TD 93/121 - Income tax: is a nurse entitled to a deduction under subsection 51(1) of the Income Tax Assessment Act 1936 for expenditure on a traditional nurse's uniform?

This cover sheet is provided for information only. It does not form part of *TD 93/121 - Income tax: is a nurse entitled to a deduction under subsection 51(1) of the Income Tax Assessment Act 1936 for expenditure on a traditional nurse's uniform?*

This document has changed over time. This is a consolidated version of the ruling which was published on *24 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 nurse entitled to a deduction under subsection 51(1) of the *Income Tax Assessment Act 1936* for expenditure on a traditional nurse's uniform?

1. A nurse is entitled to a deduction under subsection 51(1) for expenditure on the purchase and maintenance of a traditional nurse's uniform (for example, **cap, white uniform, and cardigan**). It need not be worn as compulsory condition of employment (but see paragraphs 6 and 7 below in relation to expenditure incurred on or after 1 September 1993). Moreover, it need not have corporate identifiers such as insignia or logos. The uniform is, in our view, clothing of an occupational character that is truly incidental to the nurse's income-producing activities.

2. Although we accept that expenditure on the kinds of items mentioned in paragraph 1 above is deductible under subsection 51(1), we do not consider the items to be protective clothing in the sense that gives rise to deductions under that subsection. Protective clothing either protects the employee from injury (for example, the lead aprons worn by an X-ray machine operator) or is worn over the employee's other clothing to protect it from damage while working (for example, the white coats worn by some medical staff over their ordinary streetwear).

3. Expenditure on **special non-slip nursing shoes** is deductible as expenditure on protective clothing. They protect the nurse from injury while working. These shoes differ from conventional footwear. Expenditure on conventional shoes (including running or aerobic shoes) is not deductible.

4. Expenditure on a **pinafore** or **apron** that covers other clothing (whether a uniform or ordinary streetwear) is also deductible as expenditure on protective clothing. The pinafore or apron protects the nurse's other clothing from damage while working.

5. However, no deduction is available for expenditure on **stockings** (including support hose), irrespective of colour. This is so even if they are worn as a compulsory condition of employment. The non-deductibility of this expenditure is supported by the Board of Review decision in Case N97, 81 ATC 521; Case 50 (1981) 25 CTBR (NS) 366, a case involving the purchase of stockings by a nurse.

6. The views expressed in this Determination are subject to the application of **section 51AL** for expenditure incurred on or after 1 September 1993. Section 51AL will mean that expenses incurred on uniforms (irrespective of occupation) will be deductible only if the uniform is worn as a compulsory condition of employment or if it is included on the Register of Approved Occupational Clothing. The 'approved occupational clothing guidelines' for inclusion of uniforms

on the Register have not been published at the date of this Determination. Section 51AL will not apply to protective clothing (for example, the special non-slip nursing shoes and the pinafores and aprons referred to in paragraphs 2 and 3 above).

7. An important transitional arrangement in relation to section 51AL applies for certain expenditure incurred on or after 1 September 1993 and before 1 July 1994. For expenditure incurred during that period, section 51AL will not deny deductions if the employee's employer has a written statement from the Australian Taxation Office expressing an opinion that the uniform is a corporate uniform or wardrobe within the meaning of Taxation Ruling IT 2641. Briefly stated, such a uniform needs to be unique, distinctive and peculiar to the particular employing organisation.

Commissioner of Taxation
24/6/93

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