

Answer-to-Question-\_6\_

The trust has been setup as a family trust created by grandfather of Jacob. The tax liability below has been discussed basis the same:

**Tax liability in case of Jacob and Trustee:**

Jacob is aged 21 and living in Germany with his mother. Though he is not a minor, he is not a resident of Australia and he is not under a legal disability. Therefore, the share of income of the family trust that he is presently entitled to is included in the assessable income of the trustee under s 98(3) of the Income Tax Assessment Act, 1936 [ITAA 1936].

The amount that is included in the assessable income of the trustee (A\$ 100,000 in this case) under s 98(3) of ITAA 1936, in respect of a particular beneficiary (Jacob in this case) is also assessed in the hands of the beneficiary under s 98A(1) of ITAA 1936, but the tax thereon is reduced by the tax paid by the trustee on the same income. If the tax paid by the trustee on this income is more than the tax payable by the beneficiary in Australia, the excess tax is refunded to the beneficiary by the Australian Taxation Office (ATO) or may be offset against any other debt owed by the beneficiary.

**Tax liability in case of Jannika and Trustee:**

Jannika is aged 16 and an Australian resident. Since Jannika is a minor (Aged 16), Jannika is treated as being under a legal disability. Therefore, any share of trust income to which Jannika is presently entitled to is included in the assessable income of the trustee in the first instance under s 98 of ITAA 1936 unless the trust estate is a non-resident trust estate.

The rate of family trust distribution tax that will be payable by

the trustee is equal to the top personal marginal tax plus  
medicare levy. The rate for the 2022 tax year is 47%.

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Answer-to-Question-\_5\_

**Tax liability relating to redundancy package:**

According to the provisions of the ITAA 1997, the payments made to a taxpayer in consequence of their dismissal from employment arising out of genuine redundancy are received tax free up to the limit imposed by s 83-170 of ITAA 1997.

There are 4 conditions that needs to be satisfied for the redundancy payments to be classified as genuine redundancy payments:

1. The payment must be received in consequence of employee's termination
2. The termination must involve employee being dismissed from employment
3. Dismissal should be because of redundancy of employee's position
4. Redundancy payment must be made genuinely because of a redundancy

The tax free amount of redundancy payment will be calculated as follows:

Base Amount + (Service amount \* Years of service)

For 2022 tax year, base amount is A\$ 11,341 and Service Amount is A\$ 5,672

Therefore, tax free amount will be  $11,341 + (5,672 * 10) =$  A\$ 68,061.

The redundancy package offered to Jill is A\$ 20,000. Therefore, it

will be considered as a tax free amount.

**Tax liability relating to unused long service leave:**

According to the provisios of the act, unused long serivce leave payments are not employment termination payments and any payment received by the taxpayer in this regard will be included in the assessable income of the taxpayer.

In the given case, since Jill will be receiving unused long service leave payment on account of redudancy, the entire amount of A\$ 5,000 that will be received by Jill will be treated as assessable income and will be subject to tax at the rate of 30% plus medicare levy.

**Tax liability relating to the gold watch:**

Any gifts received by an employee from an employer is likely to be Fringe Benefits under Fringe Benefits Tax Assessment Act, 1986 unless it can be established that the gift was made to the employee in their capacity as an individual unrelated to their status as an employee.

Gift to an employee for a minor value of less than A\$ 300 is exempt benefits. However, in the given case, Jill will be receiving a gold watch worth A\$ 1,000. Therefore, the value of gold watch will be subject to Fringe Benefit tax and should be paid by the employer at the top personal marginal rate of income tax plus medicare levy. The year of tax for FBT purposes will be 1 April to 31 March.

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Answer-to-Question-\_1\_

Australian income tax obligations for the year ending 30 June 2022 to SunnyCo:

1) According to the provisions of the ITAA, the income of A\$10 million earned by SunnyCo from the yacht sales to Australian customers should be included in the assessable income of SunnyCo in Australia since the income was earned in Australia and SunnyCo though a non-resident of Australia is required to pay tax in Australia for the income earned by them in Australia.

Assuming that the aggregate turnover of SunnyCo is less than A\$ 50 million, they will be paying tax at the rate of 25% on their net income for the year ended 30 June 2022.

