

# Advanced Income Tax Law

## Chapter 1

### Income of Minors

#### Overview

Minors are persons under 18 years of age at the end of the income year.

Special rules apply to the taxation for income of some minors. These rules are primarily, but not exclusively, designed to discourage the diversion of income by adults to their children by income splitting.



#### Prescribed Minors

A person coming under Division 6AA is called a prescribed person.

s.102AC(1) ITAA36 defines a prescribed person as "any person under 18 at the end of the year of income who is not an *excepted person*."

#### Excepted Minors

s.102AC(2) ITAA36 defines an excepted person as:

- a person who is classified as being in a "full-time occupation."
- Engaged in a full-time occupation on the last day of the year of income, or
- engaged in full-time employment for at least three months of the income year and were not in full time education later in that year.

#### Excepted Minors

s.102AC(2) ITAA36 defines an excepted person as:

- Entitled to a disability support person or rehabilitation allowance, or someone was entitled to a carer allowance to care for them.
- Entitled to a double orphan person and received little or no financial support from relatives.
- Unable to work full-time because of a permanent mental or physical disability and received little or no financial support from relatives.
- Permanently blind.

## Excepted Minors

An excepted minor also includes a minor who was:

- intending to work full-time for most or all of the income year,
- or
- who was not intending to study full-time during the income year.

## Tax Implications

### Excepted minors

Taxed at ordinary marginal tax rates

### Prescribed minors

Taxed at Division 6AA penalty rates of tax, *unless* income is *excepted assessable income* which is taxed at ordinary marginal tax rates

## Assessable Income

**Eligible assessable income** of a minor includes unearned income:

Dividends, interest, rent, royalties and other types of income from property such as a family trust distributions.

**The Division 6AA tax rates apply to unearned income.**

## Assessable Income

**Excepted assessable income** of a minor includes:

- employment income such as wages, salaries, payments made for services rendered.



- business income (provided the minor has real and effective control over their share of the business income).

## Assessable Income

**Excepted assessable income** of a minor includes:

- assessable pensions and payments from Centrelink or the Dep't of Veteran's Affairs.
- income derived from the investment of: compensatory damages awards, superannuation fund payments, property transferred to the minor as the result of a family breakdown, lottery winnings, income from reinvestment of excluded income.
- excepted trust income .  
(i.e. income from a deceased trust estate).

## Taxation of Eligible and Excepted Assessable Income

The income of a prescribed person is assessed as follows:

If the minor	Then
only has excepted assessable income (e.g. part-time employment income)	their excepted taxable income is taxed at ordinary marginal tax rates.
has some excepted assessable income (e.g. part-time employment income), and eligible assessable income (e.g. a family trust distribution)	<ul style="list-style-type: none"> <li>• their excepted taxable income is taxed at ordinary marginal tax rates, and,</li> <li>• their eligible taxable income is taxed at the Division 6AA tax rates.</li> </ul>
only has eligible assessable income (e.g. a family trust distribution)	their eligible taxable income is taxed at the Division 6AA tax rates.

### Division 6AA Tax Rates

Taxable income	Tax Rate
\$ 0 to 416	Nil
\$ 417 to 1,307	66% on excess over \$416
\$ 1,308 +	45% flat on whole of taxable income

### Low Income Tax Offset and Minors

Since 1 July 2011 the low income tax offset has been unavailable to the unearned income of minors, effectively reducing the tax-free amount that can be distributed to them to \$416.

Income earned by minors from employment such as wages or salary is still eligible for the full benefit of the LITO.