


IT 2160 - Income tax: aldermen and councillors income tax deductions: out-of-pocket expenses

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TAXATION RULING NO. IT 2160

INCOME TAX: ALDERMEN AND COUNCILLORS
INCOME TAX DEDUCTIONS: OUT-OF-POCKET EXPENSES

F.O.I. EMBARGO: May be released

REF H.O. REF: 85/389-4 DATE OF EFFECT:

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I 1174740 ALDERMEN & COUNCILLORS 51(1)
INCOME TAX DEDUCTIONS FOR
INCIDENTAL EXPENSES

OTHER RULINGS ON TOPIC

H.O. MEMORANDA J35/567 P10 of 4 July 1973
J35/567 P12 of 16 November 1981

PREAMBLE The extent to which income tax deductions may be allowed to aldermen and councillors in municipal and shire councils in respect of expenses incurred in carrying out their official duties has been reviewed in this office. It has been reviewed in the context of representations that income tax deductions should be allowed without the need for vouching up to the amount of any remuneration received in respect of their official duties.

RULING 2. Information available to this office indicates that the allowances or fees payable under relevant Local Government Acts or corresponding legislation varies from State to State. In New South Wales, for instance, a fee of \$30 per day is payable for attendance at a council meeting or committee of council meeting or for any other occasion that a member undertakes inspections for council business in accordance with a resolution of the council. The maximum yearly fee payable is \$1000. In addition there is provision for the reimbursement of travelling expenses incurred by aldermen and councillors in attending council meetings and other council business.

3. In Victoria the maximum annual fee is \$1500. There is no maximum in Queensland. In Tasmania and Western Australia, on the other hand, there is no fee payable but aldermen and councillors are reimbursed for travelling expenses. Furthermore, in some States which provide for the payment of a fee, some councils pay the maximum fee, others pay less than the maximum while some do not pay any fees at all.

4. Against this background there is simply no basis for allowing an income tax deduction up to the amount of any allowance received without the need for vouching.

5. It is recognised that where an alderman or councillor receives assessable income from the performance of his official duties income tax deductions are allowable for the expenses of carrying out the official duties except to the extent that the expenses may be said to be of a capital, private or domestic nature and except to the extent that they are expenses for which the alderman or councillor has been reimbursed.

6. Expenses which would qualify for deduction include postage, stationery, telephone, travelling, including travelling to and from meetings (less any reimbursement) and other out-of-pocket expenses incidental to the performance of the official duties. Expenses of child minding, clothing, including spouse's clothes, are examples of private or domestic expenditure which would not quality for deduction.

7. As a general rule, where an alderman or councillor includes in a return of income an itemised list or schedule of qualifying expenses which are claimed to have been incurred in gaining or producing the remuneration from his or her official position and the amount claimed does not exceed the remuneration from the official position, the claim should be allowed. If there are any unusual features in a particular case or there is insufficient detail supplied by the taxpayer the claim for deduction should not be arbitrarily disallowed or reduced. The taxpayer should be given the opportunity of substantiating his claim. Similarly, where a claim for deduction exceeds the remuneration received from the official position the taxpayer should be asked to substantiate his claim before any adjustment to it is made.

COMMISSIONER OF TAXATION
16 May 1985

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