


TD 93/D251 - Income tax: do the substantiation provisions apply to travelling expenses when calculating the separate net income of a spouse under subsection 159J(3)?

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Draft Taxation Determination

Income tax: do the substantiation provisions apply to travelling expenses when calculating the separate net income of a spouse under subsection 159J(3)?

1. No. The substantiation provisions do not apply to travelling expenses claimed when calculating the separate net income of a spouse.
2. Separate net income is calculated as the spouse's gross income less any expenses incurred in earning such income even though some of these expenses may not be allowable under subsection 51(1). Expenses which are considered to be a direct charge on the income can be deducted from the spouse's gross income to determine the separate net income. Travelling expenses, including travel between home and work and back again, are such a deduction.
3. The substantiation provisions apply to work related expenses and do not apply to deductions made in the calculation of separate net income.
4. Although the substantiation provisions do not apply to these travelling expenses, the taxpayer must still be able to demonstrate that the travelling expenses were actually incurred and that they represent a direct charge against the spouse's separate net income.

Example:

A taxpayer has claimed a full spouse rebate for his/her spouse. In calculating the spouse's separate net income the taxpayer has deducted travelling expenses of \$3280 from the spouse's income. These travelling expenses constitute travel to and from work and are claimed using the set rate per kilometre method at 8000 km at 41 cents per km. As the substantiation provisions do not apply to this claim, there is no requirement for the taxpayer to keep a log book and the standard prescribed rates can be used to calculate the amount of the expenditure. As long as the taxpayer is able to demonstrate that this expense has been incurred, this claim is allowed to the taxpayer in calculating his/her spouse's separate net income.

Commissioner of Taxation
30/9/93

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