IT 2412 - Income tax : allowances paid to students : deductibility of education expenses

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TAXATION RULING NO.IT 2412

INCOME TAX : ALLOWANCES PAID TO STUDENTS :
DEDUCTIBILITY OF EDUCATION EXPENSES

F.O.I. EMBARGO: May be released

REF N.O. REF: 86/1122-0 DATE OF EFFECT:

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

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1218580	AUSTUDY	23(z)
	TEAS ALLOWANCES	23(zaa)
	ASEAS ALLOWANCES	25(1)
	SELF EDUCATION	51(1)
	EXPENSES	82A
		160AAA
		221A(1)

OTHER RULINGS ON TOPIC IT 271, IT 285, IT 312, IT 2114, IT 2187

FACTS The Student Assistance Act 1973 has been amended with effect from 1 January 1987 to introduce a new scheme, "AUSTUDY", which incorporates the three previous schemes of assistance for tertiary and secondary students, the Tertiary Education Assistance Scheme (TEAS), the Adult Secondary Education Assistance Scheme (ASEAS) and the Secondary Allowance Scheme (SAS).

2. This Ruling is concerned primarily with the extent to which income tax deductions are allowable to the recipients of the "AUSTUDY" counterparts of TEAS and ASEAS in respect of their education expenses.

3. ASEAS and TEAS were income tested schemes that provided assistance to students undertaking approved full-time study courses at secondary and tertiary levels of education respectively. Assistance under both schemes was in the form of a living allowance, which may have included an additional amount for a dependent spouse and child, and an incidentals allowance. Paragraphs 23(z) and 23(zaa) of the Income Tax Assessment Act were amended with effect from 1 January 1986 to provide that allowances paid under ASEAS and TEAS, other than the additional amounts paid in respect of a dependent child, were no longer exempt income. As a result they became assessable income under sub-section 25(1) of the Act.

4. AUSTUDY will provide for the payment to students aged 16 and over, undertaking full-time secondary or tertiary study, of a living allowance, a dependent spouse and child allowance, and a special allowance of $250 to reimburse eligible students for the new higher education charge payable from 1987. The

incidentals allowance previously payable under TEAS and ASEAS will no longer be payable under AUSTUDY but will be absorbed into living allowance payments. Allowances paid under AUSTUDY, other than allowances paid in respect of a dependent child, are not exempt from income tax.

5. The Student Assistance Act also provides for allowances to be paid under the Postgraduate Award (PGA) scheme. This scheme assists people studying on a full-time basis for master's degrees and doctorates at universities and colleges of advanced education. The awards, which are not income tested, provide for the payment of a living allowance, a higher education administration charge allowance, incidentals, thesis and establishment allowances, and, where appropriate, dependent spouse and child allowances. Income derived under a PGA including allowances in respect of dependants is not exempt from income tax.

6. The definition of "salary and wages" contained in section 221A has been amended with effect from 1 January 1987, to include payments by way of living allowances under the AUSTUDY and the PGA schemes, except insofar as they consist of exempt income, e.g. payments in respect of a dependent child. Accordingly the living allowance component of such payments is subject to income tax instalment deductions.

7. A rebate has been introduced in sub-section 160AAA(2) for recipients of AUSTUDY payments who would have been eligible for benefits and payments under TEAS or ASEAS prior to the introduction of the AUSTUDY scheme. The rebate will first apply in the year ended 30 June 1987.

RULING

8. As in the case of TEAS and ASEAS allowances it is of the essence of eligibility for AUSTUDY and PGA allowances that students attend an approved educational institution. Recipients of the allowances may incur expenditure on such items as student union fees, tuition fees, textbooks, instruments, equipment, material, field excursions, stationery, printing, other incidentals and in the case of tertiary students, the higher education charge of $250.

9. In Canberra Income Tax Circular Memorandum No. 525 (CM 525) which issued in 1946 prior to the exemption given to income from scholarships by paragraph 23(z) in 1952, consideration is given to income tax deductions allowable to scholarship holders. Paragraph 5 of the Memorandum states that expenses which the holder is required to meet in fulfilling the terms under which a scholarship is granted are regarded as incurred in gaining or producing the assessable income received under the scholarship. Consequently, the expenses are allowable deductions under sub-section 51(1) to the extent that they do not represent outgoings of a capital, private or domestic nature.

10. In paragraph 6 of CM 525 it is stated that expenditure incurred by a scholarship holder on food and accommodation and on daily travel between his place of residence and place of education is of a private nature and not allowable as an income

tax deduction. Paragraph 7 goes on to list lecture and tuition fees, textbooks and equipment as examples of classes of expenditure which are allowable as deductions to a scholarship holder.

11. What is stated in CM 525 is considered to apply to recipients of AUSTUDY and PGA allowances, i.e. they are entitled to income tax deductions under sub-section 51(1) for expenses specified in paragraph 8 above. They are not entitled to income tax deductions for the cost of food and accommodation or the cost of travel between home and the place of study.

12. It may be said that not to allow recipients of AUSTUDY and PGA allowances income tax deductions for the cost of travel between their homes and places of study is in conflict with Taxation Ruling No. IT 312 which specifically states that income tax deductions may be allowed in some situations for the cost of travel between a residence and place of education. Taxation Ruling No. IT 312 deals with employee taxpayers who voluntarily pursue a course of study away from their place of employment. It is stated in the Ruling that in these circumstances the principles of income tax law which prohibit an income tax deduction for the cost of travel between home and work do not apply in all cases to the cost of travel to and from a place of education. To put it another way, the place of education is not regarded as a place of work.

13. The situation with regard to AUSTUDY and PGA recipients is quite different to the situation of taxpayers to whom Taxation Ruling No. IT 312 is directed - effectively they are being paid to pursue a course of study. The place of study is comparable to a place of employment. In this context AUSTUDY and PGA recipients are no different from trainee teachers, student nurses, etc. who are required under the terms of their contracts to attend at specific places during the course of their training. The cost of travel between home and place of training or education is of the same nature as the cost of travel between home and place of employment. It is not considered to be allowable as an income tax deduction.

14. As expenses incurred by AUSTUDY and PGA recipients are "expenses of self-education", as that term is defined in sub-section 82A(2), the deduction allowable under sub-section 51(1) is limited to the excess of the expenditure over $250. Income tax deductions should only be claimed where a recipient can substantiate the expenditure claimed as an income tax deduction.

COMMISSIONER OF TAXATION
18 June 1987