IT 312 - Self-education expenses - travelling expenses

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TAXATION RULING NO. IT 312

SELF-EDUCATION EXPENSES - TRAVELLING EXPENSES

F.O.I. EMBARGO: May be released

REF H.O. REF: J 35/1051 P3 F352 DATE OF EFFECT:

B.O. REF: DATE ORIG. MEMO ISSUED: 27.11.80

F.O.I. INDEX DETAIL REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1070193	SELF-EDUCATION EXPENSES TRAVELLING EXPENSES FARES COST OF TRAVEL	51(1) 159U

OTHER RULINGS ON TOPIC: IT 271, IT 285

FACTS Taxation Ruling IT 285 dealt with the implications of decisions of the Supreme Court of New South Wales in FC of T v Smith 78 ATC 4157; 8 ATR 518 and FC of T v Lacelles-Smith, 78 ATC 4162; 8 ATR 524. The ruling concluded by stating that where the facts support the allowance of a deduction under section 51 for costs of self-education, the costs will include, in addition to any fees paid, other relevant expenditure incidental to the course, e.g. the cost of travelling to and from the place of education.

2. It would appear however, that some claims for the cost of travel to and from the place of education are being disallowed on the grounds that the cost of travel is of a private nature similar to expenditure on fares to and from work.

RULING 3. The deductibility of fares to and from work is governed by the phrase in section 51, "incurred in gaining or producing the assessable income". Because of the judicial meaning given to the phrase, it cannot be said that fares to and from work are incurred in gaining or producing assessable income from the work. Notwithstanding that the fares are a necessary prerequisite to gaining or producing the assessable income, they are incurred at a point prior to the actual activities by which the assessable income from the work is gained or produced.

4. The reasoning which the courts have applied in giving meaning to the expression "incurred in gaining or producing the assessable income" simply does not apply to ascertaining the costs of self-education. If section 51 permitted a deduction for expenses of employment, there would be little doubt that the cost of fares to and from the place of employment would qualify for deduction. So it is with expenses of self- education. The cost of travel to and from a place of education is as much a part of the costs of the education as the costs of travel to and from a convention or seminar is a part of the cost of attending the convention or seminar.

5. The deductions allowable for the cost of travel to and from a place of education may be illustrated in the following examples:-

(a) Where a taxpayer travels directly from his place of employment or business to and from the place of education, the cost of travel forms part of the cost of the self-education.

(b) Where the taxpayer travels directly from his home to and from the place of education, the cost of travel is part of the cost of the self-education.

(c) Where the taxpayer travels directly from his home to the place of education and then to his place of employment or business, the cost of travel to the place of education is part of the cost of the self-education.

The cost of travel from the place of education to the place of employment or business should be regarded as of the same nature as the cost of fares to and from work and not deductible, cf 76 ATC Case H18 at pp.134/5; 20 CTBR(NS) Case 72 at pp.714/715; Sargent v Barnes [1978] 2 All ER 737. This will be the case irrespective of whether the place of education is on the normal route from the taxpayer's home to the place of employment or business or on some other route.

(d) Where the taxpayer travels directly from his place of employment or business to the place of education and thence to his home the same approach as in (c) should be followed, i.e. the cost of travel to the place of education is part of the cost of the self-education and the cost of travel from the place of education to home is not deductible.

COMMISSIONER OF TAXATION