2) Treatment of following expenses:

a) Compulsory customs duty paid at the rate of 5% on the value of imported goods is deductible from the income earned by SunnyCo since it is paid in connection to the goods sold by SunnyCo in Australia (Operational activity)

b) A retainer fee of A\$ 20,000 paid to Marine Pty Ltd for service expenses is deductible from the income earned by SunnyCo since it is in relation to the operational activity of SunnyCo.

c) A requirement to draw up a plan for future investments is generally deductible if it is a continuing advice for a taxpayer who already derives significant income from investments. However, fees for initial investment advice may not be deductible if the advice relates to initial investment planning

d) The settlement payment of A\$ 100,000 to the designer was a settlement against claim and cannot be deducted from the income of SunnyCo for tax purposes.

e) The A\$ 5,000 government import fine cannot be deducted from the income of SunnCo for tax purposes since it is the nature of fine and fines and penalties are not considered to be operating in nature.

3)According to the provisions of the A New Tax System (Goods and Services Tax) Act 1999 (the GST Act), taxable importation includes the following points:

- Only importation of goods is considered as taxable importation
- Imporation of goods will be taxable imporation regardless of whether the importing entity is registered, required to be registered
- imports will be subject to GST regardless of whether they were imported for consideration
- The entity importing is liable to pay GST

Therefore, SunnyCo is not liable for any Australian GST obligations being the supplier. The onus of GST rests with the importer (receiver)and is liable to GST in respect of the importation of an amount equal to 10% of its value.

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Answer-to-Question-4

According to the provisions of the ITAA 1997,

- The franking account rules apply to the head company with respect to the tax payments for the consolidated group. If a subsidiary company has a tax liability that relates to pre consolidation period, notwithstanding that the subsidiary company may pay the tax, the franking credit arises in the franking account of the head company

- The general requirement is that only wholly owned subsidiaries may consolidate. However, in certain cases, subsidiaries may be in a position to pay frankable distributions to entities outside the group. i.e, in respect of employee share scheme interests and also to non-equity share interests.

- All franking credits will remain with the head company, notwithstanding that the subsidiary member subsequently leaves the group.

- Only the head company of the consolidated, group maintains the franking account.

- If an entity becomes a subsidiary membr of a consolidated group, if its franking accoubt is in surplus at that time, it is required to debit its franking account to the extent of surplus and corresponding credit arises in the franking account of the head company.

1) A PAYG instalment was paid to the ATO of A\$ 15,000

- A company is generally required to pay quarterly PAYG

installments if the entity's installment rate is more than 0% and the notional tax is A\$ 500 or more

- A company is eligible to pay annual instalments if its most recent notional tax is less than A\$ 8,000

- In case of consolidated groups, the head company is liable for the group's PAYG installments from the beginning of the instalment quarter in which it first receives a consolidated installment rate/

- Subsidiary members do not pay PAYG instalments

- The PAYG instalment amount is deducted from the total tax liability

## 2) Notice to pay franking deficits tax

- The tax portion of the amount paid can be deducted from the total tax liability.

- The interest or penalty portion if any cannot be claimed as a deduction for tax purposes.

## 3) Zee received A\$ 70,000 partly franked distribution from Abco Pty Ltd which was franked to a proportion of 80%

- for the distribution value of A\$ 56,000 (80% of A\$ 70,000) the tax was paid by Abco Pty Ltd since it is a franked distribution

- For the remaining A\$ 14,000, Zee has to pay tax at the rate of 30%

Fully franked dividend refers to a situation where the company pays tax on the dividend distributed at the rate of 30%. The shareholders will be taxed on the dividend received depending on



their slab rates and the excess amount deducted by the company if any will be refunded by the ATO to the shareholder.

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Answer-to-Question- 2

1) According to the provisions of the ITAA 1997, the initial investment of A\$ 200 million investment in data centres should be capitalised and expensed off year on year based on the life of the project.

In the given case, A\$ 200 million initial investment in data centres should be capitalised and A\$ 20 million should be expensed off every year for the next 10 years since the effective life of the project is 10 years.

2) A\$ 4000 levy paid to join the levy group should be expensed off by A\$ 3600 since 10% of the contribution is paid to political parties and cannot be deducted

Costs of preparation of documents for debenture issues to raise funds cannot be deducted since it is not revenue in nature. it should be capitalised and included to the cost of asset

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