SECTION 1

Questions with Suggested Solutions

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Assessable Income

CATEGORY A: QUESTIONS 1 TO 33

[¶10-001] Question 1

(1) Jim Brown earned a salary of $75,000 at Invicta Ltd for the year ended 30 June 2018. However, he elected to receive only $70,000, the unpaid balance being credited to Brown's account in the company's books on 30 June 2018 and paid to him on 6 September 2018.

What is Brown's taxable income for the year ended 30 June 2018?

(2) Suppose that because of a good year's profit results, the directors of Invicta declared a bonus to its employees of $8,000 on 28 June 2018. However, this was not credited to their accounts until 2 July 2018.

How does this affect Brown's tax liability for the 2018 income year?

Australian Master Tax Guide ¶9-035, ¶10-050

Australian Taxation Law ¶13-100, ¶13-110

Foundations of Taxation Law ¶16.2

[¶10-002] Question 2

Joe Wilson, a foreman with Carpet Ltd, received a severe injury while driving a forklift at work on 1 February 2018. As a result of the injury, Wilson received the following amounts:

	$
Workers compensation	4,800
Reimbursement of medical expenses by Carpet Ltd	2,000
Damages for personal injury	10,000

Advise Wilson as to whether any of the amounts are assessable.

Australian Master Tax Guide ¶10-005, ¶10-060, ¶10-180, ¶10-185, ¶35-645

Australian Taxation Law ¶3-250, ¶4-110

Foundations of Taxation Law ¶11.3, ¶12.2, ¶12.3

[¶10-003] Question 3

For the year ended 30 June 2018, Johnson Ltd, a manufacturer of carpets, prepared an analysis of its receivable and debt provisions for the year:

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	30 June 2017 $	30 June 2018 $
Accounts receivable	1,000,000	1,250,000
Cash received		4,000,000
Provision for doubtful debts	150,000	100,000

Calculate the assessable income of Johnson for the year ended 30 June 2018.

Australian Master Tax Guide ¶9-000, ¶9-030, ¶9-120

Australian Taxation Law ¶13-020, ¶13-100, ¶13-300

Foundations of Taxation Law ¶13.1, ¶13.5, ¶16.2, ¶16.3

[¶10-004] Question 4

Dr Pauline Green is a surgeon who is self-employed and operates her business as the sole principal with a few employees. The following information relates to Dr Green's business for the year ended 30 June 2018:

	$
Cash received from patients in 2017/18	150,000
Medicare reimbursement for services provided	40,000
Unpaid accounts as at 30.6.2017	25,000
Unpaid accounts as at 30.6.2018	30,000
Salaries paid to employees in 2017/18	50,000
Other expenses paid	40,000

Calculate Dr Green's taxable income for the year ended 30 June 2018.

Australian Master Tax Guide ¶9-030

Australian Taxation Law ¶13-100, ¶13-130

Foundations of Taxation Law ¶16.2

[¶10-005] Question 5

Because of ill health Bob Furlong sold his pharmacy in North Melbourne for $800,000 in March 2018. He had purchased the pharmacy in 1981. Furlong also received the sum of $50,000 from the purchaser for agreeing not to operate another pharmacy within 5 km of his old pharmacy for five years.

Advise Furlong as to whether the amount of $50,000 is assessable income.

Australian Master Tax Guide ¶10-115, ¶11-280

Australian Taxation Law ¶3-280, ¶4-060, ¶7-165

Foundations of Taxation Law ¶10.2, ¶10.6, ¶19.2, ¶19.6

[¶10-006] Question 6

Josephine Banks, aged 59, was employed as a bank clerk with Melbank Ltd for 36 years. She terminated her employment with Melbank on 30 June 2018 and received a lump

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sum retirement payment of $250,000 from the firm's superannuation fund, which she had joined on 1 July 1982.

Banks had made contributions of $40,000 to the fund since 1 July 1983. $3,000 of this was made after 30 June 2007. Assume the payment is made from a taxed superannuation fund.

Calculate the tax payable on the retirement payment to Banks for the year ended 30 June 2018.

Australian Master Tax Guide ¶14-000, ¶14-220
Australian Taxation Law ¶23-400–¶23-520
Foundations of Taxation Law ¶25.14

[¶10-007] Question 7

On 30 June 2018, Bob Foreman, aged 54 years, was retrenched from his job with XMH Ltd after 37 years of service. He received a lump sum of $300,000 from the XMH Ltd Superannuation Fund, plus an early retirement payment of $100,000 from his employer as part of a genuine redundancy scheme.

Foreman joined XMH on 1 July 1981. He contributed $28,000 to the firm's superannuation fund from 30 June 1983 of which $5,500 was paid after 30 June 2007.

Advise Foreman of the tax consequences of the above.

Australian Master Tax Guide ¶14-000–¶14-220, ¶14-700
Australian Taxation Law ¶4-700, ¶4-740, ¶4-800, ¶23-400–¶23-520
Foundations of Taxation Law ¶25.14, ¶26.2 .2–¶26 .4

[¶10-008] Question 8

Tom Howard, a computer programmer, is employed by IDAP Ltd. On 1 January 2018 he was posted to London for four months. His Australian salary for the year was $45,000. However, he earned the equivalent of A$50,000 when working with the London office. An amount equalling A$6,000 in tax had been deducted from his income earned overseas.

Assuming Howard received no other income and was not entitled to any tax offsets or deductions, calculate his assessable income and the tax payable for the year ended 30 June 2018.

Australian Master Tax Guide ¶10-860
Australian Taxation Law ¶24-210
Foundations of Taxation Law ¶9.1, ¶9.4, ¶34.2, ¶34.3

[¶10-009] Question 9

Mary Fellows, a resident of Australia, received the following income for the year ended 30 June 2018:

(1) $49,300 from sources in Australia

(2) the equivalent of A$30,000 as salary while working overseas for four months (foreign income tax amounting to A$5,000 had been deducted from this income)

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(3) fully franked dividend of $10,000, and

(4) dividend income of $850 from RTZ Ltd, a London-based company (15% withholding tax had been paid).

Calculate the assessable income of Fellows for the year ended 30 June 2018.

Assuming Fellows does not have any deductions, what is the tax payable on the income?

Australian Master Tax Guide ¶10-860, ¶21-060
Australian Taxation Law ¶22-200, ¶22-320
Foundations of Taxation Law ¶9.3, ¶11.1, ¶11.3, ¶22.6, ¶22.8, ¶38.2, ¶38.3

[¶10-010] Question 10

On 1 July 2017, Edward Lord, the executive director of Goodrich Ltd, was granted rights at a cost of $10,000 to acquire 200,000 ordinary shares paid up to $1 per share in the company. The offer was only available to the directors of the company. At the time the market value of the rights was 50 cents per right.

On 1 September 2017, Lord exercised the rights at a cost of $1 per share to acquire 200,000 shares when the market price of the shares was $2 per share. As a result of this acquisition Lord's beneficial interest in the company was 6%.

On 10 January 2018, Lord sold the 200,000 shares for $2.20 per share. The costs of disposal were $1,550.

(a) Calculate Lord's assessable income arising from the issue and acquisition of the rights.

(b) Calculate any gain on the sale of the shares in 2017/18.

Australian Master Tax Guide ¶10-080, ¶10-085
Australian Taxation Law ¶4-400
Foundations of Taxation Law ¶27.1–¶27.4

[¶10-011] Question 11

During 2017/18 Tom Jones received cash payments of $100,000 from a television quiz show. He also received goods worth $8,000. Because of his success he was invited to another quiz show and received $5,000.

Advise Jones as to whether the above amounts are assessable.

Australian Master Tax Guide ¶10-440
Australian Taxation Law ¶6-010
Foundations of Taxation Law ¶10.5

[¶10-012] Question 12

On 1 August 2017, Bob Johnson claimed $275,000 for fire damage to a building he had used since 1 December 1999 as a warehouse for trading stock and plant.

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The claims consisted of $150,000 compensation for the building, $50,000 for trading stock and $75,000 for plant. After protracted negotiations, he accepted $200,000 in full settlement of the claim.

Advise Johnson as to the assessability of the amount received.

Australian Master Tax Guide ¶10-170, ¶10-175

Australian Taxation Law ¶6-800, ¶7-145, ¶12-250

Foundations of Taxation Law ¶10.8, ¶17.2

[¶10-013] Question 13

(1) Felicity Canon is an auditor with Young and Olde, a large firm of chartered accountants. For the year ended 30 June 2018 she received a car allowance of $5,000 and had her parking expenses of $250 reimbursed by her employer. Half of the parking expenses were incurred while meeting clients.

Advise Canon as to the assessability of such amounts.

(2) Suppose Canon was given an allowance of $2,600 based on the estimated number of kilometres she should travel for business. In 2017/18 this was estimated to be 4,000 km at 65 cents per km.

Advise Canon as to the assessability of this allowance.

