IT 2061 - Home office expenses

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TAXATION RULING NO. IT 2061

HOME OFFICE EXPENSES

F.O.I. EMBARGO: May be released

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I 1115256	HOME OFFICE EXPENSES	51(1)

OTHER RULINGS ON TOPIC IT 140; IT 191; IT 192; IT 193; IT 194

PREAMBLE In memorandum of 27 September 1983 from Head Office, it was stated that no appeal would be lodged against a decision of Taxation Board of Review No.3, (26 CTBR(NS) Case 124; 83 ATC Case Q54) allowing a deduction for certain home office expenses.

FACTS 2. The taxpayer in the case, was a clergyman who claimed a deduction for that portion of the rent on his house referable to a room used exclusively in connection with his pastoral duties. The Board found from the evidence that the taxpayer's position as pastor constituted an "office" and in the execution of the duties of that office, a discrete area for parishioner interviews was necessary. The area was also used as an administration centre for the parish. As such it was to be regarded as something more than a study and analogous to a doctor's surgery. Accordingly it was a situation to which the decision of Mason J. in FC of T v Faichney (1972) 129 CLR 38 applied. The Board allowed a deduction for rent representing five-twelfths of the amount claimed as the evidence established that the taxpayer was in charge of the parish for only five months of the year in question.

RULING 3. It is accepted that the decision reached was open to the Board on the evidence. The decision serves to illustrate the necessity to draw a line between the use of part of a residence as a study as was the case in the Faichney decision, and the use of a discrete area in a residence for the purpose of conducting a business. That the Board found in favour of the taxpayer can be supported on the basis that a clergyman's residence is also the base from which he carries out the duties of his ministry.

4. The decision of the Board is not to be taken as modifying in any way the principles set out in previous Taxation Rulings on this topic. It is not, of course, the usual situation for a member of the clergy to make claims of this nature. In the generality of cases it will be a question whether the provision of residential accommodation results in a benefit assessable in terms of paragraph 26(e). The requirement to use part of the accommodation for the administration of the

affairs of the parish would be a factor to be taken into account in calculating the benefit attaching to the provision of residential accommodation.

COMMISSIONER OF TAXATION

18 October 1983