Taxation of the Income of Children

There are special rules that apply to income earned by people under 18 years of age, which are regarded as **minors** for taxation purposes, to discourage income being attributed to them that could otherwise be taxed at adult (normal) rates of tax.

There are a couple of key terms when we are discussing the income of minors – excepted persons and excepted income (including excepted trust income). **Where the minor or their income falls into either of these categories, it will be taxed at adult rates.**

A minor is an excepted person if:

- they were working full time at the end of the financial year, or had worked for more than 3 months during the year (not followed by study), and were not intending to study full time the following year;
- they were entitled to a disability support pension or rehabilitation allowance, or someone was entitled to a carer allowance to care for them ;
- they were permanently blind ;
- they were disabled and were likely to suffer from that disability permanently or for an extended period ;
- they were entitled to a double orphan pension and received little or no financial support from relatives; or
- they were unable to work full-time because of a permanent mental or physical disability and received little or no financial support from relatives.

Minors that fall into these categories will pay normal (adult) rates on tax on their income.

Where a minor does not meet the criteria of being an excepted person, part or all of their income may still be taxed at normal rates. Examples of excepted income are:

- employment income
- taxable pensions or payments from Centrelink or the Department of Veterans' Affairs
- compensation, superannuation or pension fund benefits
- income from a deceased person's estate
- income from property transferred to the minor as a result of the death of another person or family breakdown, or income in the form of damages for an injury they suffer
- income from their own business
- income from a partnership in which they were an active partner
- net capital gains from the disposal of any property or investments listed above, and
- income from the investment of any of the amounts listed above.

What is the difference between minor and adult tax rates? The tax rates that currently apply to minors who are residents of Australia, who are not excepted persons and who are not in receipt of excepted income are:

Other income	**Tax rates**
$0 – $416	Nil
$417 – $1,307	Nil + 66% of the excess over $416
Over $1,307	45% of the total amount of income that is not excepted income

Compare this to normal (adult) rates of tax, where there is no tax until your income reaches $6,000 and only 15% tax from $6,001 to $35,000, and you can see that some minors are penalized on some or all of the income that they receive. In 2008/09, a minor was not required to lodge a tax return where their income did not exceed **$2,667**, due to the impact of the $1,200 low income rebate. For the 2009/2010 year, that threshold amount is increased to **$3,000.**

Where the **minor is not an excepted person**, their income is taxed as follows:

If the minor...	then...
only has excepted income such as **part-time employment income**	their excepted net income is taxed at **ordinary rates**.
has some excepted income (such as part-time employment income), and some other income (such as a family trust distribution)	• their **excepted net income is taxed at ordinary rates**, and • their **other income** (after taking away deductions relating to that income) **will be taxed at higher rates.**
only has other income (such as a family trust distribution)	**their other income** (after taking away deductions relating to that income) **will be taxed at higher rates**.

There is an additional category of excepted income (called excepted trust income) that most commonly relates in practice to trusts created as a result of a family breakdown or deceased estate (whether directly through a testamentary trust created through a will or indirectly where assets were transferred for the benefit of the minor within 3 years of the date of death). There are additional special rules relating to these trusts, so please contact our office if these apply to you.

Children's Bank Accounts

Where you open a bank account in the name of a child and you are the signatory, the income can be accounted for one of two ways – you don't have a choice as to how it is accounted, for as it will be decided based on the facts of the case.

Where the funds used to create and increase the account have come from Christmas and birthday presents, income from a part time job, pocket money etc, and they are only used by that child, **the income is deemed to be the child's income and the rules relating to the taxation of minors will apply**.

Where the funds used to create and increase the account have come from parents or other friends or relatives, and withdrawals are made from these accounts to meet expenses of the child (or other expenses), **the income earned on this account is the income of the parent (or signatory) and needs to be reported in their income tax return**.

Minors and Tax File Numbers

There is no minimum age in relation to the application for a tax file number – you can apply for one for a new born baby!

Where a child is under 16 years of age and has funds invested in their own name that will be treated as their income, and they quote their date of birth, where they earn less than $420 there will be no PAYG withholding tax deducted by their bank or other institution. Where their interest income will be more than $420 during the year, they also need to quote their tax file number to their bank or other institution to avoid PAYG withholding of 46.5% on the total interest earned. Where PAYG has been withheld on this interest income, the minor will need to lodge a tax return to recover this amount from the Taxation Office, where they are entitled to receive a refund.

Where the child is over 16 years of age, the adult threshold of $120 dollars in interest income applies (rather than the $420 for under 16 year olds).

Where the income on the child's bank account will be attributed to the adult, the adult's tax file number should be quoted.