


TD 93/D40 - Income tax: are expenses incurred by a taxpayer in obtaining valuations for works of art donated under the Taxation Incentives for the Arts Scheme allowable deductions?

 This cover sheet is provided for information only. It does not form part of *TD 93/D40 - Income tax: are expenses incurred by a taxpayer in obtaining valuations for works of art donated under the Taxation Incentives for the Arts Scheme allowable deductions?*

This document has been finalised by TD 93/92.

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: are expenses incurred by a taxpayer in obtaining valuations for works of art donated under the Taxation Incentives for the Arts Scheme allowable deductions?

1. Yes. Expenses incurred on or after 1 July 1989 in obtaining valuations solely for the purposes of subsection 78(6B) of the *Income Tax Assessment Act 1936*(ITAA) are deductible as tax related expenses for the purposes of section 69 of the ITAA.
2. The expenditure would also be deductible where the donation is a disposal of trading stock not in the ordinary course of business and an amount is included in the donor's assessable income under section 36 of the ITAA .
3. However, where the expenditure would qualify as incidental costs of the disposal of the asset for capital gains tax purposes the costs would form part of the cost base of the asset and would not be deductible under section 69. This would occur where the valuations are obtained in respect of the disposal of the work of art and not as a requirement of subsection 78(6B).

Examples:

(a) *Taxpayer A donates a painting to a public art gallery under the Taxation Incentives for the Arts Scheme. As required by subsection 78(6B), the taxpayer obtains two valuation certificates. The total cost of obtaining the valuations was \$600. As the \$600 was incurred solely for the purposes of subsection 78(6B), Taxpayer A is entitled to claim an income tax deduction for that amount.*

(b) *Taxpayer B obtains two valuation certificates for a painting for insurance purposes. Taxpayer B then donates the painting to a public art gallery under the Taxation Incentives for the Arts Scheme and uses the two valuation certificates previously obtained. As the valuation certificates were not obtained for the purposes of subsection 78(6B), Taxpayer B is **not** entitled to claim an income tax deduction for the cost of obtaining the valuations.*

Commissioner of Taxation

18/2/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: art gifts; allowable deductions; donations; gifts; tax related expenses; valuation of property

Legislative Ref: ITAA 36;ITAA 51(1);ITAA 69;ITAA 78(aa); ITAA 78(6B)

Case Ref:

ATO Ref: CAN AC/ 752 Pt 8

ISSN 1038 - 8982