Allowable deductions for individuals

MODULE 4 | 4.6 | STUDENT COMPANION

An employee can deduct only under the first limb of section 8-1, while a contractor carrying on a business can also use the second limb, so classification comes first. Beyond work expenses, individuals commonly deduct negatively geared investment losses, income protection premiums they pay themselves, and personal superannuation contributions up to the $30,000 cap.

Employee or contractor - and why it matters

Two limbs. Section 8-1 ITAA97 allows a loss or outgoing incurred in gaining or producing assessable income (first limb), or necessarily incurred in carrying on a business for that purpose (second limb). Capital, private and domestic outgoings are excluded either way. An employee is not carrying on a business, so only the first limb is available. Classification also decides PAYG withholding and superannuation obligations for the payer.

The tests. An employee works under a contract of service (providing labour); a contractor under a contract for services (producing a result). Courts used the control and integration tests, but control is only one factor (Stevens v Brodribb Sawmilling): weigh the whole relationship - pay, equipment, hours and holidays, delegation.

The contract comes first. Following Personnel Contracting and ZG Operations (High Court, 2022), where the terms are comprehensively in a written contract that is not a sham and has not been varied, the legal rights and obligations in that contract decide the question. Conduct is relevant only to establish the terms, a variation or a sham. TR 2023/4: no single indicator is decisive, and an ABN, a business of one's own or a tax invoice does not automatically make someone a contractor.

Decided examples. Employees: Weight Watchers lecturers (Narich), survey interviewers (Roy Morgan), a Foodora delivery rider, a labour-hire construction worker (Personnel Contracting). Contractors: home sewing outworkers (Filsel v Top Notch), cosmetics consultants (Mary Kay), booksellers (World Book), Uber drivers (Kaseris), Deliveroo riders (Franco).

Illustration. Two workers at Curlew Point Boatyard both have ABNs and contracts headed "independent contractor". Quinlan Pruett (hourly rate, yard's roster and equipment, cannot send a substitute) is an employee. Yvette Stannard (fixed price, own tools, may use her own staff, fixes faults at her cost) is a contractor.

Employee or independent contractor?

	EMPLOYEE contract of service	INDEPENDENT CONTRACTOR contract for services
The contract	Provides their labour so the employer can achieve a result.	Contracts to produce the result itself.
Whose business	Serves in the payer's business.	Runs a business of their own.
Control	Payer has the right to direct how, when and where the work is done.	Worker decides how the work is done.
Delegation	Must do the work personally.	Free to subcontract or use their own staff.
Payment	Paid for time worked.	Paid a price for the job.
Tools and risk	Payer's equipment; payer bears the risk.	Own tools; fixes defects at own cost.
Section 8-1 deductions	First limb only - outgoings incurred in gaining or producing assessable income.	Both limbs - including outgoings necessarily incurred in carrying on a business.

Employment-related expenses

Entertainment and ordinary clothing are generally not deductible; a compulsory uniform or protective clothing is. Car expenses are deductible to the extent of employment use, subject to substantiation (home-to-work travel is private). Self-education is deductible where it relates to the current job, not a new one.

Entertainment	Occupational clothing	Car expenses	Self-education
General rule Generally NO.	**General rule** Generally NO - ordinary clothing is private, even to meet a dress code.	**General rule** YES, to the extent the car is used for employment purposes.	**General rule** YES, if it maintains or improves skills used in your current job.
Exception Entertainment incurred in providing a fringe benefit (and other limited exceptions).	**Exception** A compulsory uniform, or protective clothing such as steel-capped boots.	**Watch** Strict substantiation rules; home-to-work travel does not count.	**Exception** NO if it is aimed at getting a new job.

Module 2 covers each of these in detail - use this as your checklist.

Negative gearing

Borrowing to buy an income-producing investment (usually a rental property or shares) where interest and other costs exceed the income. The net loss is deducted against other income such as salary, often producing a refund. The saving is only the loss x (marginal rate + Medicare levy).