(3) Suppose Canon was reimbursed on the actual number of business kilometres travelled. At the end of June 2018 this was 4,500 km. She was reimbursed at the rate of 65 cents per km.

Advise Canon as to the assessability of the reimbursement.

Australian Master Tax Guide ¶10-060

Australian Taxation Law ¶4-190, ¶10-475

Foundations of Taxation Law ¶8.7, ¶10.1, ¶11.1, ¶14.1, ¶24.1

[¶10-014] Question 14

Kylie Grant is a sales representative with Pharacorp Ltd. During the year ended 30 June 2018 she received the following:

	$
Salary	80,000
Entertainment allowance	10,000
Travel allowance	5,000
Telephone allowance	750
Reimbursement of accommodation expenses	10,000
Reimbursement of meals while away from home	2,000

Advise Grant as to the amount of her assessable income for the year ended 30 June 2018.

Australian Master Tax Guide ¶10-050, ¶10-060

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Australian Taxation Law ¶4-020, ¶4-110
Foundations of Taxation Law ¶10.1–¶10.4, ¶10.8, ¶17.3

[¶10-015] Question 15

On 1 March 2018 Bert Hudson, aged 60, sold his farm for $300,000. In order to secure his retirement he immediately purchased an annuity of $30,000 pa, which was to be paid until his death. There is no lump sum payable on death. The annuity cost $280,000.

Advise Hudson as to the assessability of the annuity.

Australian Master Tax Guide ¶14-500, ¶14-510
Australian Taxation Law ¶5-300
Foundations of Taxation Law ¶11.2

[¶10-016] Question 16

Jack held a Dutch passport at all relevant times. From the time of his first visit to Australia in 2014 until the end of the 2018 income year, he held a visa which permitted him to live and work here.

During the time he was in Australia, Jack worked under contract as a marine engineer on a sea-going dredge owned by an Australian company. Subsequently, the dredge was leased to a Cyprus-based company, D, for use in carrying out work in Saudi Arabia. Jack accepted employment with D and left Australia on 6 July 2017, leaving his son and his estranged wife here. He worked for D for nine months in Saudi Arabia. He then terminated his contract and returned to Australia, where he stayed for the rest of the income year. During the period Jack was away, he had a reconciliation with his wife and entered into a partnership business with her on his arrival back in Australia.

Accommodation provided for Jack in Saudi Arabia by his employer was of a temporary or transitory nature in the form of single men's quarters or barracks. Meals were also provided. D's office in Cyprus paid Jack's wages into his bank account in Australia, after deducting 'tax' required to be paid in Cyprus. Jack paid no income tax in Saudi Arabia. The evidence established that, at the time he entered into the contract with D, Jack intended to be absent from Australia for approximately nine months and was in fact away for that period only.

For the 2017/18 tax year:

(1) Is Jack a resident or non-resident of Australia?

(2) If Jack is a resident, would the income received while working in Saudi Arabia be exempt from tax?

Australian Master Tax Guide ¶10-860, ¶21-000, ¶21-060
Australian Taxation Law ¶24-040, ¶24-210
Foundations of Taxation Law ¶9.1–¶9.4, ¶34.3, ¶34.4

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[¶10-017] Question 17

On 10 July 2017, Tim Morris was transferred to the New York office of his company, Global Australia Ltd, for five years. His wife Kate accompanied him to New York. In New York they lived in a house owned by the company and leased their Sydney house. While residing in New York Kate borrowed $100,000 from the National Australia Bank on 1 December 2017, to fund the purchase of 50,000 shares in Global Australia.

During the 2017/18 tax year Kate received $10,000 as her share of rental income from the lease of the Sydney house, and $2,500 in fully franked distributions from Global Australia. She incurred no expenses in deriving the rental income, but her interest payments on the National Australia Bank loan amounted to $5,550.

What are the Australian tax consequences of these transactions for Kate Morris?

Australian Master Tax Guide ¶21-010, ¶21-060

Australian Taxation Law ¶24-040, ¶24-210

Foundations of Taxation Law ¶9.1–¶9.3

[¶10-018] Question 18

Income tax is payable on income derived by a taxpayer during the year of income. For each of the following situations determine what amount of income, if any, has been derived during the year of income ended 30 June 2018.

(1) An employee receives $6,000 on 23 June 2018 in respect of long service leave which is to commence on 2 July 2018.

(2) A finance company lends $20,000 on 1 July 2016 on the condition that both the principal and interest, $22,400 in total, are repaid on 30 June 2018. Payment is actually received on 1 July 2018.

(3) A judo instruction school charges $100 for 10 lessons payable in advance. At 30 June 2018 the school had received fees totalling $110,000 for the year, of which fees received for lessons still to be taught amounted to $5,000.

(4) An exclusive jewellery shop opened for business on 30 June 2018 and made only one sale for the day: a diamond ring for $6,500. The customer paid by credit card, which meant that the jeweller did not receive payment until the second week in July 2018. When payment was received, he received the sale price less 5%.

(5) A large trading concern charges interest on its customers' overdue accounts. At 30 June 2018 interest charged amounted to $1,200. These accounts, plus the interest, were not paid until the following tax year.

Australian Master Tax Guide ¶9-035

Australian Taxation Law ¶13-100, ¶13-300, ¶13-430

Foundations of Taxation Law ¶16.2, ¶11.2, ¶11.3

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[¶10-019] Question 19

On retirement from his job in March 2018 Marlow, aged 58, received $10,000 from his employer as a 'retiring gratuity' and $3,000 in respect of unused annual leave accrued over the last six months. In addition, he received $280,000 as a lump sum from the company's taxed superannuation fund (there were no undeducted contributions).

Marlow immediately ensured that the $280,000 was paid directly by the superannuation fund to another superannuation fund 'Australian Life' to purchase an annuity which provided Marlow with $22,000 pa until death.

To what extent is Marlow assessable on the above transactions?

Australian Master Tax Guide ¶14-000–¶14-240, ¶14-720

Australian Taxation Law ¶4-700, ¶4-820, ¶5-320, ¶23-400–¶23-520

Foundations of Taxation Law ¶25.5, ¶26.3

[¶10-020] Question 20

Able, a promising employee, accepted his employer's offer to complete his final year of study at university as a full-time student. Under an arrangement with his employer he was paid a 'scholarship' of 60% of his usual salary on the usual pay days while undertaking the course during the year ending 30 June 2018. The employer also reimbursed Able for his compulsory fees and prescribed reference books. There was no express condition that Able continue employment with the company upon completion of the course of study.

Advise Able as to whether he has derived assessable income.

Australian Master Tax Guide ¶10-740

Australian Taxation Law ¶9-100

Foundations of Taxation Law ¶11.3, ¶11.4, ¶12.2

[¶10-021] Question 21

Office Furniture Ltd is a retailer of office furniture for industry. In December 2017 it decided to terminate its lease in Parramatta and relocate its sales premises to Redfern. Of major consideration in choosing the Redfern premises were the benefits offered by the new lessor.

These benefits were:

- Sign-on bonus of $10,000.
- Rent-free period of three months. The normal rent was $30,000 per month.
- Two tickets to the Australian Tennis Open in January 2018. This included accommodation and air fares and was valued at $1,500.
- Free fit-out of the new premises worth $25,000.
- Payment of relocation costs worth $40,000.
- Payment of $12,500 covering costs of lease termination.
- Bonus of $10,000 if Office Furniture Ltd continues the lease after 12 months.

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Advise Office Furniture Ltd as to the assessable nature of the above benefits.

Australian Master Tax Guide ¶10-116

Australian Taxation Law ¶6-448

Foundations of Taxation Law ¶10.5

[¶10-022] Question 22

Under his contract of employment Bill Watson, a sales executive, received the following employment benefits in 2017/18:

	$
Salary	90,000
Entertainment allowance	3,000
Sole use of a fully maintained company car — estimated benefit	10,000

Watson's employer pays the necessary FBT.

To what extent is Watson assessable on the above transactions?

Australian Master Tax Guide ¶10-050, ¶10-060

Australian Taxation Law ¶4-020

Foundations of Taxation Law ¶10.2, ¶11.3, ¶24.2

[¶10-023] Question 23

Mary Johnson, aged 30, is a civil engineer who works with Adco Ltd, which specialises in mining infrastructure. In November 2017 she was offered a new job with Mine Australia Ltd to establish a new mining operation in Port Headland. As part of an incentive to encourage her to take up the offer and leave her existing job, she was offered and accepted a sign-on incentive of $25,000 and an annual salary of $175,000. She also received a relocation and settling-in allowance of $25,000.

On 30 June 2018, all employees were awarded a productivity bonus of $10,000. However, this was not paid until 5 July 2018. Mary asked that the amount of the bonus be directed to a housing loan offset account held by herself and her partner.

Advise Mary of the tax consequences arising from these arrangements.

