



# ***TD 93/185 - Income tax: is expenditure incurred by a taxpayer in the course of undertaking unpaid work for a charitable organisation deductible?***

 This cover sheet is provided for information only. It does not form part of *TD 93/185 - Income tax: is expenditure incurred by a taxpayer in the course of undertaking unpaid work for a charitable organisation deductible?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *9 September 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 expenditure incurred by a taxpayer in the course of undertaking unpaid work for a charitable organisation deductible?**

1. No. The expenditure is not incurred in gaining assessable income. No deduction is allowable under subsection 51(1) of the *Income Tax Assessment Act 1936*.
2. The expenditure incurred does not constitute a gift for the purposes of subsection 78(1) where there is no transfer of money or property. In *Leary v F C of T 80* ATC 4438; (1980) 10 ATR 521, the Federal Court held that the making of a gift involved the voluntary transfer of money or property without any benefit passing to the transferor. In *Case S43 85* ATC 343; 28 CTBR Case 49, the Board of Review concluded that if a taxpayer uses his or her own property in doing work for a charity there is no transfer of that property to the charity.

#### *Example*

*A taxpayer travels to an overseas country to work for an organisation without remuneration. The organisation has been declared to be an eligible fund pursuant to subsection 78(8). Airfare and travel expenses incurred in travelling to the overseas country are paid for by the taxpayer. The expenditure is not deductible under either subsections 51(1) or 78(1).*

#### **Commissioner of Taxation**

9/9/93

FOI INDEX DETAIL: Reference No. I 1216177

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Related Determinations:

Related Rulings:

Subject Ref: Gifts

Legislative Ref: ITAA ss51(1); ITAA ss78(1)

Case Ref: *Leary v F C of T 80* ATC 4438, (1980) 10 ATR 521; *Case S43 1980* ATC 343, 28 CTBR Case 49

ATO Ref: PNR T 95 Part 5

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