TD 93/D146 - Income tax: to what extent is a registration fee for a Continuing Professional Development (CPD) seminar deductible if a part of the fee represents the cost of food and drink to be provided as part of the seminar?

This cover sheet is provided for information only. It does not form part of *TD 93/D146 - Income tax: to what extent is a registration fee for a Continuing Professional Development (CPD) seminar deductible if a part of the fee represents the cost of food and drink to be provided as part of the seminar?*

This document has been finalised by TD 93/195.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: to what extent is a registration fee for a Continuing Professional Development (CPD) seminar deductible if a part of the fee represents the cost of food and drink to be provided as part of the seminar?

1. If the registration fee is otherwise deductible under subsection 51(1) of the *Income Tax Assessment Act 1936*, the extent to which the fee is deductible, according to the terms of section 51AE, is:

(a) if the food and drink does not amount to entertainment, the registration fee is deductible in full (see Taxation Ruling IT2675 for an explanation of the meaning of the expression, 'entertainment by way of food and drink', which appears in subsection 51AE(3)).

(b) if the food and drink does amount to entertainment but the CPD seminar is an 'eligible seminar', the registration fee is deductible in full provided the food and drink was 'reasonably incidental' to a participant's attendance at the seminar (subparagraph 51AE(5)(f)(iv)). 'Eligible seminar' is defined in subsection 51AE(1) but 'reasonably incidental' is not defined. Food and drink is reasonably incidental to a CPD seminar if it:
   (i) is provided for sustenance because of the duration, time of day or location of the seminar;
   (ii) is provided immediately before, during or immediately following working sessions of the seminar; and
   (iii) is available to all seminar participants.

(c) if the food and drink does amount to entertainment but the CPD seminar is not an eligible seminar, the registration fee is deductible only to the extent that it does not represent a cost of food and drink. The level at which a registration fee is set is generally determined, at least in part, by the estimated costs of the organiser including the cost of food and drink to be provided. The amount of the registration fee to be disallowed is that amount included in the fee in respect of the food and drink. It is not necessary for a participant to actually consume any food or drink for the fee to be apportioned. It is simply enough that the fee includes an amount in respect of food and drink.

2. The following decision tree is a useful way of establishing the extent to which a registration fee is deductible:

Does registration fee satisfy s51(1)? No — No part of fee deductible.

Yes

Does some part of registration fee represent cost of food and drink? No — Fee fully deductible (s51(1))

Yes

Does food and drink amount to entertainment? No — Fee fully deductible (s51(1)).

Yes

Is seminar an eligible seminar? No

Yes Fee deductible in part only (s.51AE)

Is food and drink reasonably incidental to seminar? No

Yes

Fee fully deductible (s51AE)

Examples

An industry association arranges a series of three seminars for its practising members on current legislative developments. The seminars have been structured as follows:

Description	*Seminar 1*	*Seminar 2*	*Seminar 3*
Seminar Type	*Workshop*	*Twilight*	*Luncheon*
Total Duration	*2 hours*	*5 hours*	*4 hours*
Starting Time	*2pm*	*4pm*	*11.30am*
Refreshments	*Afternoon Tea*	*Dinner*	*Lunch*
	15 minutes at 3pm	*1 hour at 6pm*	*1 hour at 1pm*
	Tea & Coffee	*3 course meal*	*2 course meal*

(The registration fee for Seminar 3 is $40 based on the association's estimated costs of $1000 venue hire, $600 speaker's fee, $400 photocopy and other administration costs and $2000 luncheon costs spread over 100 anticipated registrations - the amount included in each fee for food and drink is therefore $20).

Using the decision tree, the deductibility of each registration fee can be summarised as follows:

Satisfy s51(1)	*Yes*	*Yes*	*Yes*
Food & Drink	*Yes*	*Yes*	*Yes*
Entertainment	*No*	*Yes*	*Yes*
Eligible Seminar	*Not applicable*	*Yes*	*No*
Reasonably Incidental	*Not applicable*	*Yes*	*Not applicable*
Allowable	*In Full (s51)*	*In Full (s51AE)*	*$20 only (s51AE)*

Commissioner of Taxation
3/6/93

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Related Determinations:
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