IT 2300 - Income tax : variation of tax instalment deductions : non arbitrated allowances

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TAXATION RULING NO. IT 2300

INCOME TAX : VARIATION OF TAX INSTALMENT
DEDUCTIONS : NON ARBITRATED ALLOWANCES

F.O.I. EMBARGO: May be released

REF

*** NOTE - THIS RULING HAS BEEN SUPERSEDED BY IT 2487

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 1078281	COLLECTION OF TAX BY INSTALMENTS - VARIATION FROM PRESCRIBED RATES	221D

OTHER RULINGS ON TOPIC IT 2010, IT 2200, IT 2299

PREAMBLE This ruling applies to allowances paid to employees, other than allowances of the kind referred to in Taxation Ruling No. IT 2299.

2. A number of representations have been made in relation to the question of whether a variation of tax instalment deductions should be granted on the basis that the taxation treatment of allowances paid to employees brings those cases or that class of cases within "special circumstances" as envisaged by section 221D.

RULING 3. Special circumstances as envisaged by section 221D will be accepted as applying in any case or class of cases where:

(a) the amount of the allowances paid is reasonable;

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

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

(d) 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 allowance paid appears

separately on the group certificate or tax stamp sheet of the employee to whom the allowance will be paid;

(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 approval to vary the prescribed rates of deduction in accordance with this ruling does not amount to an acceptance that expenditure of an amount to which the allowance relates will be conceded as deductible on assessment. The deductibility or otherwise of the expenditure to which the allowance relates will be determined on the basis of the income tax law as it exists when the time comes to make an assessment, and in the light of the established facts. Similarly, approval for variation does not relieve the taxpayer of the necessity to provide evidence to verify the amount of expenditure incurred if requested to do so.

COMMISSIONER OF TAXATION
23 May 1986

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