Short note for your consideration regarding 'deductions'

Although the following two measures do not come within the meaning of 'income tax principles' and as such were not covered in the lectures (though they were in the readings) - as course convenors we thought we would make sure they were brought to your attention.

They are both fairly crude revenue protection measures. In part their existence highlights some of the difficulties the Tax Office has in administering the main deduction provision (s8-1) in certain practical contexts, and especially in a self-assessment environment where relevant evidence may be hard to obtain.

The first measure – dealing with non-commercial losses – broadly speaking seeks to restrain the claiming of 'business' losses as immediate deductions in circumstances where it is unclear whether a 'genuine' business is being undertaken. Such a business is often loss-making in its early stages. But it may be hard to determine whether it is really a genuine commercial venture at all, or is directed by private or hobby related motives, with no real prospect of becoming profitable in the long run.

You can read about the non-commercial losses provisions in *Cooper* at [8.230] and [10.290] and in *Kobetsky* at[*9.630*]

The second measure – the denial of non-business expenses in relation to vacant land (see s26-102 ITAA 1997)– broadly seeks to rein in the sort of deduction found allowable in *Steele* – that is, an individual taxpayer owns vacant land acquired with borrowed funds and has arguably commenced an income generating arrangement, albeit with a substantial lead time and with contingencies such that actual income will not be earned for several years, if at all. What the provision does is essentially to deny revenue deductions to an individual unless a business has commenced – in effect, it is a denial of what was found in *Steele* to be a legitimate basis for deduction under the first limb of s8-1.

You can read further about this in *Cooper* at [9.360] and [10.505].