

Australian Taxation Law Select



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Legislation &
Commentary

Woellner, Barkoczy,
Murphy, Evans & Pinto

2012

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**Australian
Taxation
Law Select**

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Foreword

The study of federal tax law in Australia has been described by some as daunting and complex. In his 1987 Foreword to the first edition of *Australian Taxation Law*, Graham Hill, QC recognised that the “torrent of decisions, judicial and administrative, . . . together with the outpourings of the legislature, have made the study of taxation almost unmanageable.”

Over twenty years on, federal taxation law continues to expand and students continue to face difficulties in identifying and understanding the areas of the law they require for their specific taxation courses.

While *Australian Taxation Law 2012* provides a comprehensive coverage of the tax law, many tax courses can only properly cover a portion of the law. As a result, large parts of the book are often not required for a particular course. Students studying tax cannot simply rely on commentary books for a complete understanding of the tax law. It is essential that they read the actual legislative provisions that underpin the commentary.

To help address these challenges, CCH is pleased to publish this third edition of *Australian Taxation Law Select — Legislation & Commentary*. This customised book combines, in a single volume, key legislative provisions dealing with Australian income tax along with carefully selected commentary from *Australian Taxation Law 2012*. The book is ideal for students studying introductory tax courses and provides a relevant and handy alternative to purchasing full volumes of Australian income tax legislation and the complete version of the *Australian Taxation Law* text.

This edition includes selected provisions from the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Income Tax Rates Act 1986*, *A New Tax System (Goods and Services Tax) Act 1999* and the *Taxation Administration Act 1953*.

This edition also includes the *full Australian Taxation Law 2012* chapters on:

- Introduction to income tax law
- Non-assessable income
- Tax accounting
- Small business entities and concessions, and
- Goods and services tax.

Australian Taxation Law Select — Legislation & Commentary 2012 further contains selected parts of chapters covering:

- Tax formula, tax rates and tables, and tax offsets
 - General principles of assessable income including income from property and business
 - CGT
 - General and specific deductions
 - Capital allowances and capital works
-

- Trading stock
- Taxation of partnerships and trusts
- Taxation of corporate entities and their members
- Corporate tax losses, net capital losses and bad debts
- Special taxpayers and incentive schemes
- Superannuation
- FBT.

This edition incorporates legislative, case law and administrative reforms that have taken place in taxation law up to 1 July 2011, as well as various major developments that have occurred since that date.

Note that there will be cross-references to paragraphs that are contained in this customised version and also to paragraphs that have not been selected for inclusion in this edition.

CCH Australia Limited

January 2012

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List of Abbreviations

List of Abbreviations

The following abbreviations are used in the Australian Taxation Law Select.

AAT	Administrative Appeals Tribunal
ABN	Australian Business Number
ABN Act	<i>A New Tax System (Australian Business Number) Act 1999</i>
ABR	Australian Business Register
ADF	Approved deposit fund
ADI	Authorised deposit-taking institution
ADJRA	<i>Administrative Decisions (Judicial Review) Act 1977</i>
AFOF	Australian venture capital fund of funds
AFTS Report	Australia's Future Tax System Report to the Treasurer (Final Report of the Henry Tax Review)
ANAO	Australian National Audit Office
APRA	Australian Prudential Regulation Authority
ATC	<i>Australian Tax Cases (CCH)</i>
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
AWOTE	Average weekly ordinary time earnings
BAS	Business Activity Statement
BELC	Broad-exemption listed country
CFC	Controlled foreign company
CGT	Capital gains tax
COT	Continuity of ownership test
CPI	Consumer price index
DAC	Departure authorization certificate
DFC of T	Deputy Federal Commissioner of Taxation
DPO	Departure prohibition order
DTA	Double taxation agreement
DVS	Direct value shift
EST	(Australian) Eastern Standard Time
ESVCLP	Early stage venture capital limited partnership
ETP	Employment termination payment
FBT	Fringe benefits tax
FBTAA	<i>Fringe Benefits Tax Assessment Act 1986</i>
FC of T	Federal Commissioner of Taxation
FIF	Foreign investment fund
FIFO	First in first out
FLA	<i>Family Law Act 1975</i>
FLIC	Film licensed investment company
FMD	Farm management deposit
FOIA	<i>Freedom of Information Act 1982</i>
FTC	Foreign tax credit

List of Abbreviations

FTRA	<i>Financial Transaction Reports Act 1988</i>
GIC	General interest charge
GST	Goods and services tax
GVSR	General value shifting regime
HECS	Higher Education Contribution Scheme
HELP	Higher Education Loan Programme
IED	Income equalization deposit
IRDB	Industry Research and Development Board
ISC	Insurance and Superannuation Commissioner
ITAA36	<i>Income Tax Assessment Act 1936</i>
ITAA97	<i>Income Tax Assessment Act 1997</i>
ITAR	Income Tax Assessment Regulations 1997
ITR	Income Tax Regulations 1936
ITRA	<i>Income Tax Rates Act 1986</i>
ITTPA	<i>Income Tax (Transitional Provisions) Act 1997</i>
IVS	Indirect value shifting
LILO	Last in last out
LPR	Legal personal representative
LTA	<i>Land Tax Act 1956</i>
LTMA	<i>Land Tax Management Act 1956</i>
OSSA	<i>Occupational Superannuation Standards Act 1987</i>
PAYE	Pay-as-you-earn
PAYG	Pay As You Go
PDF	Pooled development fund
PPS	Prescribed payments system
PST	Pooled superannuation trust
R&D	Research and development
RBA	Running balance account
RBL	Reasonable benefit limit
RPS	Reportable payments system
RSA	Retirement savings account
RSAA	<i>Retirement Savings Accounts Act 1997</i>
RSAR	Retirement Savings Accounts Regulations 1997
SBT	Same business test
SCTACA	<i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i>
SCTIA	<i>Superannuation Contributions Tax Imposition Act 1997</i>
SGAA	<i>Superannuation Guarantee (Administration) Act 1992</i>
SGC	Superannuation guarantee charge
SGCA	<i>Superannuation Guarantee Charge Act 1992</i>
SISA	<i>Superannuation Industry (Supervision) Act 1993</i>
SISR	Superannuation Industry (Supervision) Regulations 1994
SME	Small or medium enterprise
SPOR	Shorter period of review (taxpayers)
SSAA	<i>Small Superannuation Accounts Act 1995</i>
STCT	Small Taxation Claims Tribunal