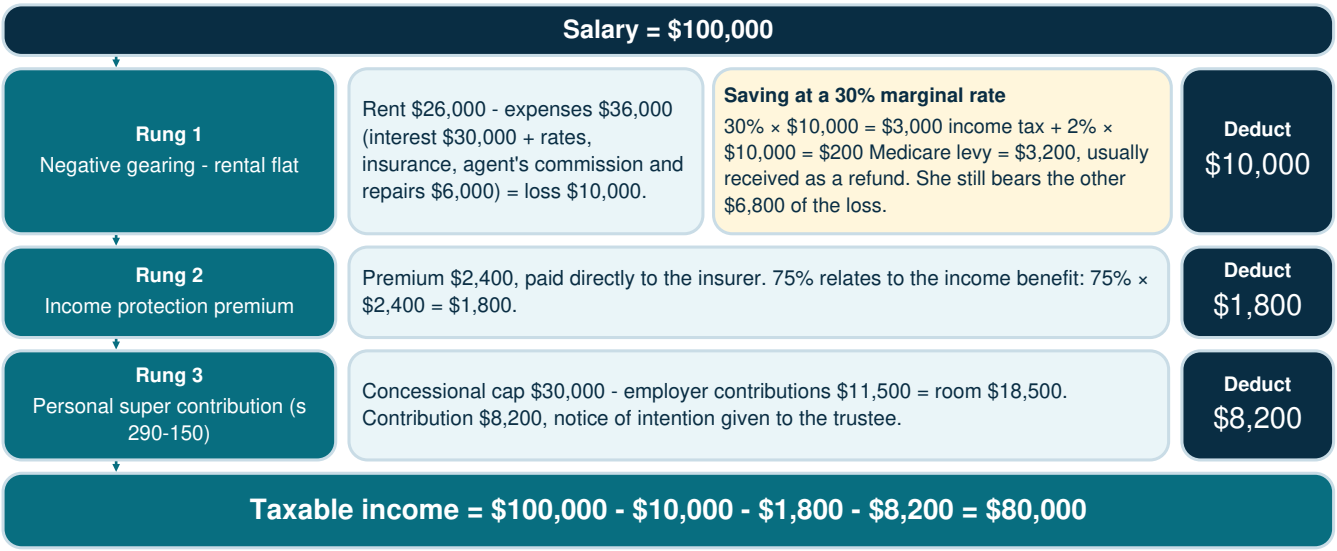
Income protection insurance

- Deductible because the benefit replaces assessable income (replacement principle, FCT v DP Smith).
- You must pay the premium directly; no deduction if it comes out of employer super contributions.
- Mixed policy: deduct only the part for the income benefit.
- Life, trauma and critical care premiums: not deductible.

Personal superannuation contributions

Most individuals (employees and the self-employed) can deduct a direct contribution under s 290-150, if they give the trustee a notice of intention to claim. Employer contributions count towards the $30,000 cap.

From salary to taxable income



Key figures for 2024-25

Item	Figure
Concessional contributions cap	$30,000 (employer contributions count towards it)
Superannuation guarantee rate (used in the questions)	11.5% of ordinary time earnings
Car expenses - cents per kilometre method	88 cents per km, up to 5,000 business km
Medicare levy	2%
Marginal rate, taxable income $45,001 to $135,000	30% (tax = $4,288 + 30% of the excess over $45,000)

Practice questions

MODULE 4 | 4.6 | TRY THESE BEFORE THE WORKED ANSWERS

Question 1 - Pardalote Hollow

Rosalba Haverford teaches horse riding at Pardalote Hollow Equestrian Centre. She has an ABN and invoices the centre every fortnight. Her written contract sets out all the terms of the engagement; neither party says it is a sham, and it has not been varied. Its terms are:

Clause	Term
1	The agreement is headed "Independent Contractor Agreement".
2	Rosalba is paid $48 for each hour of lessons she teaches.
3	The centre sets her weekly timetable and allocates her students.
4	The centre supplies the horses, saddlery, arena and riders' helmets.
5	Rosalba must teach every lesson personally and may not send a substitute.
6	She must follow the centre's lesson plans and safety manual, and wear the centre's branded shirt.
7	The centre refunds unhappy customers and holds the public liability insurance.
8	Either party may end the engagement on two weeks' notice.

(a) Is Rosalba an employee or an independent contractor of the centre? Give your reasons.

(b) What does your answer mean for her deductions, and for the centre?

Question 2 - Alaric's claims

Alaric Truscott is employed as a lift technician by Tarrawong Lifts Pty Ltd. During the 2024-25 income year he paid for the items below. Alaric keeps all the records he needs, and his employer reimbursed none of these amounts. For each item, state whether it is deductible and how much, then total his deductions.

