TAXATION LAW

Question 1:

Skeleton of the Case:

Eric has few collectables and assets and he has sold them at different prices irrespective of the original prices. The current case is to calculate the net gain or net loss.

Regulations under the issue:

- *Income Tax Assessment Act 1997 – Section 108/10*
- *Income Tax Assessment Act 1997 – Section 108/20*

Application to the Case: According to the Federal Register of Legislation, with regards to Eric's Case study, for calculating the net capital gain or net capital loss from the collectables he sold, Income Tax Assessment Act 1997 – Section 108-10 and 108-20 should be considered which provides the detailed regulations regarding the losses from collectables and assets.

According to the ITA Act section 108-10/20, Antique Vase and Chair are considered as Collectives and Shares and Home sound system is considered as personal value assets.

Eric sold his home sound system (A personal Asset) for $11,000 with a loss of $1000 will not be considered as a set off based on the section 108-20 ITA Act 1997. Under this law, losses from any sort of personal assets cannot be disposed for any parties considered. According to the given case, Eric has obtained a considerable amount of profit $15000 from selling his shares worth $5000 for an amount of $20000.

This clearly shows that Eric has earned a significant amount of profit from selling his assets and because of the losses from selling the collectables cannot be considered. This is also inevitable from the analysis of his selling collectives and assets in the table

Computation of net capital loss for the year	
Particulars	Amount ($)
Loss on sale of Antique Chair	$2,000
Loss on sale of Painting	$8,000
Less: Gain on sale of Antique Vase	$1,000
Total Collectable loss to be carried forward	$9,000

Asset Description	Cost Base	Capital Proceeds	Capital gains	Capital loss
Antique Vase	$2,000	$3,000	$1,000	
Antique Chair	$3,000	$1,000		$2,000
Painting	$9,000	$1,000		$8,000
Home Sound System	$12,000	$11,000		$1,000
Shares in listed company	$5,000	$20,000	$15,000	

Computation of Net capital gains for the year	
Particulars	Amount ($)
Gains on sale of shares	$15,000

Question 2:

Skeleton of the Case:

Being a Bank executive, Brian had a loan from his employer worth $1 Million with a special interest of 1% per Annum. He has used 40% of the loan amount for business purpose.

Regulations under this Case:

- *Taxation Rule TR 93/6*

Application to the case: Case Study of Brian Issue The main issue highlighted in this case us with regards ascertainment of FBT comes under “Taxation Ruling of TR 93/6” which is also referred as interest offset arrangements.

According to the Legal Database, as per the regulations provided in “Taxation Ruling - TR 93/6”, the application of the given case can be evaluated with the help of computation of FBT

Taxable value of the loan fringe benefit		
In the books of Brian for the year ended 2016/17		
Computation under statutory interest rate and actual Interest rate		
	Statutory rate	Actual rate
Particulars	Amount ($)	Amount ($)
Amount of Loan	1000000	1000000
FBT Amount 40% business use	400000	400000
Statutory Interest rate @ 5.65%	2825.00	500.00
(Amount of loan x Statutory interest rate) - (Amount of loan x Actual interest rate) / 12 x 60% business use		
Taxable value of the loan fringe benefit	2325	
FBT on end of the loan on payment of interest at the end of loan		
	Statutory rate	Actual rate
Particulars	Amount ($)	Amount ($)
Amount of Loan	1000000	1000000
FBT Amount 40% business use	400000	400000
Statutory Interest rate @ 5.65%	33900.00	6000.00
(Amount of loan x Statutory interest rate) - (Amount of loan x Actual interest rate) x 60% business use		
Taxable value of the loan fringe benefit	27900	

The calculations for the tax exempt benefit of the taxable value of the loan amount of 1 million dollars for Brian from his employer is nearly $27,900. According to the 93/6 act, many financial organizations are ready to offer loan offset accounts. Due to this reason, are not at all liable to pay income tax from the profits earned from their account. Paul Kenny (2013) From the above tax ruling, it can be deduced that if the concerned bank disagrees to refund interest on loan to Brian, then he will not liable to pay any amount of income tax.

By going through the discussions, it is noticed that Brian is not liable to pay any kind of income tax if the bank does not refund his interest paid for the loan.

Question 3:

Skeleton of the Case:

Jack and Jill owns a joint rental property with difference in shares when comes to profit and loss. The current case deals with tax amount in case of loss incurred and the share in the capital loss or gain when they intend to sell the property.

Regulations Considered:

- *Federal Commissioner of Taxation v. McDonald*
- *TR 93/32 – Rental Property Income Tax*

Application to the case: Going through the case study, the joint venture (Rental Property), Jack has 10% of share in profits whereas Jill has 90% share. The legal agreement made among themselves entitles complete loss for Jack itself. This entire case entitles the settlement of amount lost from the rental property owned by both Jill and Jack.

