

TD 93/D153 - Income tax: is a salaried trade union official who pays a compulsory weekly levy to a general fund for the election of union officials entitled to a deduction under subsection 51(1) of the Income Tax Assessment Act 1936?

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This document has been finalised by TD 93/155.

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 salaried trade union official who pays a compulsory weekly levy to a general fund for the election of union officials entitled to a deduction under subsection 51(1) of the *Income Tax Assessment Act 1936*?

1 No. If a salaried, elected trade union official pays into a general fund for the election of union officials the expense is not incurred in gaining the official's assessable income but is incurred to assist in obtaining future employment for the official and others. We consider that this is an outgoing of capital or a private outgoing.

2 An employee must incur an outgoing in the course of earning his wages for a deduction to be allowed under subsection 51(1) of the *Income Tax Assessment Act 1936*. The compulsory nature of the levies is not relevant. What is important is the connection between the payment of the levy and the activities by which the assessable income of the employee is produced.

Example:

John Smith is elected as an official of the XYZ Union at a salary of \$20,000 annually. His success at future elections determines the period of his employment. It is a condition of his employment that he contribute \$20 each week to an election fund for the financing of present or future election campaigns of XYZ union officials generally. John Smith is not entitled to a deduction under subsection 51(1) of the ITAA for the amount contributed to the election fund.

Commissioner of Taxation

10/6/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 298; IT 299; IT 2331

Subject Ref: compulsory levy; election expenses; levy; trade association; union official

Legislative Ref: ITAA 51(1)

Case Ref:

ATO Ref: NOR J36/355/9

ISSN 1038 - 8982