


# ***CR 2003/52 - Income tax: Compulsory uniform for front office employees of Majestic Hotels***

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## **Class Ruling**

### **Income tax: Compulsory uniform for front office employees of Majestic Hotels**

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#### ***Preamble***

*The number, subject heading, and the **What this Class Ruling is about** (including **Tax law(s)**, **Class of persons** and **Qualifications** sections), **Date of effect**, **Arrangement** and **Ruling** parts of this document are a 'public ruling' in terms of Part IVAAA of the **Taxation Administration Act 1953**. CR 2001/1 explains **Class Rulings** and **Taxation Rulings** TR 92/1 and TR 97/16 together explain when a **Ruling** is a public ruling and how it is binding on the Commissioner.*

#### **What this Class Ruling is about**

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1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax laws' identified below apply to the defined class of persons, who take part in the arrangement to which this Ruling relates.

#### **Tax law(s)**

2. The tax law dealt with in this ruling is section 8-1 of the *Income Tax Assessment Act 1997* ('ITAA 1997').

#### **Class of persons**

3. The class of persons to which this Ruling applies is all current and future front office employees of Majestic Hotels, which includes Old Lion Apartments and the Adelaide Park View Apartments, who are required to wear the compulsory uniform.

4. From the relevant times, the class of persons to which this Ruling applies includes employees of new hotels that become part of the Majestic Hotels group and excludes employees of hotels that cease to be part of the group.

#### **Qualifications**

5. The Commissioner makes this Ruling based on the precise arrangement identified in this Ruling.

6. The class of persons defined in this Ruling may rely on its contents provided the arrangement actually carried out is carried out in accordance with the arrangement described below at paragraphs 10 to 21 in this Ruling.

7. If the arrangement actually carried out is materially different from the arrangement that is described in this Ruling:

- (a) this Ruling has no binding effect on the Commissioner because the arrangement entered into is not the arrangement on which the Commissioner has ruled; and
- (b) this Ruling may be withdrawn or modified.

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## Date of effect

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9. This Ruling applies from 1 July 2002. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 to 22 of Taxation Ruling TR 92/20). Furthermore, the Ruling only applies to the extent that:

- it is not later withdrawn by notice in the Gazette; or
- it is not taken to be withdrawn by an inconsistent later public ruling; or
- the relevant tax laws are not amended.

## Arrangement

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10. The arrangement that is the subject of the Ruling is described below. This description is based on:

- Application for class ruling dated 16 October 2002;

- Further information provided by the applicant.

11. Majestic Hotels, which includes Old Lion Apartments and the Adelaide Park View Apartments, have chosen a compulsory corporate uniform for their front office staff. The uniform comprises:

- A charcoal grey suit including pants and jacket for the male employees and pants, skirt, vest and jacket for the female employees;
- Navy long-sleeved closed neck shirt for male employees or burgundy coloured long sleeve shirt for female employees.

12. Majestic Hotels will provide matching ties for the male employees, pocket handkerchiefs for the female employees and a name badge. All are to be worn as part of the corporate uniform.

13. In addition Majestic Hotels have stipulated that the following items should also be worn with the uniform:

- A plain black belt, corporate in design;
- Closed in black leather shoes for men, and black leather shoes in a corporate classic style for women. Certain types of shoes are expressly prohibited;
- Socks for the male employees with plain corporate patterns and colours; or
- Hosiery for the female employees.

14. The fabrics for the male uniforms are 100% wool for the suits and a blend of polyester and cotton for the shirts. The fabrics for the female uniforms are 80% wool, 20% polyester for the suits and a blend of polyester and cotton for the shirts. The vest, of which there is expected to be only one, is in the same style as the rest of the suit but in an alternative fabric to alleviate problems for a staff member who has an allergy to wool.

15. The suits for the male employees are purchased, by the male employees, from a specific menswear store, which orders the suits specifically for them. The navy shirt is also purchased from this store.

16. The suits for the female employees are purchased, by the female employees, from a uniform retailer. The burgundy coloured shirt is also purchased from this retailer.

17. There is only one style of shirt for each of the male and female employees.

18. A corporate logo, which bears a picture of a crown and the company name, 'Majestic Hotels', will be embroidered onto the suits, vest and shirts before the staff receive them from the supplier. The logo will be in contrasting colours, measure 3cm x 3cm and be located

above the left hand breast pocket of the shirts and suit jackets and similar relative position on the vest.