Australian Master Tax Guide ¶9-080, ¶10-050, ¶10-060, ¶10-074, ¶14-610

Australian Taxation Law ¶4-100, ¶13-220

Foundations of Taxation Law ¶11.1, ¶11.3

[¶10-024] Question 24

As a result of a car accident on the way to her place of employment in July 2016, Nancy Wall, aged 39, is seriously injured. After eight weeks' hospitalisation she is declared permanently incapable of continuing her employment.

During the 2017/18 year she received the following sums:

- sick pay supplementation by employer — eight weeks — $4,000

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- proceeds from private sickness and accident policy — eight weeks at $530 per week — $4,240
- guaranteed sum under an insurance policy for loss of a leg — $120,000
- gratuity on 'retirement due to incapacity' by employer — $20,000
- out-of-court settlement by third party insurance company of driver of other car involved in the car accident — $340,000, and
- social security disability support pension — eight weeks — $1,286.

Advise Wall as to whether any of the above amounts are assessable.

Australian Master Tax Guide ¶10-210

Australian Taxation Law ¶6-800

Foundations of Taxation Law ¶10.8, ¶11.4, ¶19.2, ¶19.3, ¶19.5, ¶19.6, ¶26.1, ¶26.2

[¶10-025] Question 25

Derrick King, aged 52, was a senior employee of Trans Engineering Ltd. Because of a downturn he was retrenched on 31 July 2017. King received a lump sum of $254,200. This sum consisted of $4,200 in lieu of annual leave which accrued after 17 August 1993, and $250,000 from the Trans Engineering Superannuation Fund which is a taxed fund.

He also received $20,000 as a parting gift from his employer for his services over the years.

King's Statement of Termination Payment showed that he had been employed for a total of 14,608 days, of which 12,449 days related to service post-30 June 1983, and that his undeducted contributions since 1 July 1983 amounted to $30,000 of which $5,200 was contributed after 30 June 2007.

Outline the taxation ramifications of these events.

Australian Master Tax Guide ¶14-000–¶14-240, ¶14-720

Australian Taxation Law ¶4-700, ¶4-740, ¶4-820, ¶21-400–¶21-520

Foundations of Taxation Law ¶33.1–¶33.3

[¶10-026] Question 26

'Mon Golf' is a golf club which has 500 members and operates a golf club and restaurant complex on the Murray River near Echuca.

For the year ended 30 June 2018, it reported a profit of $220,000 arising from:

	$
Golf green fees	80,000
Restaurant operation and bar	40,000
Gaming activities	100,000

Records kept by the club indicate that:

- 40% of the green fees

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- 50% of the restaurant and bar fees, and
- 75% of gaming activities income

were from non-members.

Advise Mon Golf as to whether any of the profits arising from the above activities are taxable.

Australian Master Tax Guide ¶3-810
Australian Taxation Law ¶9-250
Foundations of Taxation Law ¶10.2

[¶10-027] Question 27

On 11 February 2018, Outboard Marine Australia Co Ltd entered into a contract with NY Marine Co Ltd, a New York based company, whereby NY Marine would provide technical expertise to Outboard Marine on the development and installation of a fuel injection system for Outboard's new range of outboard motors. In return NY Marine received $75,000 to cover the initial expenses and a fee of $65 for every outboard motor sold by Outboard Marine for a period of two years.

Advise NY Marine of the tax consequences in Australia of such an arrangement.

Australian Master Tax Guide ¶10-510
Australian Taxation Law ¶5-500
Foundations of Taxation Law ¶11.3

[¶10-028] Question 28

Joe Coleman, an electronics engineer, arrived in Australia on 21 October 2017. On 1 November 2017 he was offered a consulting job with Technics, an electronics manufacturing company. To cut down staff and payroll costs, Technics suggested that he form a company to undertake the work. In return, the company could then employ Coleman to perform the work. Based on this advice Electronics Ltd, the company formed by Joe Coleman, entered into a contract with Technics to supply technical advice with labour charges of $125 per hour.

For the year ended 30 June 2018, Electronics Ltd received $73,500 from Technics, and there was $12,000 in fees still outstanding which had been billed but not received. Coleman received $40,000 from Electronics Ltd. Operating expenses of the company for the year amounted to $13,750.

Advise Coleman of the tax consequences of the above operation.

Australian Master Tax Guide ¶30-600–¶30-690
Australian Taxation Law ¶25-450
Foundations of Taxation Law ¶43.3

[¶10-029] Question 29

For the past two years Swindon won his club's best player award in the South Australian competition and is the number one draft choice of several AFL clubs. In the summer

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months Swindon represents his state in cricket and is pushing for selection as a Test cricketer.

Following lengthy negotiations, on 1 February 2018 Swindon signed a contract with the Collingwood Football Club. Under the contract Swindon will receive match payments of $3,000 per match, a $40,000 bonus if the club makes the finals and a lump sum of $50,000 for agreeing to play football for the Collingwood Football Club exclusively.

Outline the tax implications if Swindon signs the contract.

Australian Master Tax Guide ¶10-050, ¶10-115, ¶11-280
Australian Taxation Law ¶4-060, ¶7-165
Foundations of Taxation Law ¶10.4, ¶19.2, ¶19.3, ¶19.5, ¶19.6

[¶10-030] Question 30

Explain briefly, indicating the relevant sections of the law, whether and to what extent the following receipts are assessable income.

(1) Lump sum received from a newspaper publisher by a person in full settlement of an action for defamation.

(2) Honorarium received by the honorary secretary of an athletics club.

(3) A lump sum legacy of $10,000 received from the estate of a deceased friend.

(4) An amount of $7,500 received in a lump sum as workers compensation following settlement of a workers compensation claim and representing compensation of $500 per week for a period of 15 weeks.

(5) Insurance proceeds received in respect of the loss of plant which had not been installed.

(6) Compensation received by a merchant as damages from a supplier for breach of a contract to supply goods for resale.

(7) Compensation received by a lessor for failure by the lessee to carry out repairs to the leased property before the expiration of the term of the lease.

(8) Four weeks' wages, in lieu of notice, received by an employee who had been dismissed.

Australian Master Tax Guide ¶10-005, ¶10-170
Australian Taxation Law ¶4-020, ¶6-800
Foundations of Taxation Law ¶10.2, ¶10.4, ¶10.8, ¶11.4, ¶19.2, ¶19.3, ¶19.5, ¶19.6

[¶10-031] Question 31

A non-resident manufacturer derives profits from sales to Australian customers during the year ending 30 June 2018. His sales representative had been instrumental in obtaining the orders from the Australian customers during a sales promotion visit to Australia.

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Are these receipts assessable income? Indicate which sections of the income tax legislation are relevant to your answer.

Australian Master Tax Guide ¶21-060, ¶22-000
Australian Taxation Law ¶24-100, ¶24-550
Foundations of Taxation Law ¶9.1, ¶9.3

[¶10-032] Question 32

Explain briefly, indicating the relevant sections, whether and to what extent the following receipts are assessable income.

(1) A lump sum gratuity received by a widow from her husband's former employer in recognition of his past services.

(2) A cash prize received by a pharmaceutical chemist for winning an annual competition conducted by one of his suppliers for the best Christmas display of merchandise.

(3) A scholarship of $5,000 received by a full-time student from an industrial company conditional upon the recipient agreeing to be employed by the company for four years after completion of studies.

(4) Amounts received by a grazier under agreement with a cartage contractor whereby the contractor paid the grazier $4 for each cubic metre of sand removed from specified areas of the grazier's property.

(5) Royalties received by an Australian resident from licensing a New Zealand patent. New Zealand income tax has been paid on the royalties at a rate of 15%.

(6) A lump sum of $15,000 received by a future tenant from the lessor. The lump sum was part of the lease negotiations.

(7) An amount received by an engineer for negotiating a loan between a borrower and a lender.

(8) A retiring allowance of $18,000 received by an employee aged 55, in three equal annual instalments.

(9) An amount received by a wholesale merchant from an insurance company in respect of the loss by fire of her warehouse building.

Assume all amounts are in Australian dollar equivalents.

Australian Master Tax Guide ¶10-005, ¶10-060, ¶21-680
Australian Taxation Law ¶4-020, ¶5-500, ¶6-445, ¶9-100, ¶24-320
Foundations of Taxation Law ¶10.2–¶10.6, ¶10.8, ¶11.3, ¶11.4, ¶19.2, ¶19.3, ¶19.5, ¶19.6, ¶19.8, ¶26.1, ¶26.2, ¶30.5, ¶34.4

[¶10-033] Question 33

Discuss the extent to which assessable income arises in the following circumstances.

(1) A furniture retailer received a new lounge suite in June 2018 as a prize supplied by a manufacturer for selling the highest value of the manufacturer's products during the past six months. The lounge suite retails at $3,500 and normally would have cost the

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retailer $1,800 to acquire from the manufacturer. The retailer uses the prize to replace the existing lounge suite in her private residence.

(2) Advertising Agency Ltd received $20,000 on 15 March 2018 as compensation for cancellation of an agency contract. The loss of the contract caused the company some loss of prestige but there was little change in the company's general organisation. The company has 20 other major clients.

