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Law303 Taxation Law

Student’s Name

Institution

Course Code

Date

**Introduction**

Taxation and taxes continued to be an important component of revenue for most governments. In Australia, taxation is a major source of revenue for federal government. According to Tylor (2015), there are several laws, policies and regulations enacted to provide the guidance needed to be followed by every residents of Australia. The design and structure method of collection of taxes are essential for any nation. The Australia laws of taxations, which provide guidance in the way all taxes are supposed to be submitted are differ and it is based on the kind of income and whether an individual is a resident in Australia or not and the kind of business one practice. In the case study, Carla is a resident of Australia since she practice law and consultancy services in Australia and spend most of her time in Australia. The tax law covers corporate, income exercise, luxury and estate taxes. Therefore, Carla will be subjected to capital gain tax (CGT), Good Service Tax (GST), Fringe Benefit Tax (FBT), Medicare levy and income tax for both personal and business taxation and tax payable to the federal government of Australia.

**Goods and services tax (GST)**

The good and services tax (GST) is the tax submitted by business, if the revenue of a company is greater than $75,000. As stated by Warner, Pengilley, & Glass (2010, p. 12) GST is paid by all companies in Australia and if a company fails to make a revenue of more than $75,000, it would be required of the company not to submit and apply for an exception for that particular year. Carla practices law through her law in Australia and therefore, her company must have been registered for GST. In the case, it is pointed that she makes a revenue of $80,000 from her law her and does not have any employee. This means that Carla’s law firm is subjected to GST, which is supposed to pay annually. It is important to point that good service tax is payable by companies. It is different from income tax which is supposed to be paid by an individual based on the incomes earned from different works done within Australia and when living in Australia.

**Capital gains tax**

Capital gains tax is described as any gains from the sales of property or shares in the stock market. If a business has made loses from capital gain then, it is required for a business to account for those losses in the return. In this case, it is pointed that Carla sold her shares from Australia bank at a rate of $1000 per share. According to capital gains tax, this sale of share will be subjected to 47% of the net gains. It means that her earning from the sale of shares approximated to be $2,000,000 would be subjected to 47% (Hall and Willcock Advocate, 2017, p. 14).

**Income tax**

Income tax is paid based on income made by the business. It is an important type of taxation for Australia government. The income taxation to individual is done or calculated progressively. The income taxation is calculated at the rate from 0% to 45% of an individual income from business income. Carla will also be expected to pay even Medicare levy of 2%. The company tax rate is 30% of the income generated by the company, and non individual nonresident tax is depends on the income of an individual. The taxable income tax of Australia required that any income ranges from $1 – $90,000 is taxed at the rate of 32.5%, $92,001 - $180,000 is subjected to a tax rate of 32.5 to 34.8% and $180,001 and over is subjected to an income tax rate of 34.8 to less than 45% (Warner, Pengilley, & Glass, 2010, p. 23).

Carla total income will be tabulated based on all her incomes from the organizations she worked for within Australia. Carla law firm obtains revenue of $80,000 income per years; she does not have any employees in her law firm and does live in Auckland, New Zealand. Carla also makes $80,000 as a consultant Australian law firm (Law Firm X or LFX). Carla’s annual total income is therefore, estimated to be above $180,000. In this case, she will be expected to pay income tax of 45% of the total income, for all the revenue she earned as a resident of Australia. However, the consultancy income of $80,000 from Law Firm X or LFX will not be subjected to income tax. It is pointed that Carla works for Law Firm X as a consultant and stays in Auckland New Zealand during the time. The fact that she stays in Auckland New Zealand does not make liable to pay income tax under Australia tax income law. She is considered domicile because it was listed that her permanent address was in New Zealand. This could be illustrated further based on the ruling of judges on three cases FCT v Applegate, where the judges ruled that only people whose permanent address is registered in Australia should be pay income tax[[1]](#footnote-2). This is because during her period as a resident of New Auckland New Zealand, she was registered for Medical services in Australia and she still had an address in Australia.

It is also noted that she was still working for a company in Australia as a consultant earning income. According to the case FCT v Applegate, it was pointed that there is an exception where there is a place of abode outside Australia. Under the income tax assessment Act of 1932 – 1972 a person is also considered to as result of Australia only when he or she has been living in Australia for the last 6 months before (Australia taxation office, 2014, p. 21). Therefore, it is evident that Carla was not a registered resident of Australian by the time she was working for a consultant firm and therefore, the income she made during that period would not be subjected to income tax as illustrated by the income tax law. It was stated that the use of the permanent is everlasting and therefore, it should be a period of not less than six months for a person to be considered permanent resident to be able to pay income tax as required by the Australia income tax law. However, the rest of her income she earned as a resident of Australia will be subjected to income tax rate of 45%.

**Fringe Benefit Tax (FBT)**

Fringe Benefit Tax (FBT) is regarded as tax extended to every employee and it is taxable at the rate of 30%. It is calculated separately from PAYE. Tylor (2015, p. 21) pointed out that Fringe Benefit Tax are bonuses, vacation expenses, amount paid to employees for relocation and employee provided vehicle and group term life insurance. Carla is provided with a car valued at $25,000, which she uses for both private and business reasons. It is pointed that Carla works for governmental law reform advocacy, which is an organization, a NSW state-sponsored organization (Law Reform Organization or LRO) (Businessgove.au, 2019). The LRO provided Carla with a phone, a laptop and a car, which she is supposed to use to serve the organization. Carla does not use laptop and phone for private and only use the car for private and to serve LRO, therefore, the car valued at %25,000 would be subjected to Fringe benefit tax. In this case, Carla would be deducted 30% from her salaries paid by LRO. LFX provides a laptop and phone to Carla for both private and business usage, therefore, the phone and laptop is subjected to Fringe Benefit Tax (FBT) (Alley & Bentley, 2014, p. 21). In short, Carla income paid by LFX will be subjected to 30% FBT tax because she uses laptop and phone given by the company for her personal benefit not for the company alone.

In brief, Carla will have to pay income tax, Medicare Levy and Medicare Levy Surcharge, Fringe Benefits Tax (FBT), and Consumption taxes. The Medicare levy payable by Carla will be the 2% of the total income earned for her work in Australia. She is also indicated that she works in Australia and therefore, she is required by the law to pay Medicare levy of 1%. However, Carla will not be expected to pay as you go (PAYG) tax because the company does not have any employee in Australia.

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