N.Saad (2014) Application to the case As per the "Taxation rulings of TR 93/32", co-ownership in any kind of rental property can be considered as an ordinary partnership. This is also for the purpose of paying appropriate income tax. This is applicable for any kind of individual parties. In the given case study, Jack and Jill has a rental property, under their co-ownership which is also mainly for taxable purposes and cannot be considered as partnership under general law. However, since they are co-owners for the given property, then they are bound to share the profit and losses which are arisen from their given rental property.

According to the act specified, the tax payer and his wife jointly owned two state units. The rate of percentage of profit and losses was pre-determined by both the parties. Similarly, in this case, since it is not pre-determined, therefore, the losses will be divided equally.

Nguyen and Rahman (2015) As the joint ownership is different from partnership business, any loss incurred from the property has to be divided equally among them for any capital loss or gain.

Question 4:

Skeleton of the Case:

For maintain the Financial budget of any country, the Government raised the most of the revenue from the taxes from the public bodies residing within the country. Among them, Income tax is one of the major categories which is being charged for the earnings from different sources. It is the duty of the tax payer to support the revenue system and to pay the taxes accordingly. But only few among them with greed is making them to avoid in paying the taxes. Such cases were reported and one among them was the IRC Vs. Duke of Westminster.

Duke Westminster's case refers to an issue related to the tax avoidance. Jennifer Adams (2011) Duke of Westminster hired a gardener and agreed to pay his wage on weekly basis. But later he had an agreement to pay the equivalent amount for exemption in paying the tax. Here the gardener will not any money but the government will lose the tax money that should be paid by Duke. Such persons are ordered to pay more tax than usual. Prateek Andharia (2011) The principle of duke of Westminster is referred as Tax evasion or avoidance.

This case depicts one principle that each tax payer is allowed to order all his/her affairs. However, this ruling cannot be considered that useful in case of complex tax structures under the law. According to this case, duke was not paying on weekly basis or a monthly basis the gardener as part of employment contract. So it is clearly indicating no consideration on basis of contract. He had a deed of promise, and if it all duke pays them on an annual basis, the payment will be tax deductible and Duke can claim the tax for that specific year. This suggests that Tax avoidance can be considered if at all abiding the statute law.

"WT Ramsay v. IRC principle" can be considered as more restrictive in comparison to the previous case discuss above. This principle reflects that if an individual is successful in the given result, then he is not bound to pay any increased amount of tax and it also allows individuals as well as corporates to restructure all their agreements in order to meet their respective objectives of lowering down the taxable amount.

Question 5:

Skeleton of the case: Bill owns many pine trees in his large land. He wants to graze sheep and intended to clear the area. But later finds a logging company who are ready to pay $1000 for 100 mts of timber. According to Legal database, the current case can be coined under the ITA Act 1936 which includes forest operations like planting, felling of trees, transportation etc. that were defined under subsection 6(1).

The taxation 95/6 rule clearly provides the information regarding the taxation for the income that was earned by the primary or main activities of production. The 95/6 rules depict that there is some limit in receipts that are derived from the timber business. Even though Bill is not the owner of land neither planted the trees in his land, the whole amount that constitutes from the sale of timber business is his assessable income. So, under the ITA Act 1936 and subsection 6(1), tax payer in the same year of carrying out the forest operations as part of his/her business will constitute the income as assessable property. Hence the sale of timber trees can be considered as assessable income of Bill (Tax payer). According to Australian Tax Casebook, On the contrary, if Bill pays an amount of $50,000, then the receipts can be considered as Royalties, as per section 26 (f). The total amount earned by Bill as royalty is his assessable income.

Bill, the tax payer has to pay the tax for the amount earned through the timber business as it is considered as taxable income under ITA Act 1993.

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APPENDICES

Appendix 1: Question 1

Asset/Collectable	Cost of the product	Sold for	Gain	Loss
Antique Vase	$2K	$3K	$1K	
Antique Chair	$3K	$1K		$2K
Painting	$9K	$1K		$8K
Shares	$5K	$20K	$15K	
Home Sound System	$12K	$11K		$1K
Computing the net loss occurred for Eric for the year				

For Antique Vase	$2K			
For Antique Chair	$8K			
Painting	$1K			
Total Loss Incurred	$9K			
Computing Net Profit Eric has seen				
For Home Sound System	$1K			
For Shares	$15K			
Total Profit	$16K			

APPENDIX 2: Question 2

Calculating the taxable amount for the extra benefit on Brian's Loan

Computing Actual & Statutory Interest rate on Loan		
	Actuals	Projection of Statutory
Loan Amount	$ 1 Million	$1 Million
Funds used for Business	$400K	$400K
5.65% Interest rate	$2.825K	$0.5K

Taxable Amount = (Loan Amount * Interest (Statutory) – (Loan Amount * Interest (Actual) 60% of Amount used for business * 12		
Extra Benefit tax amount	$2.325K	
Calculation of interest by the end of the loan		
Loan Amount	$1 Million	$1 Million
Amount used for Business	$400K	$400K
Total Interest Rate	$33.9K	$6K
Amount of Tax for extra loan benefit	$27.9K ($27,900)	