(3) John Harber purchased land in 1984 for $200,000. On 1 January 2005 Harber gifted the land to his wife. The value of the land at the time of the gift was $420,000. On 1 May 2017 the land was rezoned 'residential'. On 1 February 2018 Harber's wife sold the land for $700,000.

(4) Barry Keen is a promising executive employed by a company marketing computer hardware. His employer paid his subscription of $1,200 to the local golf club on 1 March 2018. Keen advises you that he cannot play golf and is only likely to use the club facilities for entertaining business clients.

(5) Ivana Swanson, a university lecturer, undertook a research project in the United States for eight weeks in August 2017. Swanson's contract provided that she was to receive $10,000 less expenses, all of which were to be paid for by the contractor. On completion of the project the contractor paid Swanson $2,700 comprising the agreed $10,000 less expenses of $7,000 and US State Government tax of $300.

Assume all amounts are in Australian dollar equivalents.

Australian Master Tax Guide ¶10-005
Australian Taxation Law ¶4-020, ¶6-480, ¶6-490, ¶6-800, ¶24-200
Foundations of Taxation Law ¶10.6–¶10.9, ¶19.2, ¶19.3, ¶19.5, ¶19.6, ¶24.2, ¶34.4

CATEGORY B: QUESTIONS 34 TO 42

[¶10-034] Question 34

Brian Bart had owned a farm for 21 years. On 1 July 1999 he sold the farm and retired to the north coast of New South Wales. On 1 September 1999 he purchased an acre of land on the waterfront for $500,000. In order to provide funds for his retirement and by way of investment, Bart commissioned a builder in October 2015 to design and build eight townhouses at a cost of $250,000 each. Bart also consulted his accountant and asked her to provide details of the expected rental return from the lease of seven of the units. The units were completed in May 2017. One of the units was retained as Bart's main residence; the others were leased on a short-term basis. In October 2017 Bart successfully applied to have the units separated by means of strata titles and in November four of the units had been sold for $500,000 each. With the proceeds Bart purchased an adjoining block of land for $1,200,000, with the intention of building more units.

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Advise Bart of the income tax implications of the above transactions.

Australian Master Tax Guide ¶10-110

Australian Taxation Law ¶6-010, ¶6-430, ¶8-230

Foundations of Taxation Law ¶10.5, ¶10.6, ¶19.2, ¶19.3, ¶19.5, ¶19.6, ¶19.15

[¶10-035] Question 35

Computer Power is in the business of leasing and selling Comp-tec computers and related software. In January 2017, Computer Power entered into a contract with BPH Ltd, a computer retailer, to supply a number of Comp-tec computers over a period of two years. The agreement provided for a fixed price on each computer sold within the two-year period, and also for a free warranty period of 18 months.

Because of a change in tariff regulations in November 2017, the price of Comp-tec computers increased by an average of 25%. As a result, Computer Power indicated that it wished to terminate the agreement from 1 December 2017. The termination of the agreement forced BPH to purchase other computers from another supplier at a higher price.

BPH commenced an action for damages of $1,000,000, being compensation for the increased cost of having to buy its computers and software elsewhere and for the fact that the software of the old computers was not compatible with the new computers which BPH had acquired. The action by BPH was discontinued when Computer Power paid BPH $500,000 to settle all claims against it.

Advise BPH as to whether the amount received as compensation constitutes assessable income.

Australian Master Tax Guide ¶10-114, ¶10-175, ¶11-380

Australian Taxation Law ¶6-800, ¶6-910, ¶7-610

Foundations of Taxation Law ¶10.8, ¶11.4, ¶19.2, ¶19.3, ¶19.5, ¶19.6

[¶10-036] Question 36

On 5 January 2018 Rothbank, a merchant bank, received $1,500,000 from Gypsum Ltd after a finance agreement between them was terminated. The agreement, which had been entered into on 1 October 2017, was that Rothbank would raise $10,000,000 by way of secured loans for Gypsum Ltd to finance the development of a mining lease near Kalgoorlie.

The terms of the release agreement provided that the amount of compensation was paid as a release from the contract and for all claims arising from the agreement. The amount of the compensation was determined by reference to the commission that would have been payable to Rothbank under the terms of the original contract. The agreement also stated that Rothbank would not act as a finance broker for other firms in the mining industry for two years. In determining the compensation, of some concern to Rothbank was the possible loss of reputation that it would suffer from the cancellation of the agreement.

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Advise Rothbank of the taxation consequences arising from the termination of the contract.

Australian Master Tax Guide ¶10-114, ¶10-115

Australian Taxation Law ¶6-800, ¶7-165

Foundations of Taxation Law ¶10.4, ¶10.8, ¶11.4, ¶19.2, ¶19.3, ¶19.5, ¶19.6

[¶10-037] Question 37

On 1 October 2017, Joe Johnson commenced his own pest control business, 'Pest Rid', which involved the application of chemicals to prevent infestation of pests in domestic buildings.

Pest Rid provided customers with a five-year guarantee. Under the terms of the guarantee, if infestation occurred within a five-year period, Pest Rid would carry out remedial work and undertake another Pest Rid treatment. Experience in the industry indicated that infestation after pre-treatment would occur in 5% of the cases.

For the year ended 30 June 2018 Pest Rid had undertaken treatments for which it had invoiced customers for $375,000. However, only $360,000 of this had been received by 30 June 2018. Pest Rid had also received $10,000 as advance bookings for treatment to be carried out in July and August 2018. Because of the guarantee provided under the terms of each contract, Pest Rid has made a provision of $18,750 to cover the extended warranty costs.

Advise Pest Rid of the tax consequences of the above transactions.

Australian Master Tax Guide ¶9-030

Australian Taxation Law ¶13-340

Foundations of Taxation Law ¶16.2, ¶16.3

[¶10-038] Question 38

On 1 January 2018 Mike Browning, an accountant with IPEC Australia Ltd, was transferred to the New York office of the firm for a period of two years. As a result, the taxpayer's house in Malvern was let and his furniture stored at IPEC's expense. Because of illness in the family, Browning returned to Australia in February 20178for one month. During this period, Browning was temporarily employed with IPEC Australia, but his salary continued to be paid in New York.

For the year ended 30 June 2018 Browning received a salary of the equivalent of A$80,000 from the New York office, from which US federal tax had been deducted. He also received $50,000 from the Melbourne office for the six months to 31 December 2017. The rent received on the house in Malvern was $15,000.

Ignoring any double tax treaties, advise Browning as to whether any of the above amounts are assessable in Australia.

Australian Master Tax Guide ¶10-860, ¶21-670

Australian Taxation Law ¶23-050, ¶24-050, ¶24-200

Foundations of Taxation Law ¶9.3, ¶11.1, ¶34.3, ¶34.4

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[¶10-039] Question 39

Tanya Cooper is a management consultant with Castell Ltd, an Australian company based in Melbourne. She has worked with the firm for four years. The firm specialises in the development of computer software for the insurance industry. In March 2017 Castell won a lucrative contract to install some computer software for a firm, EXI Ltd, located in New Zealand. As a result Cooper was posted to Auckland for three months to arrange installation of the software.

Because of difficulties experienced in the installation of the software the period of Cooper's posting was extended for a further nine months.

Initially, Cooper's salary of $10,000 per month was paid into her Melbourne bank account. In June 2016 this was changed to a New Zealand bank account located in Auckland.

Upon completion of the installation in March 2018, EXI presented Cooper with a cheque for $5,000 and two airline tickets and vouchers for a holiday in Hawaii, valued at $6,000.

Advise Cooper as to the assessability of the above amounts in Australia.

Australian Master Tax Guide ¶10-030, ¶10-860

Australian Taxation Law ¶6-480, ¶24-200, ¶26-100

Foundations of Taxation Law ¶9.2, ¶10.2, ¶24.3

[¶10-040] Question 40

On 1 July 2017, Mytec Ltd sold to Compac Ltd an office building which it had acquired in 1984 at a cost of $600,000. The terms of sale provided that settlement should take place on 1 October 2016 and that Mytec would receive either:

(1) $2,000,000 in cash on 1 October 2017

(2) $2,000,000 payable in quarterly instalments with interest calculated at 12.5% on the remaining balance

(3) $1,500,000 in cash and 10% of the gross rents received by Compac for the next two years

(4) $600,000 pa for five years

(5) $1,800,000 and the right to occupy one floor for two years with a rent-free period of nine months, or

(6) $1,800,000 in cash and a free fit-out of furniture comprising partitions costing $200,000.

Advise Mytec of the tax consequences of the alternatives available to them.

Australian Master Tax Guide ¶10-020, ¶10-110

Australian Taxation Law ¶6-410, ¶6-445, ¶6-480, ¶7-020

Foundations of Taxation Law ¶10.2, ¶10.5, ¶11.2, ¶19.2, ¶19.3, ¶19.5, ¶19.6

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[¶10-041] Question 41

Norma Nelson, aged 57, worked for Sportswear Ltd as a salesperson. However, because of a downturn in the economy, her employment was terminated on 30 January 2018.

