# *TD 92/D199 - Income tax: is a local government councillor who receives an allowance or other remuneration subject to the substantiation requirements of section 82KZ in relation to employment-related expenses he incurs in carrying out his council duties?*



This document has been finalised by TD 93/4.

**Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.**

# Draft Taxation Determination

## Income tax: is a local government councillor who receives an allowance or other remuneration subject to the substantiation requirements of section 82KZ in relation to employment-related expenses he incurs in carrying out his council duties?

1. No. A councillor who receives an allowance or other remuneration and incurs employment-related expenses whilst performing his council duties is not required to substantiate them, but must substantiate car expenses, travel expenses and expenses in relation to meal and travel allowances.

2. Section 82KZ provides that a deduction is not allowable for travel expenses, employment-related expenses and expenses in relation to a meal or travel allowance unless documentary evidence is obtained. An "employment-related expense" is defined in section 82KT as an expense incurred in producing salary or wages (but not including a car expense, a travel expense or an eligible expense in relation to a meal or travel allowance). Under paragraph 221A(1)(pa) payments by way of remuneration or allowances to members of a local governing body are not "salary or wages". Therefore, any expenses incurred in performing council duties cannot be "employment-related expenses" and are not required to be substantiated under section 82KZ.

3. However, all taxpayers are required by section 82KUA of the *Income Tax Assessment Act 1936* to substantiate car expenses.

*Example:*

*A councillor receives an allowance of $2000. He incurs the following costs in performing his council duties: home office expenses $300, car expenses $800, travel expenses $500 telephone expenses $100.*

*To be allowed a deduction for these expenses the councillor must substantiate his car and travel costs but need not provide documentary evidence of his home office and telephone expenses.*

**Commissioner of Taxation**
12/11/92

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