


***TD 93/D167 - Income tax: is a rebate allowable under section 159P of the Income Tax Assessment Act 1936 (ITAA) on the medical expenses paid by the employee although reimbursed, in whole or in part, by the employer?***

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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.

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## Draft Taxation Determination

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**Income tax: is a rebate allowable under section 159P of the *Income Tax Assessment Act 1936* (ITAA) on the medical expenses paid by the employee although reimbursed, in whole or in part, by the employer?**

1 Yes. A rebate of tax is allowable under subsection 159P(3A). The rebate is an amount equal to 20% of the rebatable amount, or an aggregate of the rebatable amounts, exceeding \$1000 in the year of income.

2 Medical expenses, 'paid' by an employee in the year of income in respect of himself or of a resident 'dependant' (see subsection 159P(4) of the ITAA), although reimbursed by an employer are rebatable amounts in total.

3 The amount of medical expenses 'paid' is not reduced by the reimbursement by the employer to arrive at the rebatable amount because the taxpayer's medical expenses are not recouped or recoupable from a government or public authority or by a society, association or fund.

4 If the employer pays the employee's medical expenses directly to the doctor rather than reimbursing the employee, such expenses are not considered to have been 'paid' by the employee. The employee cannot therefore claim them as rebatable amounts.

5 In either case, from 1 July 1986 the payment or reimbursement by the employer is a benefit under section 20 of the *Fringe Benefits Tax Assessment Act 1986*.

**Commissioner of Taxation**

24/6/93

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

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Legislative Ref: ITAA 159P; FBTAA 20

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