IT 2299 - Income tax : variation of tax instalment deductions : allowances paid under industrial awards

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TAXATION RULING NO. IT 2299

INCOME TAX : VARIATION OF TAX INSTALMENT
DEDUCTIONS : ALLOWANCES PAID UNDER INDUSTRIAL AWARDS

F.O.I. EMBARGO: May be released

REF

*** NOTE - THIS RULING HAS BEEN SUPERSEDED BY IT 2488

H.O. REF: J237/18/7 P3 DATE OF EFFECT: IMMEDIATE

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1078276	COLLECTION OF TAX BY INSTALMENTS - VARIATION FROM PRESCRIBED RATES	221D

OTHER RULINGS ON TOPIC IT 2010, IT 2200, IT 2300

PREAMBLE Section 221D of the Income Tax Assessment Act authorises the Commissioner of Taxation to vary the amount of instalments to be deducted from the salary or wages of an employee or class of employees in order to meet the special circumstances of any case or class of cases.

2. Consideration has been given to whether special circumstances as envisaged by section 221D exist in relation to employees in receipt of allowances payable under industrial awards.

RULING 3. Special circumstances as envisaged by section 221D will be accepted as applying to employees in receipt of allowances prescribed by industrial awards, and variations may be granted so as to free the amount of allowance from instalment deductions, where:-

(a) the employee can be reasonably expected to incur expenditure of an amount at least equal to the amount of allowance paid;

(b) the allowance can be reasonably expected to be expended for the purpose for which it is paid; and

(c) the expenditure to which the allowance relates can reasonably be expected to be deductible on assessment.

4. Approval of variations will be subject to the following conditions:

(a) the amount and nature of the allowance must appear separately on the group certificate or tax stamps sheet of the employee in receipt of the allowance;

(b) the amount and nature of the allowance paid must be shown separately in the accounting records of the employer;

(c) a request for variation of instalments is actually made by an organisation or association representing employees or employers, or an individual employee or employer; and

(d) deduction of instalments at the prescribed rates, on account of the likely deductibility of the expenditure, would in the general run of cases result in actual deductions exceeding expected tax by the lesser of 10% or $200.

5. It should be noted that a decision to grant a variation of instalment deductions is subject to the necessary reservation that it is made on the basis of the income tax law as it exists at the time the decision is made. The deductibility of the expenditure concerned will be ultimately determined by applying the established facts to the income tax law as it exists at the time of assessment. Similarly, approval to vary the prescribed rate of deductions will not relieve a taxpayer of the necessity to provide evidence to verify the actual amount of expenditure incurred if requested to do so.

COMMISSIONER OF TAXATION
23 May 1986

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