


IT 2089 - Amendments to Income Tax Assessment Act relating to allowable deductions for repairs, expenses of borrowing, expenses relating to lease documents and expenses relating to grant of patents, etc.

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TAXATION RULING NO.IT 2089

AMENDMENTS TO INCOME TAX ASSESSMENT ACT RELATING TO
ALLOWABLE DEDUCTIONS FOR REPAIRS, EXPENSES OF
BORROWING, EXPENSES RELATING TO LEASE DOCUMENTS AND
EXPENSES RELATING TO GRANT OF PATENTS, ETC.

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1090107	REPAIRS	53, 53(3),
	BORROWING EXPENSES	67, 67(4)
	LEASE DOCUMENT EXPENSES	68
	PATENT EXPENSES	68A

PREAMBLE

Section 53 of the Income Tax Assessment Act provides a deduction for expenditure incurred by a taxpayer for repairs to property used for the purpose of producing assessable income. It had been the long standing practice of this office (where property was used only partly for the purpose of producing assessable income) to allow an income tax deduction for only so much of the expenditure on repairs to the property as was attributable to the assessable income producing use of the property.

2. In a decision given last year and reported as 83 ATC Case Q98, and 27 CTBR(NS) Case 26, Taxation Board of Review No. 3 overturned the official practice by allowing an income tax deduction for the whole of the cost of repairs to a motor vehicle in a year of income notwithstanding that the vehicle was used only partly for business purposes. The decision of the Board was followed in resolving similar cases where taxpayers had lodged objections. It should also be followed where original assessments are made for the years ended 30 June 1983 and prior years.

3. Since then the Government has acted to overcome the decision of the Taxation Board of Review. By Income Tax Assessment Amendment Act (No.3) of 1984 sub-section 53(3) was added to the Principal Act. The sub-section provides that, where property is used only partly for the purpose of producing assessable income, an income tax deduction for expenditure on repairs to the property is to be allowed only to the extent that, in the opinion of the Commissioner, is reasonable in the circumstances.

4. At the same time the Government amended sections 67, 68 and 68A of the Income Tax Assessment Act to make it clear that the expenditures to which the three sections apply, i.e. expenses of borrowing, expenses relating to lease documents and

expenses relating to the grant of patents, etc. would only be allowable as income tax deductions to the extent to which the expenditure was incurred in gaining or producing assessable income.

5. The amendments to sections 53, 67, 68 and 68A apply to expenditure incurred on or after 19 April 1984.

6. In the light of the amendments to the income tax law the following action is to be taken in the assessment of income tax returns for the year ended 30 June 1984.

- (1) Where the whole of the cost of repairs to income producing property is claimed as a deduction it should be accepted, in the absence of any information to the contrary, that the expenditure was incurred prior to 19 April 1984. It is to be assumed that the claim has been made in full knowledge of the income tax law and the taxpayer has not exposed himself to the sanctions provided by the law for making a false claim.
- (2) Correspondingly, where only part of the cost of repairs to income producing property is claimed as a deduction it should be accepted, in the absence of any information to the contrary, that the expenditure was incurred on or after 19 April 1984.
- (3) The amendments to sections 67, 68 and 68A were not made to overcome a specific decision as was the case with the amendment to section 53 - they were made to remove any doubt about the operation of the sections. Deductions under sections 67, 68 or 68A should continue to be allowed, therefore, to the extent that the relevant expenditure was incurred in gaining or producing assessable income.

COMMISSIONER OF TAXATION
5 JULY 1984<