TD 93/D24 - Income tax: is a police officer who is required, as a condition of employment, to be within a specified weight to height ratio entitled to claim a deduction for a weight reduction programme?

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This document has been finalised by TD 93/112.

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 a police officer who is required, as a condition of employment, to be within a specified weight to height ratio entitled to claim a deduction for a weight reduction programme?

1. No. The expense of a programme which is specifically designed to reduce the weight of a police officer is not deductible under subsection 51(1) of the *Income Tax Assessment Act 1936.*

2. Expenditure in respect of a weight reduction programme does not have the essential character of expenditure incurred in the course of gaining or producing assessable income.

3. An employer's requirement that an employee incur expenditure which is not related to income-producing activities does not convert that expenditure into a deductible outgoing (per Hill J in *F.C. of T. v Cooper*, (1991) 91 ATC 4396 at page 4414, (1991) 21 ATR 1616 at page 1636).

4. Therefore, despite being a condition of employment that a police officer remains within a specified weight to height ratio, a deduction for the expense of doing so is not allowable.

Example

Police Officer A appears for a medical examination for fitness for promotion. He is advised that at present, although he is fit in all other respects, he is unfit for promotion due to his obesity. Police Officer A undertakes a weight loss programme and successfully loses enough weight to be reconsidered for promotion. Police Officer A is not entitled to a deduction for the weight loss programme.

Commissioner of Taxation
04/02/93

FOI INDEX DETAIL: Reference No.
Related Determinations:
Related Rulings: IT 54
Subject Ref: Deductions; weight reduction programme; police officers
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