19. The above uniform is prescribed in the Hotel's Code of Conduct under Dress Code/Uniform as a compulsory corporate uniform. It also stipulates that where possible, the suit should be worn in its entirety. The exceptions would include weather constraints (at times during summer) and practicality (outside tasks such as emptying rubbish or collecting linen).

20. Each employee has been informed and understands that the uniform is to be worn on official duty only and is not to be worn at any stage with non-uniform garments.

21. It is also stated in the Code of Conduct that:

Employees should attend for duty appropriately and reasonably groomed and attired, neither excessively or extreme, in keeping with the Company's corporate uniform requirements and professional (business-like) image of our clientele.

Employees not presenting themselves appropriately and reasonably groomed and attired to start work may not be granted permission to commence work by their supervisor or management. In this instance the employee may be sent home without pay.

## Ruling

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22. The cost of the following items of the uniform for the front office employees is deductible:

- Male employee suit (including jacket and pants);
- Female employee suit (including jacket, skirt, pants and vest);
- Burgundy coloured shirt for female employees; and
- Navy shirt for male employees.

23. The cost of the following items is not deductible:

- Shoes (for both male and female employees);
- Belt;
- Socks;
- Hosiery.

## **Explanation**

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24. Expenditure on uniforms is deductible where the deductibility tests contained in section 8-1 of the ITAA 1997 are met. The expenditure is only deductible where there is a sufficient connection between the expense and the income earning activities, such that its essential character is work related and not private or domestic in nature.

25. A deduction is allowable under section 8-1 of the ITAA 1997 for expenditure incurred by an employee on a compulsory and distinctive uniform/wardrobe. It is the compulsory and distinctive characteristics which provide the nexus between the expenditure and the income producing activity.

26. Taxation Ruling TR 97/12 provides guidelines on the deductibility of several clothing categories and at paragraph 32 states:

A compulsory uniform/wardrobe must be prescribed by the employer in an expressed policy which makes it a requirement for a particular class of employees to wear that uniform while at work and which identifies the relevant employer. The employer's compulsory uniform/wardrobe policy guidelines should stipulate the characteristics of colour, style and type of clothing and accessories that qualify them as being a distinctive part of a compulsory uniform/wardrobe. Also, the wearing of the uniform/wardrobe generally should be strictly enforced.

27. To be compulsory, generally the wearing of the uniform must be strictly and consistently enforced (paragraph 83 of TR 97/12). In our view, it is only in similarly strict regimes for compulsory uniforms that expenditure on these items is likely to be regarded as work related rather than private in nature.

28. To constitute a distinctive uniform/wardrobe it is not enough that there is a requirement to wear clothing of a particular colour or style at work. The uniform/wardrobe needs to be sufficiently distinctive so that the casual observer can clearly identify the employee as working for a particular employer, or identify the products or services provided by the employer (paragraph 79 of TR 97/12).

29. In *Case R55 84 ATC 411* at 416; 27 CTBR (NS) *Case 109* at 874, the Administrative Appeals Tribunal said that:

...conventional clothing of a particular colour or style does not necessarily, because of those factors alone, assume the character of a uniform. Likewise, ordinary clothing is not converted into a uniform by the simple process of asserting that it fills that role or by wearing of a name plate, etc. attached to clothing.

30. Taxation Determination TD 1999/62 sets out, in greater detail, the Commissioner's opinion on what criteria are to be considered in deciding whether clothing items constitute a compulsory corporate uniform/wardrobe. At paragraph 3 it points out that whether clothing constitutes a compulsory corporate uniform is a question of fact and impression that can only be determined on a case by case basis in light of all the circumstances and that the following criteria (failure to satisfy one or more of which does not necessarily mean the clothing is not a compulsory corporate uniform/wardrobe) should be considered:

**(a) Objective**

A compulsory corporate uniform/wardrobe should be designed to enhance the public image of an employing organisation and to act as a form of indirect advertising. The uniform should also be intended to secure a commitment from employees to the corporate culture of the organisation, be a means of easily identifying employees and of avoiding their fashion excesses.

In this case the suit jackets, vest and shirts will be embroidered with the employer's logo which enables the staff to be readily identified. The uniform has been designed to look professional and timeless whilst removing the employee's individual taste.