As Nelson had worked with Sportswear since 1 July 1981, she received $250,000 from the company-sponsored superannuation fund to which Nelson had contributed $20,000 from 1 July 1983 ($2,400 of this amount had been contributed by Nelson since 1 July 2007).

She also received an additional $25,000 under an approved early retirement scheme.

At the time of her departure Nelson had 60 days' long service leave owing to her which had accrued since 1995. This amounted to $12,000, for which she received a separate cheque.

On hearing that Nelson had been dismissed, Leisure Ltd, a supplier of goods to Sportswear, presented her with a gold watch (market value $1,000) and a cheque for $1,000 as a farewell gesture. Leisure Ltd was not an associate of Sportswear Ltd.

On 1 August 2018 Nelson joined Leisure Ltd as a sales consultant.

What is Nelson's tax liability for the benefits she has received?

Australian Master Tax Guide ¶14-000–¶14-240, ¶14-710

Australian Taxation Law ¶4-820, ¶23-400–¶23-520

Foundations of Taxation Law ¶20.3, ¶25.12, ¶26.2, ¶25.3

[¶10-042] Question 42

Cynthia Nash is an employee of XYZ Ltd. On 1 December 2017 the company introduced a non-discriminatory employee share acquisition scheme to all employees whereby Nash has the opportunity of acquiring 10,000 $1 ordinary shares in XYZ for $1.85 per share, a 7.5% discount on the current market value of $2 per share.

(1) Outline the taxation implications if Nash takes advantage of this opportunity on 10 December 2017 to acquire the shares at $1.85 per share and then sells her shares on 15 June 2018 for $4 per share.

Assume that the cost of disposal of the shares is $100.

(2) Suppose the shares were not disposed of until three years after they were acquired. The cost of disposal was $120.

(3) Suppose that the shares could not be disposed of for four years after the date of acquisition at which time the shares were worth $7. What difference would it make to your answer in (1)?

Australian Master Tax Guide ¶10-080, ¶12-630

Australian Taxation Law ¶4-400, ¶8-625

Foundations of Taxation Law ¶27.1

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Capital Gains

CATEGORY A: QUESTIONS 43 TO 58

[¶10-043] Question 43

On 1 April 1987, Henry Applegate purchased 2,000 shares in RSC Ltd for $4.25 per share. On 1 June 1993 he also purchased 1,000 shares in PHB at a cost of $14 per share. In order to purchase a flat, Henry sold some of his shares on 2 December 2017 at the following prices:

1,000 RSC	$8 per share
500 PHB	$13 per share
250 PHB	$12 per share

Advise Henry Applegate of the capital gains tax consequences of the share sales for the 2017/18 tax year.

Australian Master Tax Guide ¶11-000, ¶11-030, ¶11-033, ¶11-610

Australian Taxation Law ¶7-900, ¶7-915

Foundations of Taxation Law ¶19.2, ¶19.7, ¶19.9

[¶10-044] Question 44

Maria Cavella operated a delicatessen business in Melbourne for seven years as a sole trader. On 5 May 2018, she decided to sell the business for $600,000 and made a capital gain of $150,000. Maria Cavella had prior year capital losses of $30,000 in total.

Assuming that all of the conditions of ITAA97 Subdiv 152-A are met, and Maria chooses the CGT discount method for determining capital gains, calculate her net capital gain for the 2017/18 tax year.

Australian Master Tax Guide ¶7-110–¶7-195, ¶11-033, ¶12-005

Australian Taxation Law ¶7-900, ¶7-915, ¶8-400

Foundations of Taxation Law ¶19.2, ¶19.3, ¶19.9, ¶19.10

[¶10-045] Question 45

On 8 October 1988, Rachael White purchased two hectares of land for $280,000 in the Hunter Valley in the New South Wales countryside. On 28 February 2018, she sold one hectare of land for $220,000. (The remaining land was of equal value.)

The legal and other costs associated with the acquisition of the two hectares of land were $12,000, and with the disposal of the one hectare, $2,000.

Compute the capital gain for Rachael arising from the sale of the land for the 2017/18 tax year.

Australian Master Tax Guide ¶11-033, ¶11-038, ¶11-550, ¶11-570, ¶11-610

Australian Taxation Law ¶7-655, ¶7-900, ¶7-915

Foundations of Taxation Law ¶19.8, ¶19.9

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[¶10-046] Question 46

Taken individually, indicate the most applicable CGT event(s) for the following taxpayers for the 2017/18 tax year.

(1) On 1 August 2017, Graham Smith entered into a contract with Stephanie Johnston which gave him the use and enjoyment of Stephanie's holiday house at Port Stephens for a period of nine months in order for him to decide if he wanted to buy the holiday house. Thereafter, on 30 April 2018, a contract was entered into for Graham to buy the holiday house from Stephanie for $500,000.

(2) On 1 September 2017, Newcastle Property Developments Pty Ltd entered into a six-month option contract to purchase a parcel of land from Samantha Cox for $800,000. The cost of the option was $40,000, while the legal expenses and stamp duty associated with writing the option contract was $1,500. On 1 January 2018, Newcastle Property Developments exercised the option to acquire the land from Samantha.

(3) On 31 March 2016, Victoria Ho granted Stephen West a five-year lease on a prime commercial building in North Sydney for a premium of $20,000. The legal and stamp duty costs associated with the lease premium incurred by Victoria were $500. On 1 August 2017, Victoria paid Stephen $4,000 for agreeing to have the lease period reduced to four years.

(4) On 1 May 2018, Jodie McDonald had 'open house' for the sale of her Perth City apartments. Mary Taylor liked that apartment so much that she decided to pay a non-refundable holding deposit of $5,000 on the property. Unfortunately, Mary could not raise the finance to purchase the apartment, and therefore forfeited the $5,000 holding deposit on 1 June 2018.

Australian Master Tax Guide ¶11-260, ¶11-280, ¶11-300, ¶11-320
Australian Taxation Law ¶7-100–¶7-570
Foundations of Taxation Law ¶19.10

[¶10-047] Question 47

On 1 August 2017, Bob Giles sold his newsagency in Townsville for $2,000,000 and returned to live in Magnetic Island, Queensland. He had established the newsagency in July 2008. The agreed values of the assets at the date of transfer were as follows:

	$
Buildings	800,000
Stock	400,000
Fittings	300,000
	$1,500,000

There is a mortgage on the premises of $400,000 and outstanding creditors amount to $40,000. These liabilities were taken over by the purchaser of the newsagency.

Advise Bob Giles of the tax consequences arising from the sale of his newsagency for the 2017/18 tax year.

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Australian Master Tax Guide ¶7-110–¶7-195, ¶12-000, ¶12-005
Australian Taxation Law ¶8-400
Foundations of Taxation Law ¶19.10

[¶10-048] Question 48

Taken one by one, indicate the relevant CGT event(s) for the following situations:

(1) A leases land to B for five years, at a premium of $5,000.

(2) On expiry of the lease, B does not renew the lease of land from A.

(3) Three years after entering into a five-year lease, A pays B $5,000 for agreeing to end the lease.

(4) For $50,000, M signs a contract requiring him to work for his current employer for the next five years.

(5) Company A wishes to use an asset owned by other company B. Company A pays company B $1,500 to consider letting it use the asset. After due consideration, company B declines the offer, but keeps the $1,500.

(6) In June 2018, X grants Y an option to buy her property. In July 2018, Y decided to exercise this option.

Australian Master Tax Guide ¶11-240–¶11-350
Australian Taxation Law ¶7-100–¶7-470
Foundations of Taxation Law ¶19.5, ¶19.6

[¶10-049] Question 49

Because his wife was in poor health, Brian Lester sold his gift shop and family home in Victoria and moved to Northern Queensland on 21 June 2018. Brian had acquired the shop on 10 October 1992 for $450,000. He sold the shop on 20 May 2018 for a net consideration of $840,000. Of this sum, $120,000 was attributed to goodwill. Brian also received a further $70,000 for signing a contract not to open another business within a 10 km radius for the next five years.

Brian also sold his principal place of residence in Victoria. He had acquired the house for $1,140,000 on 19 July 1998. It was sold on 10 June 2018 for $1,980,000. Estate agent's and solicitor's costs associated with the sale were $31,000.

Advise Brian Lester on the tax consequences regarding the above-mentioned transactions for the 2017/18 tax year.

Australian Master Tax Guide ¶7-110–¶7-195, ¶11-033, ¶11-610, ¶11-730, ¶12-005
Australian Taxation Law ¶7-165, ¶7-900, ¶7-915, ¶8-050, ¶8-400–¶8-450
Foundations of Taxation Law ¶19.5, ¶19.6, ¶19.7–¶19.10

[¶10-050] Question 50

Simone Hunter built a factory on 1 July 2015 for $1,200,000. The building was sold on 30 June 2018 for $1,900,000.

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Calculate the cost base and the capital gain (if any) for the disposal of Simone's factory building during the 2017/18 tax year.

