


IT 266 - Education expenses - treatment of expenditure on track suits for school children, recreation-type school activities, treatment for dyslexic children and Canberra high school activity days

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TAXATION RULING NO. IT 266

EDUCATION EXPENSES - TREATMENT OF EXPENDITURE ON TRACK SUITS FOR SCHOOL CHILDREN, RECREATION-TYPE SCHOOL ACTIVITIES, TREATMENT FOR DYSLEXIC CHILDREN AND CANBERRA HIGH SCHOOL ACTIVITY DAYS

F.O.I. EMBARGO: May be Released

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I 1070080	CONCESSIONAL REBATES EDUCATION EXPENSES TRACK SUITS RECREATION-TYPE SCHOOL ACTIVITIES TREATMENT FOR DYSLEXIC CHILDREN CANBERRA HIGH SCHOOL ACTIVITY DAYS	82J 159T

PREAMBLE The question has been raised whether deductions are allowable under section 82J for expenses on track suits for school children, recreation-type school activities, treatment for dyslexic children and Canberra High School activity days.

RULING TRACK SUITS FOR SCHOOL CHILDREN

2. Decisions of the Taxation Boards of Review (e.g. 18 TRBD Case T2, 14 CTBR(NS) Case 10, 69 ATC Case A67, 15 CTBR(NS) Case 42 have shown a trend towards the view that the expression "necessarily incurred" in the context of section 82J(6) covers expenditure which, although incurred voluntarily is reasonably necessary or appropriate for a particular purpose forming part of the full-time education of a taxpayer's dependent child.

3. In the case under review, it was noted that all pupils at the school (a Tasmanian Government primary school) were required to participate in school sporting and physical training activities unless exempted for health or other acceptable reasons, that no indoor sporting facilities or change rooms were available and that the purchase of a track suit for students was suggested by the school, although not made compulsory or part of a prescribed uniform.

4. As it is already accepted that expenditure on sporting footwear, sports uniform and other equipment related to school sporting activities falls within the deductible class of expenditure, it was considered that it would be difficult to argue that the expenditure in question was not reasonably necessary or appropriate in the situation existing at the school attended by the taxpayer's children. The claim in question was

therefore allowed.

5. It is anticipated that, in the case of the general run of primary and secondary schools in Australia, a taxpayer would be able to demonstrate that the circumstances surrounding the purchase of a tracksuit for his child attending school were sufficiently similar to those in the Tasmanian case for a deduction to be allowed under section 82J. Accordingly, it has been decided that, as a matter of standard assessing procedure, where the other requirements of section 82J are satisfied, claims made under the heading of education expenses for costs associated with the provision of a track suit for a child attending school should be allowed.

B: RECREATION-TYPE SCHOOL ACTIVITIES

6. It has also been brought to notice that claims under section 82J are becoming more prevalent in respect of various recreation-type activities, such as bush-walking, surfing, canoeing, sailing and golfing, organised within a school and carried on as extra-curricular activities.

7. The activities mentioned are considered to be far removed from the "more formal aspects of education" which No.2 Board of Review said in 16 TBRD Case R11, 12 CTBR(NS) Case 62, was what was meant by "education" in section 82J. It may be argued that the provision of the more formal aspects of education is not the sole function of schools and that the trend is towards activities like those in question becoming incidental to a child's attending school. On the other hand, these activities would not, it appears, be taught by the school, are mainly carried on outside the school and are appropriately described as "recreational" rather than "educational". Accordingly, the view is taken that such pursuits are not incidental to "full-time education at a school". In the case of very expensive items such as sailing yachts, there would also be the difficulty of establishing that the cost has been "necessarily incurred".

8. It is thought that both the Board's line of thinking and our own internal decisions continue to require the conclusion that expenses incurred in respect of the activities referred to are too far removed from "expenses necessarily incurred ... in connection with full-time education at a school" to come within section 82J(6). Claims for such expenses should therefore be disallowed as previously.

9. Claims in respect of school children's involvement in music and art clubs have also been encountered. The allowance of a deduction in these cases will, of course, depend, inter alia, on it being shown that a clear connection exists between the expenditure and a subject taught at the school.

C: TREATMENT FOR DYSLEXIC CHILDREN

10. Fees paid to a remedial clinic for the treatment of a dyslexic child may qualify for deduction as "medical expenses"

under section 82F where the treatment of the child answers the description of "therapeutic treatment administered by direction of a legally qualified medical practitioner". Broadly speaking a deduction is allowable under this heading if a child is referred by a legally qualified medical practitioner to the clinic for appropriate treatment aimed at overcoming a physical, emotional or mental disability. It is considered, however, that, in certain circumstances, fees paid to such clinics which are not deductible under section 82F, may be allowable under section 82J as education expenses. In this regard it has been decided that, as a matter of general policy, where fees (not deductible under section 82F) are paid to such clinics for the training of a dyslexic child receiving education at a school, college, etc., in muscular co-ordination so that he may speak or write more readily or for other treatment to enhance his learning ability, the fees and other expenses associated with the child's attendance at the clinic may be accepted as education expenses in terms of section 82J(6).

D: CANBERRA HIGH SCHOOL ACTIVITY DAYS

11. In relation to paragraphs 6 to 9 above, please note that Canberra High School is the first school to have introduced (during 1973) a trial curriculum approved by the education authorities and based on an eleven day cycle, each cycle comprising nine academic days and two activity days. Activity days are school days on which students are required to attend and to participate in their own selection of scheduled art, craft, musical, vocational, sporting, recreational and other activities. The activities are carried out during normal school hours under the direction of the teachers (and/or experts engaged for the purpose) and, where possible, at the school itself. (In the case of activities such as bushwalking, sailing, canoeing, golf, cross-country running, horseriding, etc., facilities away from the school would, of course, need to be used.)

12. In the circumstances, it is accepted that activities undertaken by students at Canberra High on its activity days which would ordinarily be acceptable, to varying degrees, as being of a formal educational nature, (e.g., art, music, sport, drama, etc.) form part of full-time education at the school and, therefore, expenses reasonably necessary or appropriate for a student's participation in these activities may be accepted as coming within the meaning of "educational expenses" in section 82J(6). As mentioned in paragraph 7 and 8 above, however, deductions should not be allowed for purely "recreational" activities nor for the cost of capital items such as yachts, canoes, sets of golf clubs, etc., on the ground that, prima facie, such expenses would not have been "...necessarily incurred... in connection with full-time education..". Rather these particular activities would have been undertaken, and the items would have been purchased, predominantly for the child's personal enjoyment.