

TD 94/5 - Income tax: can expenditure incurred on cosmetic surgery qualify as medical expenses for the purpose of section 159P and therefore qualify for a medical expenses rebate?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *20 January 1994*

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: can expenditure incurred on cosmetic surgery qualify as medical expenses for the purpose of section 159P and therefore qualify for a medical expenses rebate?

1. Yes. Paragraph (a) of the definition of medical expenses in subsection 159P(4) of the *Income Tax Assessment Act 1936* (ITAA) includes payments to a legally qualified medical practitioner, nurse or chemist, or a public or private hospital in respect of an illness or operation.
2. The term operation is not defined in the ITAA and therefore adopts the ordinary meaning given to it in a medical context. We accept that where cosmetic surgery is performed by a legally qualified medical practitioner it falls within the meaning of operation in paragraph (a) of the definition of medical expenses.

Example:

Joe is a resident taxpayer who decides to undergo a facelift. He incurs total medical expenses of \$5000, paid to a legally qualified medical practitioner and a hospital. He recoups \$2000 from his private health fund. The net eligible medical expenses are \$3000. Assuming he has no other rebatable expenses, Joe is eligible for a rebate on \$2000 (the excess of \$3000 over \$1000 - subsection 159P(3A)).

Commissioner of Taxation

20/1/94