IT 2096 - Income tax : clothing - expenditure incurred by a bank employee in providing and maintaining clothing worn in the course of employment

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TAXATION RULING NO. IT 2096

INCOME TAX : CLOTHING - EXPENDITURE INCURRED BY A BANK EMPLOYEE IN PROVIDING AND MAINTAINING CLOTHING WORN IN THE COURSE OF EMPLOYMENT

F.O.I. EMBARGO: May be released

REF H.O. REF: J35/952 P 4 f 113 83/6104 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED: 18 July 84

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1117368	CLOTHING - UNIFORMS WORN BY BANK OFFICERS	51(1)

PREAMBLE No appeal has been lodged against a recent decision of Taxation Board of Review No.2, reported as Case R55 84 ATC 411, and Case 109 27 CTBR(NS) 867 allowing a deduction for the purchase and maintenance of special clothing worn in the course of employment.

FACTS 2. The taxpayer, a female bank officer, had been employed with a Bank for some eleven years. From the time the taxpayer commenced employment until May 1982, she was obliged to wear a monogrammed uniform. In May 1982 a new style of attire, manufactured in distinctive corporate colours, was introduced for female staff. The clothing, comprising a number of items, was of a conventional nature and was made exclusively for the Bank by a particular manufacturer.

3. The Bank provided two of the items of clothing to each female employee and required the staff to purchase other items at their own expense. The wearing of the uniform in question was obligatory while on duty and the employees were not permitted to wear the attire outside hours of duty except while travelling to and from work. A pin on name tag with the Bank's logo was also required to be worn.

4. The taxpayer claimed a deduction for expenditure incurred in purchasing various items of the clothing. Also claimed was a deduction for the maintenance of both the superseded and the new uniform. Immediately prior to the hearing the Commissioner conceded the full deduction claimed in respect of maintaining the old uniform.

5. The Board accepted the general view that the clothing in question possessed that level of uniqueness and distinctiveness to fall within the ordinary meaning of the word uniform. This was supported by having regard to the durability of the clothing in matters pertaining to wear and tear, the maintaining of the same style and fashion for a period of some five years, and the elaborateness of the procedures that were

required to be observed by the various manufacturers, the Bank and its employees, in the manufacture and supply of the garments involved.

6. Whilst the clothing satisfied the taxpayer's private needs, its essential character was directly related to the need to provide the occupational character of clothing that was clearly appropriate to, or adapted to, or truly incidental to, her income producing activities.

7. Consequently, as the taxpayer was required, as a condition of her employment to wear the uniform, the expenditure incurred in connection with the uniform purchase and maintenance was not of a private or domestic nature. Nor did the Board consider the purchase of the items of clothing to be capital in nature because they were in substance replacements of an obsolete uniform.

RULING

8. Where a taxpayer is required, as a condition of employment, to wear distinctive and unique clothing that could be said to constitute a uniform in ordinary parlance, expenditure incurred in connection with the uniform replacement and maintenance is deductible. As to whether the clothing constitutes a uniform is a question of fact and must be determined in the light of the facts of each case.

COMMISSIONER OF TAXATION
10 AUGUST 1984<