

TD 93/D239 - Income tax: can expenditure incurred on cosmetic surgery qualify as medical expenses for the purpose of section 159P and therefore qualify for a medical expenses rebate?

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This document has been finalised by TD 94/5.

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Draft Taxation Determination

Income tax: can expenditure incurred on cosmetic surgery qualify as medical expenses for the purpose of section 159P and therefore qualify for a medical expenses rebate?

1. Yes. Paragraph (a) of the definition of medical expenses in subsection 159P(4) of the *Income Tax Assessment Act 1936* (ITAA) includes payments to a legally qualified medical practitioner, nurse or chemist, or a public or private hospital, in respect of an illness or operation.
2. The term operation is not defined in the ITAA. Taxation Ruling IT 2359 adopts the meaning which is ordinarily given to it. In a medical context, the ordinary meaning refers to an act performed by hand and/or instrument to some part of the body to remedy deformity, injury, disease, pain etc. We accept that cosmetic surgery generally falls within this concept of operation.

Example:

Joe is a resident taxpayer who decides to undergo a facelift. He incurs total medical expenses of \$5000, paid to a legally qualified medical practitioner and a hospital. He recoups \$2000 from his private health fund. The net eligible medical expenses are \$3000. Assuming he has no other rebatable expenses, Joe is eligible for a rebate on \$2000 (the excess of \$3000 over \$1000 - subsection 159P(3A)).

Commissioner of Taxation

23/9/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 263; IT 2359

Subject Ref: cosmetic surgery; medical expenses rebate

Legislative Ref: ITAA 159P

Case Ref:

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