TD 1999/63 - Income tax: are officers of military cadets entitled to deductions for expenses incurred in the performance of their duties?

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Taxation Determination

Income tax: are officers of military cadets entitled to deductions for expenses incurred in the performance of their duties?

Preamble

This Taxation Determination is a 'public ruling' for the purposes of Part IVAAA of the ***Taxation Administration Act 1953*** *and is legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Determination is a public ruling and how it is legally binding on the Commissioner.*

Date of effect

This determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

1. Yes, expenditure incurred by officers may be deductible under section 8-1 of the *Income Tax Assessment Act 1997* where they receive assessable remuneration for the carrying out of these duties.

2. The expenditure is deductible where:

   (a) the expense is sufficiently connected to, and is incurred in the performance of, duty as a cadet officer;

   (b) the expenditure is not of a private, capital or domestic nature; and

   (c) another provision does not prevent the deduction.

3. Depending upon the nature of the cadet corp, officers of cadets usually receive remuneration from the Department of Defence or their employer (e.g., some school teachers are remunerated by the school rather than the Department of Defence) to perform these duties. This remuneration is assessable income. As this remuneration is salary or wages, expenses incurred in earning that income are subject to substantiation.

4. The receipt of an allowance by the officer as a result of his/her employment, does not automatically entitle the officer to a deduction for expenditure incurred in expending that allowance. (See Taxation Ruling TR 92/15 for an explanation of the income tax and fringe benefit tax implications of allowances and reimbursements.)

5. Examples of expenditure that may be incurred include maintenance of uniforms, postage, stationery, telephone calls, training aids, travel, etc.

Previous Rulings

6. The previous Taxation Ruling on this topic, Taxation Ruling IT 2347, is now withdrawn.

Commissioner of Taxation
10 November 1999

Previous draft:
Previously issued as TD 1999/D64

Related Rulings/Determinations:
TR 92/15

Subject references:
deductions and expenses; substantiation

Legislative references:
ITAA 1997 8-1

Case references:

ATO references:
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