IT 300 - Deductions - expenditure incurred by employee taxpayers in providing specialised clothing worn in the course of employment

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TAXATION RULING NO. IT 300

DEDUCTIONS - EXPENDITURE INCURRED BY EMPLOYEE TAXPAYERS IN PROVIDING SPECIALISED CLOTHING WORN IN THE COURSE OF EMPLOYMENT

F.O.I. EMBARGO: May be released

REF H.O. REF: J35/952 P3 F154 DATE OF EFFECT:

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F.O.I. INDEX DETAIL REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1103429	PROTECTIVE CLOTHING SPECIAL QUALITIES	51(1)

OTHER RULINGS ON TOPIC: CITCM's 758; 773; 812. IT 297

PREAMBLE In a decision reported as 69 ATC Case A45; 15 CTBR(NS) Case 24, Taxation Board of Review No.3 unanimously upheld a taxpayer's claim for a deduction under section 51 in respect of the cost of providing an ex-army jacket, a pair of ex-army trousers and flannel shirts (all made of wool) which were worn by him in his occupation as a cast house labourer at a blast furnace.

RULING 2. While it has been decided to accept the Board's decision, it is considered that it should be followed only in those cases where it is clear that the facts are sufficiently similar. In this connection, it is important to note the special factors which the Board members took into account in deciding that the costs were deductible, which included:-

(a) The clothing was kept, and used exclusively at work;

(b) It was entirely unsuitable for normal private use, including travelling between home and place of employment. The Chairman regarded the garments as being unsuitable for private use by any normal person. Similarly, Mr Dempsey (member) could not imagine that any normal person would adopt it as his every day means of garb between home and work; and

(c) It bore a distinct occupational character because of its special protective qualities against the high level of danger involved in the taxpayer's duties. The special protective qualities of woollen clothing in the presence of extreme heat were demonstrated before the Board.

3. Where it is clear that these three conditions are met, a deduction may be allowed under section 51 in accordance with general principles contained in Taxation Ruling IT 297 and those principles should continue to be applied in determining claims

for working clothes. As indicated in paragraph 6 of that ruling, claims under such vague general headings as "working clothes" should continue to be disallowed. However, deductions may be allowed in cases where facts similar to those existing in the Board reference are either established by the taxpayer or are within the knowledge of assessors.

4. In particular, it should not be conceded that a taxpayer can obtain a deduction merely by keeping different sets of clothing for use during the period spent at work and during his leisure periods. It is clear that the Board would not have allowed a deduction solely on this ground. Further, the decision should not be regarded as authorising deductions for clothes which are suitable for normal private use including travelling to and from work.

COMMISSIONER OF TAXATION