**(b) Understanding on how the wardrobe is to be worn**

At the time of purchasing a corporate uniform there should exist a general understanding among employees that such items will only be worn while on official duty, including travel to and from work. They must also understand that the uniform should generally be worn as an entirety rather than as individual pieces. The constant wearing of corporate uniform/wardrobe items in conjunction with ordinary clothing may lead to the conclusion that the items are simply a collection of ordinary clothing items. However, the collection of clothing items does not lose its essential character as a corporate uniform/wardrobe simply because individual items within the wardrobe or uniform are occasionally worn with non-uniform garments while not on official duty.

Each Majestic Hotels employee is taken to have the understanding that the uniform is to be worn for official duty only and it is not to be worn at any stage with non-uniform garments. In addition employees have been formally advised that the wearing of the uniform outside working hours is strictly prohibited.

The management of Majestic Hotels have stipulated and documented in the Code of Conduct that the uniform should be worn in its entirety wherever possible, with the exception of weather constraints (at times during summer) and practicality (outside tasks such as emptying rubbish or collecting linen). The minimum compulsory items at any

stage will therefore include pant/skirt and shirt (embroidered with the employer's logo) with matching tie/handkerchief which will clearly identify them as an employee of Majestic Hotels.

### **(c) Fabric**

....There should only be a limited range of fabrics used in the uniform/wardrobe because the greater the range of fabrics used the more likely it is the wardrobe loses its distinctive and unique look.... These fabrics should be readily identifiable as belonging to the compulsory corporate uniform/wardrobe of the particular organisation. This may be satisfied by ensuring that the fabric is unique or, at the very least, only in limited use by the general public...

Plain fabrics are generally not in themselves considered to be sufficiently unique and distinctive so as render them easily identifiable. It is, therefore, necessary for plain fabrics to have some distinguishing feature either woven, printed or embroidered into them. However, individual items should be considered in the context of the overall look of the uniform/wardrobe.

The fabrics utilised for the men's uniforms are limited to 100% wool for the suits (including pants and jacket) and a blend of polyester and cotton for the shirts. For the female uniforms the suits (including skirt, pants, and jacket) are 80% wool, 20% polyester and the shirts are a blend of polyester and cotton. The vest is in an alternative fabric to the wool combination for health reasons.

The fabrics are essentially plain and available to the general public but have been embroidered with the corporate logo which gives them a unique or distinctive look. In addition the uniforms are purchased from a specific tailor (men's suits) and uniform retailer (women's suits) to further ensure avoidance of fashion items and seasonal fabrics.

### **(d) Colours**

The total number of colours or shades used in the uniform/wardrobe should be limited....Colours should be in distinctive shades or combinations...

The suits (including the pants, skirt, vest and jacket) for both males and females will be charcoal grey whilst the shirts will be navy (men) and burgundy coloured (women).

### **(e) Style**

There should be a limited number of styles available in respect of individual items of apparel (e.g. women's blouses) and in respect of

the uniform as a whole. The greater the number of styles possible, the more likely it is that the uniform/wardrobe is viewed simply as a collection of conventional clothing.

Majestic Hotels have only one style of shirt and suit for both male and female employees.

## **(f) Corporate Identifiers**

These are features which readily identify a particular organisation and include such things as logos, initials or insignias on buttons, pockets, etc. Identifiers are not compulsory but they add to the distinctive and unique nature of the uniform/wardrobe, particularly when incorporated into items that, in and of themselves, are not distinctive or unique e.g. a plain white shirt. The identifier should be in contrasting colour or shade and be of sufficient size to be plainly visible to the casual observer.

The logos on the shirt, suit jacket and vest are in a contrasting colour or shade, measure 3cm x 3cm and are strategically located, above the breast pocket for the shirts and jackets and in a similar location on the vest, for easy identification. Matching ties and handkerchiefs also assist in identifying the person as a 'Majestic Hotels' employee.

## **(g) Durability**

In order to be distinctive and unique, a compulsory corporate uniform/wardrobe should be durable, in the sense that the overall concept or look of the uniform should be intended to last for a number of years. Rapid changes in style, colour or fabric can detract from the uniform/wardrobe's ability to be easily recognised as a corporate uniform/wardrobe and, therefore, also detract from its distinctive and unique character....As a general rule, the overall look or concept of a corporate uniform/wardrobe should be designed to last between three and five years, although it is accepted that individual items of clothing within that uniform/wardrobe may wear out in a shorter period.....

