TD 92/105 - Income tax: is eligible training expenditure as defined in the Training Guarantee (Administration) Act 1990 incurred by an employer who carries on business an allowable income tax deduction?

This document has changed over time. This is a consolidated version of the ruling which was published on *1 July 1992*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

Taxation Determination

Income tax: is eligible training expenditure as defined in the Training Guarantee (Administration) Act 1990 incurred by an employer who carries on business an allowable income tax deduction?

1. Yes. An employer who carries on business can incur eligible training expenditure, as defined in sections 25 and 26 of the *Training Guarantee (Administration) Act 1990* (TGAA), and can at the same time receive a direct benefit as a result of the expenditure, for example, the training of employees. In these circumstances, the expenditure is a working expense of the business or a part of the cost of the employer's trading operations and is deductible under subsection 51(1) of the *Income Tax Assessment Act 1936* (ITAA) unless it is otherwise excluded from deductibility by some other provision in section 51 (see note below).

2. An employer who carries on business can also incur eligible training expenditure without receiving any direct benefit, by making payments to a third party so that the third party can carry out any of the training activities referred to in subsection 25(2) of the TGAA. Again, the expenditure is deductible under subsection 51(1) of the ITAA provided it is made for reasons of commercial expediency and is not otherwise excluded. We accept that it is commercially expedient to incur the eligible training expenditure rather than have a training shortfall and pay a (non-deductible) guarantee charge to the government.

3. Alternatively, the expenditure referred to in paragraph 2 is deductible under paragraph 78(1)(a) of the ITAA (the gift provisions), provided that the payments are made to a body falling within paragraph 78(1)(a), for example, a TAFE or a public university.

Note: Examples of non-deductible expenditure are: HECS payments (subsection 51(6) ITAA); payments of a charge imposed by the *Training Guarantee Act 1990* (subsection 51(7) ITAA); and capital expenditure in relation to a building or depreciable property (capital exclusion provisions of subsection 51(1)).

Example:

XYZ Pty Ltd carries on the business of a supermarket. It pays fees of $2,000 to its local TAFE so that one of its employees can undertake a management course (XYZ gets a direct benefit). The $2,000 is eligible training expenditure and XYZ can claim it as an income tax deduction in the relevant year. The payment would also be deductible if XYZ made it so that the TAFE could carry out one of the activities referred to in subsection 25(2) of the TGAA but XYZ did not receive any direct benefit as a result of the payment.

Commissioner of Taxation
01/07/92

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