TD 94/D48 - Income tax: is the cost of subscriptions to representative associations paid by pensioners or self funded retirees an allowable deduction under subsection 51(1) of the Income Tax Assessment Act 1936 (the Act)?

This cover sheet is provided for information only. It does not form part of *TD 94/D48 - Income tax: is the cost of subscriptions to representative associations paid by pensioners or self funded retirees an allowable deduction under subsection 51(1) of the Income Tax Assessment Act 1936 (the Act)?*

This document has been finalised by TD 94/67.

Australian Taxation Office

Taxation Determination **TD 94/D48**

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 the cost of subscriptions to representative associations paid by pensioners or self funded retirees an allowable deduction under subsection 51(1) of the *Income Tax Assessment Act 1936* (the Act)?

1. Yes. Provided the representative association's services have a direct nexus with the derivation of the member's assessable income.

2. In considering a claim under subsection 51(1), regard must be given to the objects and activities of each particular association. Subscriptions paid to a representative association whose activities can be shown to be incidental and relevant to the gaining of the member's assessable income would be deductible. An example of such activities would be where an association is primarily established to provide investment or taxation information to members.

3. However, a subscription paid to an association established primarily to influence public opinion on matters unconnected with the derivation of its members' assessable income would not qualify for a deduction. Similarly, subscriptions to an association set up to represent to Government the political beliefs of its members would not qualify for a deduction under subsection 51(1).

4. Alternatively, where a deduction under subsection 51(1) is not available, a deduction for periodical subscriptions should be considered under subsection 73(3). A deduction under subsection 73(3) is limited to $42 per annum in respect of each subscription.

Example 1:

John Smith has retired and is in receipt of a pension. He pays an annual subscription of $20 to a social club for single retirees. The Association issues monthly newsletters to its members in which it provides advice as to how to cope with loneliness. John's subscription to the Association is not deductible under subsection 51(1) as there is no direct nexus between the payment of the subscription and the earning of his pension income. However, John may seek a deduction under subsection 73(3) even though the payment is unrelated to the derivation of his pension income.

Example 2:

Bill Watts has retired and is in receipt of income from investments. He pays an annual subscription of $50 to an Association whose object is to obtain government benefits for self funded or independent retirees. The Association lobbies government on behalf of its members and issues monthly newsletters advising of its progress and of other matters of interest to members. Bill's subscription to the Association is not deductible under subsection 51(1) as there is no direct nexus

between the payment of the subscription and the earning of his investment income. However, Bill may seek a deduction under subsection 73(3) for $42 even though the payment is unrelated to the derivation of his income.

Example 3:

Jane Doe is a retired pensioner and derives income from a superannuation pension and from her investments. She pays an annual subscription of $55 to the Independent Retirees' Association. The Association issues a monthly magazine to its members in which it advises them of financial market conditions, financial rights, all recent tax law changes and provides general advice and non financial assistance to its members. Jane uses the information to make investment decisions which affect her investment income. Jane's subscription of $55 is deductible under subsection 51(1) as there is a direct nexus between the subscription and her investment income.

Commissioner of Taxation
19/5/94

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