



TD 94/D27 (Withdrawn) - Income tax: where a taxpayer obtains financial advice on the selection of an approved deposit fund (ADF) into which superannuation benefits should be rolled over, is the cost of obtaining the advice an allowable deduction under subsection 51(1) of the Income Tax Assessment Act 1936 ('the Act')?

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 This document has been Withdrawn.

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: where a taxpayer obtains financial advice on the selection of an approved deposit fund (ADF) into which superannuation benefits should be rolled over, is the cost of obtaining the advice an allowable deduction under subsection 51(1) of the *Income Tax Assessment Act 1936* ('the Act')?

1. No. The cost of obtaining advice on the selection of an ADF is an expense of a capital nature, and therefore not deductible under subsection 51(1) of the Act.
2. When a person rolls over superannuation benefits into an ADF, he/she enters into a new investment. Payments for advice on selecting an investment are expenses of a capital nature, like the service fees and commissions for entry into the investment that are discussed in Taxation Rulings IT 5 and IT 2536. They differ from the costs of managing existing income-producing investments (Taxation Ruling IT 39), which are of a revenue nature and are deductible.

Example:

Albert received a superannuation benefit on being dismissed from his employment by reason of his bona fide redundancy. He then paid XYZ Pty Ltd \$5,000 for advice relating to the selection of an approved deposit fund into which he should roll over his benefit.

The \$5,000 fee paid to XYZ is not deductible. It is not a cost of management of an investment as discussed in IT 39, but rather an expense of a capital nature relating to the creation of an income-producing asset.

Commissioner of Taxation
24/3/94

FOI INDEX DETAIL: Reference No.

Related Rulings: IT 5; IT 39; IT 2536

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