


TD 93/D159 - Income tax: is an employee who receives an assessable flying allowance in the course of his or her official duties, entitled to any deduction against the allowance?

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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: is an employee who receives an assessable flying allowance in the course of his or her official duties, entitled to any deduction against the allowance?

1. No. The allowance is paid to an employee to compensate for any undue risk taken flying in an aircraft other than those used in public air services. It is not intended to be a payment or reimbursement of any particular expense incurred by the employee as a result of his/her employment.

2. The risks taken in flying this way do not, in themselves, give rise to the employee incurring outgoings which may qualify for deduction under subsection 51(1) of the Income Tax Assessment Act 1936. The allowance must be returned in full, and no deductions are allowable against it.

Example

An employee travels in an aircraft for work purposes and receives an allowance for the risk taken. The employer provides all the other items necessary for the employee during the trip.

As the employee has not incurred any work related expenditure in relation to this allowance, no deduction is allowable against the allowance received.

Note : *It has been brought to the notice of the ATO that employees, who receive an assessable flying allowance in the course of their official duties, have claimed a deduction for the allowance received in their 1992 returns. The amount received has been treated as an expense by the affected person even though he/she has been informed by the employer that the sum involved is assessable but not deductible.*

Commissioner of Taxation

17/6/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: flying allowance

Legislative Ref: ITAA 51(1)

Case Ref:

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