Wool has been selected as the main fabric for its durability both in a practical and timeless sense. The colour and style chosen for the uniform are considered to be both timeless and appropriate to the employer's professional image.

## **(h) Range**

It is necessary to take into account the total number of possible variations in fabrics, colours and styles in order to determine whether the uniform/wardrobe, as a whole, has a cohesive identity or whether the uniform/wardrobe should simply be considered a collection of conventional clothing items. For example, suit

combinations (e.g. men's and women's suits) that are designed and intended to be worn as a whole must be considered in their entirety, rather than as individual items. If the suit is distinctive and unique, it is irrelevant that one or more of the individual items can be characterised as ordinary clothing or that items may be worn with non-uniform items. However, if the suit combination is essentially conventional, it is not sufficient simply for one or two items within the combination to have a corporate identifier or colour.

The uniform, having a minimal choice of fabrics, colours and styles and worn with the clearly identifying logo on the shirt, jacket and vest, is considered to present a distinctly recognisable and cohesive identity rather than a mere collection of conventional clothing. Although the suit pants and skirt do not have a corporate identifier, having regard to the fact that the suit is required under the express and enforced policy of the employer to be worn in its entirety whenever possible during working hours, it is considered that they form an integral part of that corporate uniform.

#### **(i) Accessories**

Expenditure on accessory items, such as handbags, shoes and trench coats, which do not bear any distinguishable features, such as a corporate identifier, is considered to be of a private nature... The cost of belts which have a clearly visible logo embossed or engraved on to them is... deductible.

The shoes, socks, hosiery and belts do not bear any distinguishing features. In addition, the employer's Code of Conduct has not stipulated, to the required extent, the characteristics which qualify these items as a distinctive part of the compulsory uniform, such as colour, style, type etc (see paragraph 84 of TR 97/12). There is, therefore, scope for personal preference or variation in the choice of these items.

31. It is considered that the above criteria have been sufficiently satisfied in respect of the suits (including the vest) and shirts so that those items constitute a compulsory corporate uniform. They are prescribed by the employer in an expressed policy that makes it a requirement for a particular class of employees to wear the uniform while at work and which clearly identifies the employer. Further, it is considered that the overall look of the uniform is distinctive and peculiar to the organisation, with a timeless quality unaffected by short term changes in fashion. The cost of the uniform to the employee is therefore an allowable deduction under section 8-1 of the ITAA 1997.

32. The cost of laundry, dry cleaning and maintenance in respect of this uniform is also allowable as a deduction.

33. The shoes, socks, hosiery and belts are not an integral part of the compulsory uniform. The cost, therefore, is of a private nature and not deductible under section 8-1 of the ITAA 1997.

**Substantiation**

34. To be an allowable deduction the cost of the compulsory uniform and related laundry and maintenance expenses etc must also satisfy the substantiation provisions of Subdivision 900-B of the ITAA 1997. To claim a deduction an employee must have written evidence of the work expenses (including clothing, laundry and cleaning) where the total work expenses exceed \$300.

35. An exception relates to laundry expenses (washing, drying and ironing) where a maximum of \$150 may be claimed without written evidence, provided it is incurred, even where the work expenses total more than \$300. The Commissioner accepts that a reasonable estimate of laundry costs may be used provided that the claim for laundry expenses does not exceed \$150. For further information see Taxation Ruling TR 98/5.

**Detailed contents list**

36. Below is a detailed contents list for this Class Ruling:

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*Previous draft:*

Not previously released in draft form.

- single items of compulsory clothing
- substantiation rules

*Related Rulings/Determinations:*

CR 2001/1; TR 92/1; TR92/20;  
TR 97/12; TR 97/16; TR 98/5;  
TD 1999/62

*Legislative references:*

- ITAA 1997 8-1
- ITAA 1997 Subdiv 900-B

*Subject references:*

- compulsory uniform/wardrobe
- conventional clothing
- laundry and maintenance expenses

*Case references:*

- Case R55 84 ATC 411; 27 CTBR (NS) *Case 109*.
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## ATO References

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