

IT 2379 - Income tax : travelling expenses of teacher attending a short term professional development course overseas

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TAXATION RULING NO. IT 2379

INCOME TAX : TRAVELLING EXPENSES OF TEACHER ATTENDING
A SHORT TERM PROFESSIONAL DEVELOPMENT COURSE OVERSEAS

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1210395	TEACHERS - OVERSEAS STUDY - COSTS OF ATTENDING COURSE	51(1) 82A

OTHER RULINGS ON TOPIC: IT 271 IT 285 IT 2083

PREAMBLE In a decision dated 20 June 1986 Taxation Board of Review No. 1, by majority, allowed a schoolteacher a deduction under sub-section 51(1) for expenses incurred in attending a professional development course overseas. The decision is reported as Case T47 86 ATC 381, Case 46 29 CTBR (NS) 345.

FACTS 2. The taxpayer, who graduated with a Bachelor of Arts degree (first class honours in French) and who subsequently obtained a Diploma of Education, was a French language teacher at a private school. Through the Commonwealth Department of Education and, with the strong support and consent of her headmaster, she applied and was selected for a six week professional development course to be conducted at a university in France. The course was organised and partly sponsored by the French Government and was designed to assist foreigners engaged in teaching French language, literature and civilization. The course was conducted, in the main, during the summer school recess. The taxpayer did miss nine days of the new school term but her employer agreed to pay her salary during this period. She spent only the minimum amount of time out of Australia required to attend the course. The course was conducted mainly by university lecturers and the subject matter was geared for teachers in high schools. Visits to local schools were included. The last 10 days of the course were devoted to a guided tour of cultural centres in Paris. The taxpayer incurred \$1,557 expenses in the year ended 30 June 1982 in undertaking the course.

3. While the reasons of the members of the Board varied, the Board it seems took the view, in the absence of evidence of increased income as a consequence of attending the course, that for the expenses to be incurred in terms of sub-section 51(1) of the Income Tax Assessment Act in gaining or producing assessable income the taxpayer needed to establish either that the taxpayer's duties of employment required the expenditure to

be incurred, that the employer required the expenditure to be incurred, that the employer expected her to travel overseas and to undertake the course in the course of performing her teaching duties or that the course was undertaken and the expenditure was incurred as part and parcel of the taxpayer's teaching duties. On the facts of this particular case, the Board was satisfied (relying heavily on a letter supplied by the taxpayer's headmaster which, at the very least, encouraged the taxpayer to undertake the overseas course) that in travelling to France and in undertaking the course the taxpayer engaged in the kind of activity that was expected of her in the course of performing her teaching duties.

4. As a result, two members found that sub-section 51(1) of the Act applied to the expenses incurred by the taxpayer. One member was of the view that the entire amount was deductible under sub-section 51(1), while the other member was of the opinion that the course was a "prescribed course of education" for the purposes of section 82A of the Act and thus the first \$250 was not deductible. The Chairman agreed in principle with the assessment of the Commissioner, but as the other two members would have allowed different amounts, he agreed that the lesser deduction should be allowed. Consequently, the Board allowed the full cost of attending the course including airfares, less the first \$250. A further amount of \$73, relating to expenditure on books, was claimed by the taxpayer but the Board confirmed the Commissioner's assessment on this point.

RULING

5. No appeal has been lodged against the Board's decision. It applied well established principles to the facts as found at the hearing. The degree of connection between the expenditure in this case and the taxpayer's duties, especially having regard to the nature of her activities overseas, was much stronger than that of most teachers who claim overseas travelling expenses to widen their experiences, to increase their general knowledge or to simply improve their command of foreign languages.

6. If a similar professional development course had been undertaken by the taxpayer within Australia the expenditure would have been deductible under sub-section 51(1) of the Act, having regard to the principles outlined in Canberra Income Tax Circular Memorandum No. 813 and Taxation Rulings Nos. IT 271 and IT 285. Its treatment should be the same for income tax purposes as where the relevant course is undertaken outside Australia.

COMMISSIONER OF TAXATION
22 JANUARY 1987

