**GROUP ASSIGNMENT CASE STUDY AND QUESTIONS**

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# Question 3

## Calculation of Taxable income and the Taxability

In this section, the taxable income of Brent Wilson would be determined based on the scenario where he had a residential property that he purchased in the year 2000. In the year 2015, he used some part of it for the private consultation. The part used for the private consultation measure 10 square meters out of the total 200 square meters. The relation to the house acquired, he paid an amount of $ 400,000 as cost, $ 20,000 as stamp duty and $ 8,000 as conveyance. In the 2019, he sold the house for an amount of $ 1,000,000.

In this context, Brent used part of this full residence as private consultation. Here since the dwelling was used for generating the assessable income, the assessable income was calculated on the pro-rata basis. The rest part of the building, which was not used for consultation purpose, was also in the consideration of calculating the assessable income. As per the first solution, the capital gains was calculated by deducting the cost of the building that amounted to $ 400,000 from the sale price of $ 1,000,000 along with the conveyance fees and the stamp duty amounting a total of $ 28,000. The capital gains were amounted to $ 572,000. As done in the second solution, there was imposed a CGT discount of 50% on the capital gain that was derived as per sec s 115-5 and section s 125-25 of ITAA 9797. After levying the CGT discount of 50%, the net capital gain that was derived was mounted to $ 286,000. After that, the taxable portion of thus income that arrived out of the capital gain was amounted to $ 2,934.1312. Here, the taxable income concerning the capital gain was calculated by multiplying the capital with the percentage of the residence that was used for the private consultation and the percentage of the ownership period for which the part was not used as a residence[[1]](#footnote-0).

Coming to the second solution, there was determined whether Brent can claim for any deduction for the legal fees of $ 25,000 that he paid for his defense in regards to the lawsuit of the medical negligence. In this context, the legal fees were proved to be excluded from the negative limbs under section ***s 8-1 ITAA9***7 since as per the section the legal fees are considered deductible[[2]](#footnote-1). At the same time the positive limbs as stated in the second question was satisfied as per the section s8-1 ITAA97. In this context, it was determined that the legal fees that were paid were not incurred for generating any exemption in assessing the total as well as taxable income[[3]](#footnote-2). Therefore, the fees were qualified under the ITAA act, 1997. Now since the negative limbs were not satisfied under ***section 8-1(2) (d) & (c) ITAA97.*** Brent asked for claim for the legal fees that was not for the purpose of any new benefits or rights. Therefore, as per the solution done as per the legal fees, the fees were considered revenue and were considered to be deducted under the section s8-1 of ITAA 1997.

Now, for the computation of the taxable income, the total income of the assessee is computed. In this regard, the income from the five heads of income such as the income from the gains and profits from the profession and business, income from the house property, income from the capital gains, from the other sources and the salaries [[4]](#footnote-3). In this case, in calculation of the total income, the income from the capital gains was only taken into consideration. The income of the capital gain was $ 2,934.1312. After that, the clubbing provisions or any kind of set off is adjusted. The set off for any amount for the loss or gain out of the capital gain from the previous year needs to be adjusted. The clubbing provision refers to the fact when an assessee distributes his taxable income to the other nominees who are in lower tax brackets or not in any tax liability. Thus an assessee can evade tax by diverting his income[[5]](#footnote-4). Whereas in defending the practice, the ITAA act, 1997 has come up with the guidelines of preventing the evasion of the income tax.

As per the case in Australia, the ***“Batey v Whitfield”[[6]](#footnote-5),*** a taxpayer had the ownership of a house measuring 1.1 acres of land. During a certain period, he decided to make a bigger property, which was treated as the private residence. Thus, the bungalow was separate from the main residence [[7]](#footnote-6).Now the assessee decided to have the ownership of the property again eliminating the service of the caretaker and in this context decided to sell the bungalow and the associated part of land. The taxpayer here appealed in the court while going through the dealing that the disposal of the bungalow and the part was subjected to the emption during the assessment of the CGT as per ***CA 1981, 55 TC 550; [1981] STC 521; [1982] 1 All ER 61.***

Similarly, in this case, the assessee Mr.Brent had a capital gain of $ $ 2,934.1312 that is the net taxable income. On the other hand, the legal fees that he paid for the defense in the lawsuit were exempted as deduction under the ***s8-1 of ITAA 1997***. Therefore, the tax liability on his taxable income of $ 2,934.1312 would be taken into consideration.

1. [↑](#footnote-ref-0)
2. [↑](#footnote-ref-1)
3. [↑](#footnote-ref-2)
4. [↑](#footnote-ref-3)
5. [↑](#footnote-ref-4)
6. [↑](#footnote-ref-5)
7. [↑](#footnote-ref-6)