Australian Master Tax Guide ¶11-550
Australian Taxation Law ¶7-620, ¶7-635
Foundations of Taxation Law ¶19.7

[¶10-051] Question 51

The following questions all deal with capital gains tax.

Part 1

In terms of the taxation of capital gains, which of the following statements are correct? (Give brief reasons and/or section references to support your answers.)

(a) When disposal of property (CGT event A1) is by gift, the capital proceeds are taken to be nil.

(b) When an asset is sold with capital proceeds received in instalments, the capital gain will be apportioned among the years when the capital proceeds will be received.

(c) Net capital losses are not deductible against any assessable income other than a capital gain.

(d) Non-residents may be liable for capital gains tax when a CGT event happens to 'any' Australian source assets acquired on or after 12 December 2006.

(e) The sale of a motor vehicle may result in a capital gain or a capital loss.

Part 2

John Henderson purchased a holiday home in December 1989. The holiday home was not available for rental, but for private use and enjoyment only. He incurred the following costs between that date and the property's sale in February 2018:

	$
Purchase price	80,000
Solicitor's fees and transfer costs	
— on acquisition	5,000
— on sale	3,000
Repairs	4,000
Cost of erecting carport	2,000
	$94,000

What is John Henderson's cost base for the holiday home for capital gains tax purposes?

Part 3

On 1 December 2016, Jones signs a contract for XYZ Builders to construct a building on land Jones acquired on 1 July 2007. Building did not commence until 15 February 2017 and construction was completed on 20 March 2018.

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For purposes of determining any capital gains tax liability, on what date will Jones be considered to have acquired the building?

Australian Master Tax Guide ¶11-000, ¶11-240, ¶11-380, ¶11-440, ¶11-550, ¶12-725

Australian Taxation Law ¶7-030, ¶7-050, ¶7-550, ¶8-700

Foundations of Taxation Law ¶19.2–¶19.7

[¶10-052] Question 52

Alex McKenzie purchased 500 shares in Allright Ltd on 1 March 1985 for $1,750. On 30 June 2016, Allright offered each shareholder the right to acquire one additional share in the company for each five shares currently held.

On 15 November 2017, Alex exercised her right to acquire new shares in Allright and paid $1 per share for each of her 100 shares. At the time when she exercised this right, the market value of the rights was 40c each and the market value of the shares was $1.50 per share.

On 15 December 2017, Alex sold all her shares in Allright for $1.75 per share.

What are the capital gains tax consequences (if any) of the above events for Alex McKenzie for the 2017/18 tax year?

Australian Master Tax Guide ¶12-610

Australian Taxation Law ¶8-615

Foundations of Taxation Law ¶19.4–¶19.6

[¶10-053] Question 53

In March 2017, Peter Edwards, a physiotherapist, purchased his main residence at 86 Orrong Road, Mount View, for $850,000. Legal and stamp duty costs associated with the purchase were $62,000. The home consisted of eight rooms in total.

In April 2018, Peter spent $120,000 in making part of the residence suitable to carry on his physiotherapy practice. The practice (which occupies two rooms of the house) commenced business in June 2018.

Advise Peter Edwards of the capital gains tax implications of the above transactions for the 2017/18 tax year.

Australian Master Tax Guide ¶11-730–¶11-760

Australian Taxation Law ¶8-050

Foundations of Taxation Law ¶19.5, ¶19.6

[¶10-054] Question 54

Graham Taylor purchased a 50-year-old flat in Adelaide on 15 September 2009 for $350,000 which he subsequently let out to tenants until 15 October 2014. Due to personal circumstances, Graham decided to personally use the flat from 16 October 2014. Graham eventually sold the flat for $510,000 on 15 March 2018.

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Calculate the capital gain (if any) for the disposal of Graham Taylor's flat during the 2017/18 tax year.

Australian Master Tax Guide ¶11-760
Australian Taxation Law ¶8-057
Foundations of Taxation Law ¶19.12

[¶10-055] Question 55

On 1 January 1984, Hi-Tech Ltd purchased a block of land for $2,600,000 on which to erect a factory. After receiving several quotations, Hi-Tech signed a contract on 10 January 1989 with Rapid Builders Ltd to construct the factory.

The factory was constructed and completed in the first quarter of 1989 at a cost of $3,100,000. However, because of financial difficulties, the land and buildings were later sold for $7,700,000 on 30 August 2017. An independent valuation revealed that the land component of this value was $4,200,000 at the time of sale.

Advise Hi-Tech Ltd of the taxation consequences of the above transactions for the 2017/18 tax year.

Australian Master Tax Guide ¶11-000, ¶11-380, ¶11-410
Australian Taxation Law ¶7-540, ¶7-710, ¶7-800–¶7-820, ¶7-900
Foundations of Taxation Law ¶19.2–¶19.4, ¶19.7, ¶19.8

[¶10-056] Question 56

On 1 August 2017 Susan Kelly received $220,000 for entering into an agreement not to work for any competitor of Laser Products for a period of five years. She incurred $1,100 in legal fees relating to this particular agreement. The legal costs incurred by Laser Products in preparing the agreement were $5,500 in total.

Discuss the taxation consequences for both Susan Kelly and Laser Products in relation to this agreement for the 2017/18 tax year.

Australian Master Tax Guide ¶11-240, ¶11-280, ¶11-380
Australian Taxation Law ¶7-150, ¶7-165, ¶7-700
Foundations of Taxation Law ¶19.4, ¶19.5

[¶10-057] Question 57

Company A is the parent company of the BCD Group of companies. Company A holds the trademark for the company group.

On 1 August 2017, Company A entered into an agreement with companies B, C and D that they could use the trademark for a period of two years. Companies B, C and D each agreed to pay Company A $50,000 for this right.

What tax implications could arise from this particular transaction for the 2017/18 tax year?

Australian Master Tax Guide ¶11-240, ¶11-280
Australian Taxation Law ¶7-165, ¶8-320

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Foundations of Taxation Law ¶19.5, ¶19.6, ¶19.15

[¶10-058] Question 58

On a visit to Australia in April 2017, Emilio Gonzalez, who is a Spanish citizen, was attracted to the land surrounding Melbourne. Following correspondence with a real estate agent located in Cranbourne in September 2017, he purchased 100 hectares of land near Cranbourne, and also arranged a share farming agreement with an adjoining property holder to plant a crop which was harvested and sold in March 2018.

However, a family emergency forced Emilio to abandon his plan to migrate permanently to Australia, so he instructed the same real estate agent in Cranbourne to sell the 100 hectares of land. A local property developer was interested in the land, and in May 2018, for $10,000, Emilio granted the property developer a three-month option to purchase the land at a price well in excess of the original acquisition cost.

Identify the extent to which assessable income arises from the above transactions for Emilio Gonzalez for the 2017/18 tax year.

Australian Master Tax Guide ¶11-240, ¶11-280, ¶12-720–¶12-740

Australian Taxation Law ¶3-150, ¶7-170, ¶8-660, ¶8-700

Foundations of Taxation Law ¶9.1, ¶9.4, ¶19.5, ¶19.6, ¶19.8

CATEGORY B: QUESTIONS 59 TO 69

[¶10-059] Question 59

In February 2017, Ezi Haul, an interstate haulage company, purchased a hectare of land in Waverley for $2,800,000 to allow it to construct a warehouse and office complex for its Victorian operations. It was the intention of Ezi Haul to lease half of the office complex and retain the other half for its own personal use.

In October 2017, Ezi Haul entered into negotiations with an insurance company, BMP Ltd, to provide funds for the construction of the building. The initial discussions provided that BMP would acquire half of the land and erect the office building. Half of the building would then be leased back to Ezi Haul for a period of 20 years.

Even though preliminary letters of agreement had been signed, Ezi Haul and BMP were unable to agree on the terms of the lease arrangements. Accordingly, on 15 January 2018, BMP paid Ezi Haul $3,600,000 for the interest in the project and half of the land Ezi Haul had acquired. In return, Ezi Haul agreed not to build an office complex within five kilometres of the site for a period of two years.

Advise Ezi Haul of the tax consequences of the above transaction for the 2017/18 tax year.

Australian Master Tax Guide ¶10-010, ¶10-020, ¶10-110, ¶10-114, ¶10-115, ¶11-240, ¶11-280

Australian Taxation Law ¶6-010, ¶7-030, ¶7-165

Foundations of Taxation Law ¶10.2, ¶10.4, ¶10.6, ¶19.4, ¶19.8

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[¶10-060] Question 60

In 1982, Neil Jones purchased eight hectares of land for a strawberry farm at a cost of $320,000. By 1989 the plantation was well established and producing strawberries of a good quality and deriving reasonable profits. As a result, on 1 October 1989 Neil bought another two hectares of land for $40,000. Costs associated with the purchase included stamp duty $800 and legal fees $1,600.

