Program Bill 1998 · 616  
 corporations law · 618  
 demergers or deconsolidations · 618  
 entrepreneurs · 616  
 fixed trusts · 617  
 non-resident · 617  
 pre-CGT assets · 615, 618  
 takeover · 615  
 widely held · 615, 617  
 secretariat members · 775  
 section 51AD  
 leases and rights (tax exempts) · 392  
 simplification strategy · 17, 36  
 simplified tax system · 573–86  
 depreciable assets · 575  
 election · 577  
 financial assets and liabilities · 578, 580  
 implementing the cash basis · 579  
 leasing · 577  
 prepayments and delayed payments · 578,  
 580  
 trading stock · 575, 584  
 slice approach (distributions) · 454–57  
 cancellation of membership interests · 454  
 distributions by a liquidator · 456  
 on-market buy-backs · 456  
 treatment of components · 455  
 small business · 17, 31, 33, 73, 171, 575–86  
 assets  
 capital gains · 586  
 cash accounting regime · 575  
 private use calculation · 583  
 compliance costs · 575  
 depreciation  
 non-pooled assets · 584  
 transitional arrangements · 584

disposal of assets · 583  
 eligible businesses · 576  
 entry/exit rules · 581  
 financial assets and liabilities · 580  
 grouping provisions · 576  
 leasing activities · 577  
 non-routine leases · 581  
 primary producers · 584  
 record keeping · 582  
 simplified tax system · 575  
 trading stock · 575, 584–86  
 speeches and presentations · 765  
 stamp duty · 485–86  
 start date for entity taxation · 424  
 submissions · 11, 767–72  
 superannuation funds · 493–95, 501–7, 596,  
 601  
 capital gains · 596, 601  
 current pension business · 493  
 section 275 transfers · 505  
 synthetic arrangements · 362–64  
 purpose vs effect · 364  
 straddles · 362–64  
 wash sales · 362–64

---

**T**

tax avoidance · 15, 46, 49, 51, 241  
 tax planning · 46  
 Tax Law Improvement Project · 131  
 tax legislation · 36  
 tax preferences · *See* review of tax  
 preferences  
 tax values · 38–39, 53, 155–99, 341–46  
 advertising · 167  
 assets and liabilities · 39, 53, 158–60, 175  
 consumable stores and spare parts · 165  
 creditors · 173  
 debtors · 173  
 exemptions · 165–68  
 financial assets and liabilities · 171, 341–  
 45  
 foreign currency financial arrangements ·  
 346  
 individual taxpayers · 168–71  
 mining and quarrying · 167



office supplies · 166  
 prepayments · 169  
 service providers · 167  
 standing crops and timber · 166  
 trading stock · *See* small business  
 trading stock assets · 193–94  
 taxable income · 155–63  
   calculation · 155, 161–63  
 taxation design principles · 98, 100, 103–4,  
   107, 111–16, 119  
   administrative design · 103, 115  
   legislative design · 103, 113–14  
   policy design · 103, 111–13  
*Taxpayers' Charter* · 110, 115  
 Technical Corrections Bill · 132  
 terms of reference · v–vii, 10  
 thin capitalisation · 81, 659–67  
   arms length test · 660  
   Australian multinational investors · 664  
   control test · 666  
   financial institutions · 660–64  
   foreign multinational groups · 659  
   safe harbour gearing ratio · 660–64  
 trading stock · 192–95  
   definition of · 192  
   tax value · 192  
 transfer pricing rules · 670–73  
 trusts · 474–78, 546–51, 634. *See* foreign  
   trusts and multiple purpose trusts  
   child maintenance trusts · 474

constructive trusts · 549  
 deceased estates · 475  
 excluded trusts · 546–51  
 foreign trusts · 635  
 purchaser trusts · 549  
 testamentary trusts · 477

---

**V**

value shifting · 261–66  
   asset stripping · 261  
   de minimis exception · 261  
   direct value shifting · 264  
   indirect value shifting · 265  
   share value shifting · 261  
 venture capital · 14, 33, 77–78, 611–15  
   capital gains tax · 611  
   eligible venture capital project · 611  
   patient capital · 613  
   pension funds · 611  
   pooled development funds · 614  
 virtual pooled superannuation trusts · 489–  
   91, 497, 501–4  
   application of the imputation system · 497

---

**W**

widely held entity · 274, 535, 543  
   collective investment vehicle · 535, 543  
   standard definition · 274