TD 93/101 - Income tax: is a professional sportsperson entitled to a deduction under subsection 51(1) of the Income Tax Assessment Act 1936 for the cost of hiring formal clothing to attend functions or presentations?

This cover sheet is provided for information only. It does not form part of *TD 93/101 - Income tax: is a professional sportsperson entitled to a deduction under subsection 51(1) of the Income Tax Assessment Act 1936 for the cost of hiring formal clothing to attend functions or presentations?*

This document has changed over time. This is a consolidated version of the ruling which was published on *10 June 1993*

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, 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 a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: is a professional sportsperson entitled to a deduction under subsection 51(1) of the *Income Tax Assessment Act 1936* for the cost of hiring formal clothing to attend functions or presentations?

1 No. The cost of hiring formal clothing is not deductible under subsection 51(1) of the Act because it is not incurred in gaining or producing assessable income. This is because:

(a) it is not sufficiently connected to the sporting activity which produces the income;

(b) formal clothing is not necessary and peculiar to the actual income producing activities; and

(c) the expense is of a private nature. Formal clothing is worn to observe appropriate dress standards or requirements rather than for reasons that will establish an income earning nexus.

Lockhart J said in *FC of T v Cooper* 91 ATC 4396 at p.4402, (1991) 21 ATR 1616 at p.1622, "the deductibility of ... (an expense) ...depends upon determining the essential character of the expenditure itself and not upon the fact that, unless it is incurred, the taxpayer will not be able to engage in the activity from which his income is derived."

2 Even if it is a condition of employment that a person attend a function or presentation, the cost of hiring formal clothing is still not deductible as the expenditure is not related to the income producing activities of playing sport. The essential character of the expenditure is of a private nature.

Example

A professional footballer is required by his club to attend an award presentation and must wear formal clothing. The player is not allowed a deduction for the hire of that clothing.

Commissioner of Taxation
10/6/93

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