In 1997, the crop was extremely poor; coupled with this, customs restrictions were altered by the federal government, allowing a greater quantity of strawberries to be imported from New Zealand. These conditions precipitated financial difficulties, so Neil decided to sell the land. Attempts to sell the land as a whole were unsuccessful, although one agent did offer $400,000. Neil therefore decided to sell the land by subdivision.

After re-zoning and gaining council approval in June 1999, Neil spent $160,000 on the subdivision in October and November 1999 and finally sold the land for $700,000 in July 2017 to a local builder. Although the contract of sale was dated 1 July 2017, settlement was not completed until 12 October 2017.

The contract terms provided that half of the purchase money would be payable upon settlement and the balance on 31 March 2018. The outstanding balance would accrue interest at 10% pa. Costs of disposal included agent's commission of $12,000 and legal fees of $2,400.

Advise Neil Jones of the tax implications of the above transaction for the 2017/18 tax year.

Australian Master Tax Guide ¶10-000, ¶10-112, ¶10-120, ¶10-340, ¶11-000, ¶11-030, ¶11-033, ¶11-240, ¶11-250, ¶11-610

Australian Taxation Law ¶6-010, ¶6-410, ¶6-490, ¶7-720, ¶7-800, ¶7-915

Foundations of Taxation Law ¶10.2, ¶10.6, ¶19.4, ¶19.8, ¶19.9

[¶10-061] Question 61

James Graf is a computer technician who is a keen long-term investor in the Australian share market.

As at 30 June 2017, his share investment portfolio consisted of the following shares:

- 10,000 shares in CSR acquired on 1.8.84—cost $50,000
- 2,000 shares in WBC acquired on 1.1.85—cost $8,000
- 2,000 shares in CSR acquired on 1.3.91—cost $5,000
- 500 shares in WBC acquired on 28.6.87, being a fully paid bonus issue of 1:4 on the WBC shares out of capital revaluation reserves, and
- 2,000 shares in CSR based on a 1:6 bonus issue fully paid up out of share premium reserve on 13.5.94.

During the 2017/18 tax year, James *purchased*:

- 1,000 shares in IAG acquired on 3.7.17—cost $3,000, and
- 3,000 shares in QBE acquired on 15.8.17—cost $9,000.

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In the course of the 2017/18 tax year, James *sold*:

- 500 shares in IAG acquired on 1.9.15 for $1,000
- 1,500 shares in CSR acquired on 1.9.15 for $8,000, and
- 500 shares in WBC acquired on 1.9.15 for $4,000.

Notes:

(a) The shares sold in CSR were 500 of the bonus shares and 1,000 of the shares acquired on 1 March 1991.

(b) The shares sold in WBC were the bonus shares.

(c) All the shares have a paid-up value of $1.

(1) Advise James of the dates of acquisition of the bonus shares for CGT purposes.

(2) Calculate the net capital gain (if any) for James Graf in respect of the share sales he made during the 2017/18 tax year.

Australian Master Tax Guide ¶11-000, ¶11-030, ¶11-033, ¶11-240, ¶11-380, ¶11-500, ¶11-550, ¶11-610, ¶12-600

Australian Taxation Law ¶7-440, ¶7-550, ¶7-800, ¶7-915, ¶8-610

Foundations of Taxation Law ¶19.4, ¶19.7, ¶19.9

[¶10-062] Question 62

Barry Sandison is an architect who runs a small consulting architects' business in Brisbane in partnership with Bert Russell. They commenced the business and partnership on 2 January 1995.

During the current tax year, Sandison was advised, because of ill health, to retire from the business and to move to Cairns in Queensland. Thus, on 1 December 2017, he sold his half-share in the partnership for $1,200,000. The cost base of Sandison's interest in the partnership was $800,000.

Under the sale agreement, Sandison also received $50,000 for entering into a restrictive covenant not to conduct an architect's business for two years within 5 km of the practice.

Sandison's family home, which had been built in January 1997 at a cost of $520,000, was subsequently sold for $650,000.

To help finance his move to North Queensland, Sandison also sold a portion of his Australian share portfolio. Details of those shares sold are as follows:

			$
4,000 Actex Ltd	Acquired	1.9.89	64,000
	Sold	14.12.16	84,000
4,000 BTR Ltd	Acquired	1.10.95	32,000
	Sold	14.12.16	16,000

Advise Barry Sandison of the capital gains tax consequences of the above transactions for the 2017/18 tax year.

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Australian Master Tax Guide ¶5-000, ¶11-000, ¶11-033, ¶11-200, ¶11-250, ¶11-280, ¶11-610, ¶11-730

Australian Taxation Law ¶7-165, ¶7-500, ¶7-800, ¶7-915, ¶7-980, ¶8-050, ¶16-090

Foundations of Taxation Law ¶10.4, ¶19.4–¶19.10, ¶23.4

[¶10-063] Question 63

In October 1998, Kim Richardson's grandmother died. From the grandmother's will Kim inherited a total of $600,000 in cash and jewellery. The jewellery had all been acquired by the grandmother before 1985 at a cost of $36,000. Its market value at the date of death was $114,000.

With the money she inherited, Kim Richardson, in November 1998:

	$
Purchased a flat in South Yarra	420,000
Acquired 2,000 shares in BHP for $24 per share	72,000
Purchased a painting	16,500
	$508,500

The following events all occurred during the 2017/18 tax year for Kim:

(1) On 1 August 2017, Kim sold the South Yarra flat, in which she had lived since its acquisition in November 1998, for $600,000, and returned to live with her parents in Malvern.

(2) On 10 August 2017, Kim received from BHP a 1 for 10 bonus issue fully paid up from an untainted share capital account. The market value of the shares was $51 per share.

(3) On 20 August 2017, Kim sold for $120,000 a piece of jewellery she had received on her grandmother's death. Family records showed that the grandmother first acquired the jewellery in 1950 at a cost of $6,000 and that its market value at the date of the grandmother's death was $30,000.

(4) The painting purchased in November 1998 was stolen on 15 September 2017. It was not insured by Kim.

(5) On 18 September 2017, Kim sold all of her BHP shares, including the bonus shares, for $39.75 per share less $0.75 per share brokerage.

Advise Kim Richardson of the CGT implications of the above transactions that occurred during the 2017/18 tax year, and calculate the amount of capital gains to be included in her assessable income for that year.

Australian Master Tax Guide ¶11-000, ¶11-240, ¶11-270, ¶11-390, ¶11-730, ¶12-570, ¶12-580, ¶12-600

Australian Taxation Law ¶7-050, ¶7-525, ¶7-700, ¶8-050, ¶8-500

Foundations of Taxation Law ¶19.2–¶19.7, ¶19.9

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[¶10-064] Question 64

(1) Wally Brown purchased 1,000 shares in Royal Gold Corporation Ltd (RGC) on 15 September 1985 for $5,500. These shares were registered in Wally's name on 22 September 1985 and a share certificate was issued on that date.

(2) Wally later received from an admirer a gift of a further parcel of 2,000 shares in RGC, the donor's executed transfer being delivered on 25 December 1988. Wally, however, did not register the transfer until 30 April 1989, which is also the date of the share certificate. The market value of the shares in December 1988 and April 1989 was $5.50 and $6 respectively.

(3) On 18 September 1989, RGC shareholders became entitled to a 1 for 10 bonus issue from a share premium reserve.

(4) On 26 September 1989, Wally sold 1,200 shares ex bonus for $8.50 each, realising $9,900 (ie $8.25 net of brokerage). The transfer was signed on 26 September 1989 and registered on 3 October 1989.

(5) On 18 December 2016, Wally sold his remaining shares for $10.50 each.

What is the assessable income derived by Wally Brown from the above transactions for the 2017/18 tax year?

Australian Master Tax Guide ¶11-000, ¶11-033, ¶11-250, ¶11-610, ¶12-600
Australian Taxation Law ¶7-300, ¶7-800, ¶7-915, ¶8-610
Foundations of Taxation Law ¶19.3, ¶19.5–¶19.7, ¶19.9

[¶10-065] Question 65

(1) X, Y and Z established the XYZ partnership on 1 July 1993. Their only asset consisted of a regional office complex. Each partner had a 33.3% interest in the partnership property. Each partner made a $500,000 contribution to the partnership. On 3 July 1996, K acquired a 25% interest in the partnership for $1,000,000, so that the XYZK partnership was established.

What is the effect of admitting K as a partner?

(Note: this question assumes no inflation over the relevant period, so indexation of the asset's cost base will not apply, and the CGT discount method does not apply.)

(2) On 25 July 2015, X disposed of his 25% interest in the partnership property. Y, Z and K each acquired a one-twelfth interest in the partnership property for a further $500,000 each.

What is the effect of this transaction?

(Note: assume no inflation over the relevant period, as before.)

(3) On 12 September 2017, Y, Z and K each disposed of a one-twelfth interest in the partnership to T. Hence, T acquired a 25% interest in the partnership property at a cost of $2,100,000.

How much capital gain (if any) was made by each of Y, Z and K?