Item	Detail	Amount	Deductible? How much?
1	Steel-capped boots for working in lift shafts	$260	
2	Compulsory uniform shirts bearing his employer's logo	$150	
3	Plain black trousers from a department store, worn with the uniform	$90	
4	Driving his own car 3,000 km between lift sites during the working day (cents per kilometre method)	3,000 km	
5	Driving his own car 4,200 km between his home and the depot	4,200 km	
6	Short course on a new lift control system he services in his current job	$600	
7	Evening course in real estate sales, as he plans a career change	$400	
8	Income protection premium, paid directly to the insurer (income benefit only)	$1,500	
9	Life insurance premium	$900	
10	His share of the team's end-of-year dinner	$120	
Total			

Question 3 - Coralie's return

Coralie Dunstable is a sonographer employed on a salary of $120,000 for the 2024-25 income year. Her employer pays superannuation guarantee contributions of 11.5% of her salary, and no other concessional contributions are made for her. She has no unused concessional cap carried forward from earlier years. Her other figures are:

Item	Amount
Rent from her investment unit ($600 a week for 52 weeks)	$31,200
Interest on the loan used to buy the unit	$36,000
Council rates	$2,400
Landlord insurance	$1,300
Property agent's commission	$2,500
Repairs	$1,000
Income protection premium paid directly to the insurer. The policy also pays a lump sum for permanent disablement; the insurer states 80% of the premium relates to the income benefit	$3,000
Personal contribution to her super fund, with a valid notice of intention to claim given to the trustee	$15,600

(a) Calculate Coralie's net rental result.

(b) How much of the income protection premium is deductible?

(c) Is the personal superannuation contribution fully deductible? Check it against the cap.

(d) Calculate Coralie's taxable income.

(e) How much income tax and Medicare levy does the rental loss save her, and what is her after-tax cost of the loss?

Worked answers

MODULE 4 | 4.6 | WORKED ANSWERS - ATTEMPT THE QUESTIONS FIRST

Answer 1 - Pardalote Hollow

(a) Rosalba is most likely an employee. Because the written contract is comprehensive and unchallenged, its rights and obligations decide the question (Personnel Contracting; TR 2023/4):

- **Payment:** $48 per hour taught - she is paid for her time, not for a result.
- **Control:** the centre sets her timetable, allocates students, and imposes its lesson plans, safety manual and shirt.
- **Integration:** she serves in the centre's business, presenting as part of it.
- **Delegation:** she must teach personally and cannot send a substitute.
- **Tools and risk:** the centre supplies the horses, saddlery, arena and helmets, refunds unhappy customers and holds the insurance.

The heading "Independent Contractor Agreement", her ABN and her fortnightly invoices are labels only and do not make her a contractor (TR 2023/4).

(b) As an employee she can deduct only under the first limb of s 8-1 - outgoings incurred in gaining or producing her assessable income that are not capital, private or domestic. She cannot rely on the second (business) limb. For the centre, the classification means its employer obligations apply, including PAYG withholding from her pay and superannuation guarantee contributions.

Answer 2 - Alaric's claims

Item	Deductible?	Amount
1 Steel-capped boots	Yes - protective clothing	$260
2 Compulsory uniform shirts	Yes - compulsory uniform	$150
3 Plain black trousers	No - conventional clothing is private	$0
4 Travel between lift sites	Yes - employment use; 3,000 km × $0.88 = $2,640 (within the 5,000 km limit)	$2,640
5 Home to depot	No - home-to-work travel is private	$0
6 Lift control course	Yes - improves skills used in his current job	$600
7 Real estate course	No - aimed at a new career	$0
8 Income protection premium	Yes - paid directly; benefit replaces income	$1,500
9 Life insurance premium	No - life cover premiums are not deductible	$0
10 Team dinner	No - entertainment is generally not deductible	$0
Total		**$5,150**

Check: $260 + $150 + $2,640 + $600 + $1,500 = $5,150.

Answer 3 - Coralie's return

- **(a) Net rental result.** Rental expenses: $36,000 + $2,400 + $1,300 + $2,500 + $1,000 = $43,200. Net rental result: $31,200 - $43,200 = a loss of $12,000, deductible against her salary (negative gearing).
- **(b) Income protection.** Only the part of the premium relating to the income benefit: 80% × $3,000 = $2,400. The other $600 relates to the lump sum (capital) benefit and is not deductible.
- **(c) Super contribution.** Employer contributions: 11.5% × $120,000 = $13,800. Room under the $30,000 cap: $30,000 - $13,800 = $16,200. Her $15,600 contribution fits within that room (total concessional contributions $13,800 + $15,600 = $29,400), and she has given the notice, so all $15,600 is deductible under s 290-150.
- **(d) Taxable income** = $120,000 - $12,000 - $2,400 - $15,600 = **$90,000**.
- **(e) Saving from the rental loss.** Without the rental loss her taxable income would be $102,000; with it, $90,000. Both are in the 30% band, so the income tax saved is 30% × $12,000 = $3,600 (check: tax on $102,000 = $4,288 + 30% × $57,000 = $21,388; tax on $90,000 = $4,288 + 30% × $45,000 = $17,788; difference $3,600). Medicare levy saved: 2% × $12,000 = $240. Total saving $3,840. After-tax cost of the loss: $12,000 - $3,840 = **$8,160**.