

TR 97/12A2 - Addendum - Income tax and fringe benefits tax: work related expenses: deductibility of expenses on clothing, uniform and footwear

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Addendum

Taxation Ruling

Income tax and fringe benefits tax: work related expenses: deductibility of expenses on clothing, uniform and footwear

This Addendum amends Taxation Ruling TR 97/12 to reflect the changes to the law caused by the repeal of inoperative provisions.

TR 97/12 is amended as follows:

1. Other Rulings on this topic

Omit all listed references; substitute:

IT 54; IT 2198; IT 2409; TD 93/111; TD 93/114; TD 94/48; TD 1999/62; TD 1999/63; TR 94/22; TR 95/8; TR 95/9; TR 95/10; TR 95/11; TR 95/12; TR 95/13; TR 95/14; TR 95/15; TR 95/16; TR 95/17; TR 95/18; TR 95/19; TR 95/20; TR 95/22; TR 96/16; TR 98/5; TR 98/6; TR 2003/16.

2. Paragraph 1

Omit 'subsection 51(1) of the *Income Tax Assessment Act 1936* ('the ITAA')'; substitute 'section 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997)'.

3. Paragraph 3

Omit 'prescribed payments'; substitute 'withholding payments covered by subsection 34-5(3) of the ITAA 1997'.

4. Paragraph 6

- (a) Omit 'subsection 51(1)'; substitute 'section 8-1 of the ITAA 1997'.
- (b) Omit 'section 51AL'; substitute 'Division 34 of the ITAA 1997'.
- (c) Omit: 'ITAA'; substitute '*Income Tax Assessment Act 1936* (ITAA 1936)'.

5. Subparagraph 8(d)

Omit 'section 51AH or section 51AL'; substitute 'section 51AH of the ITAA 1936 or Division 34 of the ITAA 1997'.

6. Paragraphs 10, 19, 25, 30, 35, 46, 59, 68, 69, 87 and 90

Omit all occurrences of 'subsection 51(1)'; substitute 'section 8-1 of the ITAA 1997'.

7. Paragraph 15

Omit 'subsection 25(1) or paragraph 26(e) of the ITAA'; substitute 'section 6-5 or section 15-2 of the ITAA 1997'.

8. Paragraph headings for 30, 36 and 79

Omit all occurrences of 'uniform/wardrobe'; substitute 'uniform'.

9. Paragraphs 15, 30, 31, 32, 34, 36, 37, 38, 39, 40, 79, 80, 84, 86, 90 and Detailed contents list

Omit all occurrences of 'uniform/wardrobe'; substitute 'uniform'.

10. Paragraph 16

- (a) After 'section 51AH', insert ' of the ITAA 1936'.
- (b) After 'FTBAA,', insert 'or would constitute a fringe benefit if it was not an exempt benefit,'.

11. Paragraph 18

Omit 'Schedule 2B of the ITAA'; substitute 'Division 900 of the ITAA 1997'.

12. Paragraphs 33 and 79

Omit 'uniforms/wardrobes'; substitute 'uniforms'.

13. Paragraph 36

- (a) Omit 'section 51AL'; substitute 'Division 34 of the ITAA 1997'.
- (b) Omit 'that section'; substitute 'that Division'.

14. Paragraphs 37, 38 and 79

Omit 'section 51AL'; substitute 'Division 34 of the ITAA 1997'.

15. Subparagraph 38(a)

Omit 'prescribed payment'; substitute 'withholding payment covered by subsection 34-5(3) of the ITAA 1997'.

16. Paragraph 39

Omit the paragraph; substitute:

39. The definition of non-compulsory uniform in section 34-15 of the ITAA 1997 refers to a set of one or more items of clothing (or accessories). Expenditure on single items of non-compulsory clothing, or accessories which come within the definition of non-compulsory uniform in section 34-15 of the ITAA 1997, but which are not registered, is not deductible under section 8-1 of the ITAA 1997. Where items of clothing cannot be included on the Register on the basis that they do not come within that definition, the deductibility of expenditure on those items depends on the tests contained in section 8-1 of the ITAA 1997.

17. Paragraph 41

- (a) In the heading, omit 'Depreciation'; substitute 'Deductions for decline in value'.
- (b) Omit 'that can be depreciated in terms of section 54 of the ITAA'; substitute 'and the decline in value of the clothing can be deducted under Division 40 of the ITAA 1997'.

18. Paragraph 45

Omit the paragraph; substitute:

45 The tests for deductibility of work related expenses are contained in section 8-1 of the ITAA 1997 in the following terms:

- (1) You can deduct from your assessable income any loss or outgoing to the extent that:
 - (a) it is incurred in gaining or producing your assessable income; or
 - (b) it is necessarily incurred in carrying on a business for the purpose of gaining or producing your assessable income.

- (2) However, you cannot deduct a loss or outgoing under this section to the extent that:
 - (a) it is a loss or outgoing of capital, or of a capital nature; or
 - (b) it is a loss or outgoing of a private or domestic nature;
- ...

19. Paragraph 55

Omit 'section 51'; substitute 'section 8-1 of the ITAA 1997'.

20. Paragraph 89

- (a) In the heading, omit 'uniform/wardrobe'; substitute 'uniform'.
- (b) Omit the paragraph; substitute:

89 Subsection 34-15(1) of the ITAA 1997 defines a uniform as one or more items of clothing (including accessories) which, when considered as a set, distinctively identify you as a person associated (directly or indirectly) with:

- (a) your employer, or
- (b) a group consisting of your employer and one or more of your employer's associates.

Under subsection 34-15(2), a uniform is non-compulsory unless your employer enforces a policy that requires you and other employees (except temporary or relief employees) who do the same type of work as you:

- (a) to wear the uniform when working; and
- (b) not to substitute an item of clothing not included in the uniform when working.'

21. Paragraph 90

- (a) Omit 'prescribed payments'; substitute 'withholding payments covered by subsection 34-5(3) of the ITAA 1997'.
- (b) Omit 'subsection 51AL(2)'; substitute 'Subdivision 34-C of the ITAA 1997'.

22. Paragraph 92

Omit 'the Department of Industry, Science and Tourism ('DIST')'; substitute: 'AusIndustry'.

23. Paragraph 93

Omit the paragraph; substitute

93 The Industry Secretary will not approve a clothing design unless the clothing meets the criteria set out in the Approved Occupational Clothing Guidelines. The current Guidelines are available on the Comlaw website www.comlaw.gov.au.'

24. Paragraph 96

Omit 'Division 2 of Schedule 2B to the ITAA'; substitute 'Division 900 of the ITAA 1997'.

25. Paragraph 100

Omit last sentence; substitute 'Accordingly, deductions for the decline in value of the clothing may be made under Division 40 of the ITAA 1997.'

26. Detailed contents list

Omit

Depreciation of articles of clothing 41

Substitute:

Deductions for decline in value of articles of clothing 41

27. Subject references

Omit all occurrences of 'uniform/wardrobe'; substitute 'uniform'.

28. Legislative references

Omit all listed references; substitute:

- ITAA 1936 51AH
- ITAA 1997 6-5
- ITAA 1997 8-1
- ITAA 1997 Div 34
- ITAA 1997 34-5(3)
- ITAA 1997 34-15
- ITAA 1997 34-15(1)
- ITAA 1997 34-15(2)
- ITAA 1997 Subd 34-C
- ITAA 1997 Div 40
- ITAA 1997 Div 900
- FBTAA 24
- FBTAA 44

This Addendum applies on and from 14 September 2006.

Commissioner of Taxation

17 August 2011

ATO references

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