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(Note: in your calculations assume no inflation over the relevant period, so there is no indexation of the asset's cost base.)

Australian Master Tax Guide ¶5-000, ¶11-200, ¶12-000
Australian Taxation Law ¶7-500, ¶7-940, ¶7-980, ¶16-090, ¶16-400–¶16-440
Foundations of Taxation Law ¶19.10, ¶21.4, ¶21.5

[¶10-066] Question 66

Bill and Ben decided to form a partnership on 11 May 2018 in which, according to the partnership agreement, each will share profits and losses equally.

Bill contributed the business premises freehold, while Ben contributed his clientele and work-in-progress.

Assume that Bill acquired the premises before 20 September 1985 and that Ben commenced business before 20 September 1985.

After the Bill and Ben partnership was established, what capital gains tax implications (if any) would flow from a subsequent disposal by Bill and Ben of their interests in the partnership?

Australian Master Tax Guide ¶5-000, ¶11-033, ¶11-200, ¶11-610, ¶12-000, ¶12-005
Australian Taxation Law ¶7-610, ¶7-915, ¶7-940, ¶16-260, ¶16-400
Foundations of Taxation Law ¶19.4–¶19.6, ¶19.9, ¶19.10, ¶21.4, ¶21.5

[¶10-067] Question 67

David Martin, an executive of the ABC Bank, attended an auction of a house in Camberwell on 3 December 2017. He was so impressed by the house that he bid successfully at the auction and signed a contract to settle the purchase within 60 days. The house cost $900,000.

David immediately placed his only other property and main residence in Burwood on the market. He had acquired this property on 1 March 2007 for $150,000. He was unable to sell the Burwood property until 1 August 2017, when it sold for $650,000. Settlement took place on 1 October 2017.

David took possession of the Camberwell house on 1 February 2018 and immediately moved in and declared this house to be his main residence. However, the ABC Bank posted David to London and he and his family left for the United Kingdom on 30 December 2018, where they were to live in a bank-provided house and pay a small amount of rent.

As the posting to London was for several years, David decided to rent out his Camberwell house until the family came back to Australia.

Upon returning to Australia on 30 December 2022, David finds the Camberwell house insufficient for his family's needs and decides to sell it on 1 February 2023 for $1,800,000.

Assuming there is no change in tax legislation in the ensuing period, advise David Martin of the CGT implications of the above events.

Australian Master Tax Guide ¶11-000, ¶11-033, ¶11-610, ¶11-730–¶11-760

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Australian Taxation Law ¶7-800, ¶7-915, ¶8-050
Foundations of Taxation Law ¶19.5–¶19.7, ¶19.9

[¶10-068] Question 68

On 1 March 1998, Dr Jill Smith purchased a home in Mount Road, Forest Hills, at a cost of $700,000, of which $380,000 was land valuation. At the time one of the attractions of the home was that it was on a large block of land of 8,000 square metres.

Settlement of the home subsequently took place on 1 June 1999. Costs associated with the purchase of the home were as follows:

	$
Legal costs	1,200
Stamp duty	30,000
	$31,200

In May 2001, Jill decided to strata title 2,000 square metres of the land, which was only lawn, for the purpose of constructing two villa units for rental. At the time the land was strata titled in May 2001, an independent valuer deemed the value of all of the land to be $400,000 and the buildings at $300,000. The land occupied by the strata titles was valued at $100,000. Legal and other costs associated with the strata title conversion amounted to $2,200.

Subsequently, in August 2001, two villa units were built on the property, occupying 2,000 square metres of land. The villa units were constructed at a cost of $75,000 each.

The villa units were sold by Jill for $210,000 each on 4 September 2017, with costs associated with the disposal amounting to $2,343.

Advise Jill Smith of the tax consequences of the sale of the villa units for the 2017/18 tax year.

Australian Master Tax Guide ¶11-000, ¶11-033, ¶11-250, ¶11-380, ¶11-410, ¶11-550, ¶11-570, ¶11-610, ¶11-730, ¶12-320
Australian Taxation Law ¶7-800, ¶7-915, ¶8-050, ¶8-230
Foundations of Taxation Law ¶19.5–¶19.7, ¶19.9

[¶10-069] Question 69

On 10 August 2017, Comp-Paq Ltd purchased new office premises in Adelaide, South Australia. Settlement took place on 10 November 2017. The costs incurred in acquiring the premises were as follows:

	$
Land and buildings	4,400,000
Stamp duty	240,000
Legal costs	16,000
	$4,656,000

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Because the building was larger than it currently required, Comp-Paq decided to let part of the premises out to Ezi Haul Ltd, a transport company. The 12-month lease was signed on 20 December 2017 and provided that Ezi Haul would pay an initial lease premium of $40,000 and $32,000 per month rent for the premises on the third floor.

As an incentive to get Ezi Haul to enter into the lease, the company received one month rent free, and partitions which cost $300,000 were provided at no additional charge.

Advise Comp-Paq and Ezi Haul of the tax consequences of the above arrangements for the 2017/18 tax year.

Australian Master Tax Guide ¶10-116, ¶11-280, ¶11-300, ¶11-380, ¶11-500

Australian Taxation Law ¶6-445, ¶6-480, ¶8-650

Foundations of Taxation Law ¶19.5, ¶19.6, ¶19.8

CATEGORY C: QUESTION 70

[¶10-070] Question 70

Bill and Fred Leman had been very successful financially. On the death of their father in June 1990, the brothers had inherited a hotel called 'The Golden Arms' and 50 hectares of land in a prime residential area of the Mornington Peninsula in Victoria.

Their father had built the hotel in 1976 at a total cost of $600,000 (land $375,000 and building $225,000) and paid a further $120,000 for the hotel's licence to sell alcohol. In June 1989, their father increased the size of the hotel by 50% by building a new wing on the eastern end of the hotel at a total cost of $150,000. Two weeks after their father's death, Bill and Fred were offered $1,500,000 for the hotel building (which included the new extension which was valued at $330,000) and $300,000 for the licence to sell alcohol. The brothers declined to sell, although the local estate agent deemed the offer to be a good price as the land alone was valued at $600,000 at the time.

The 50 hectares of land on the Mornington Peninsula was acquired by their father in November 1989 for $1,500,000. He had originally intended to retire to the property and establish a vineyard.

After their father's death, Bill and Fred had structured their affairs so that The Golden Arms Hotel was operated as a partnership, with each brother having a 50% interest in the business. In June 1991, the brothers formed a company (Leman Pty Ltd) which issued both Fred and Bill with 1,500,000 non-redeemable ordinary shares paid up to $1.50 each in consideration for the title to the Mornington Peninsula land, which after their father's death they had jointly owned. At the time of the transfer, the land had a market value of $3,000,000. Fred and Bill were the sole shareholders and directors of Leman Pty Ltd.

After acquiring the land, Leman Pty Ltd proceeded to develop it. The company constructed roads and subdivided the land into 100 half-hectare lots. The cost of the subdivision, incurred in the March quarter of 1992, was $300,000. In the September quarter of 1992, 50 lots were sold to private owners for an average price of $60,000 per lot, while a building construction company paid $75,000 for a 12-month option to acquire the remaining 50 blocks. The building construction company exercised its option in

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September 1993 and paid $3,000,000 for its 50 lots. Legal and other costs in disposing of land averaged $2,100 per lot.

To ensure that only quality houses were constructed on this land, Leman Pty Ltd required each purchaser to sign an agreement which bound the purchaser to ensure that the house constructed would not be two-storey and would be at least 15 squares in area. The agreement required each purchaser to pay $75,000 to Leman Pty Ltd if the agreement was breached.

In July 2017, Fred's marriage of 20 years ended when his wife filed for divorce. The divorce cost Fred $1,700,000 in an out-of-court settlement. In order to raise these funds, Fred had to dispose of several of his assets.

First, in August 2017, Fred disposed of half his 50% share in The Golden Arms Hotel for $1,200,000. Under the terms of his disposal, the incoming partner (Mary Brown) paid Fred $1,200,000 and in return acquired a 25% interest in the business (half of Fred's 50% interest in the partnership). The purchase agreement contained the following information:

	$
Business land and buildings	650,000
Goodwill	350,000*
Fixtures and fittings	105,000
Trading stock	95,000
	$1,200,000

*The value of the goodwill was determined as 70% site goodwill (licence to sell alcohol) and 30% personal goodwill.

Second, in December 2017, Fred disposed of his collection of Australian wildlife paintings. The collection was valued at $350,000 if sold at auction, but as Fred wished to keep the collection in the family, he sold it to his brother Bill for $310,000. Fred had purchased the collection in March 1995 for $120,000.

Discuss the tax implications for Fred Leman, Bill Leman, and Leman Pty Ltd that resulted from each of the above events. In each case you must identify the statutory provisions involved and any relevant case law. Where appropriate, calculations should be provided to support the conclusions from your analysis. Where more than one outcome is possible, state what assumptions you have made and what further information you would require in order to come to a sound conclusion.

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