List of Abbreviations

STS	Simplified Tax System
TAA	<i>Taxation Administration Act 1953</i>
TFN	Tax file number
TLIP	<i>Tax Law Improvement Project</i>
TPTACA	<i>Termination Payments Tax (Assessment and Collection) Act 1997</i>
UAP	Uniform administrative penalty
VCA	<i>Venture Capital Act 2002</i>
VCF	Venture capital franking
VCLP	Venture capital limited partnership
VCMP	Venture capital management partnership

Key tax websites

Key tax and tax reform sites

Australia's Future Tax System (Henry Tax Review)	taxreview.treasury.gov.au
Australian Parliament — Internet Tax Resources	www.aph.gov.au/library/intguide/law/taxlaw.htm
Australian Taxation Office	www.ato.gov.au
Board of Taxation	www.taxboard.gov.au
Business Coalition for Tax Reform	www.bctr.org
CCH Australia Ltd	www.cch.com.au

Federal government

AusIndustry	www.ausindustry.gov.au
Australian Business Register	www.abr.business.gov.au
Australian Competition & Consumer Commission (ACCC)	www.accc.gov.au
Australian Government Entry Point	australia.gov.au
Australian Prudential Regulation Authority (APRA)	www.apra.gov.au
Australian Securities & Investment Commission (ASIC)	www.asic.gov.au
Business Entry Point	www.business.gov.au
Commonwealth Ombudsman	www.comb.gov.au
Department of Finance & Deregulation	www.finance.gov.au
Department of Treasury	www.treasury.gov.au
Inspector-General of Taxation	www.igt.gov.au
Parliament House	www.aph.gov.au
Tax Issues Entry System (Ties)	www.ties.gov.au
Treasurer	www.treasurer.gov.au

State and territory revenue offices

Australian Capital Territory	www.revenue.act.gov.au
New South Wales	www.osr.nsw.gov.au
Northern Territory	www.nt.gov.au/ntt/revenue
Queensland	www.osr.qld.gov.au
South Australia	www.treasury.sa.gov.au
Tasmania	www.treasury.tas.gov.au
Victoria	www.sro.vic.gov.au
Western Australia	www.dtf.wa.gov.au

Courts

ACT Supreme Court	www.courts.act.gov.au/supreme
Administrative Appeals Tribunal	www.aat.gov.au
Family Court of Australia	www.familycourt.gov.au
Federal Court of Australia	www.fedcourt.gov.au
High Court of Australia	www.hcourt.gov.au
Supreme Court of NSW	www.lawlink.nsw.gov.au/sc
Supreme Court of Victoria	www.supremecourt.vic.gov.au
Supreme Court of Queensland	www.courts.qld.gov.au
Supreme Court of Tasmania	www.supremecourt.tas.gov.au
Supreme Court of Western Australia	www.supremecourt.wa.gov.au

Other useful sites for source materials

Australasian Legal Information Institute	www.austlii.edu.au
Australian Tax Law Library	www.austlii.edu.au/au/special/tax
ComLaw (Commonwealth Law)	www.comlaw.gov.au
Worldlii	www.worldlii.org

Key tax and superannuation associations/organisations

Association of Superannuation Funds of Australia (ASFA)	www.superannuation.asn.au
Self-Managed Super Fund Professionals' Association of Australia (SPAA)	spaa.asn.au
Taxation Institute of Australia	www.taxinstitute.com.au

Accounting associations/organisations

Association of Taxation & Management Accountants	www.atma.com.au
CPA Australia	www.cpaaustralia.com.au
Institute of Chartered Accountants in Australia	www.charteredaccountants.com.au
Institute of Public Accountants	www.publicaccountants.org.au
National Tax & Accountants Association	www.ntaa.com.au

International tax authorities

Canada (Canada Revenue Agency)	www.cra-arc.gc.ca
China (State Administration of Taxation)	www.chinatax.gov.cn
Hong Kong (Inland Revenue Department)	www.ird.gov.hk
Malaysia (Inland Revenue Board of Malaysia)	www.hasil.gov.my
New Zealand (Inland Revenue)	www.ird.govt.nz
Singapore (Inland Revenue Authority of Singapore)	www.iras.gov.sg
United Kingdom (HM Revenue & Customs)	www.hmrc.gov.uk
United States of America (Internal Revenue Service)	www.irs.gov
United States of America (US Department of the Treasury)	www.treasury.gov