


TD 94/D90 - Income tax: rebates for dependants: do losses of previous years reduce the separate net income of a dependant for the purposes of calculating a rebate under the provisions of section 159J of the Income Tax Assessment Act 1936?

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Draft Taxation Determination

Income tax: rebates for dependants: do losses of previous years reduce the separate net income of a dependant for the purposes of calculating a rebate under the provisions of section 159J of the *Income Tax Assessment Act 1936*?

1. No. Rebates for dependants are reduced by \$1 for every \$4 by which the separate net income derived by the dependant in the year of income exceeds \$282 (subsection 159J(4)).
2. Losses from previous years do not reduce separate net income. This view is supported by the decision of the Taxation Board of Review in *Case N49 81 ATC 243*; 25 CTBR (NS) *Case 3* which, when considering a claim for a dependant spouse rebate, disregarded losses of previous years in the calculation of separate net income. The Board referred to the phrase 'year of income' in subsection 159J(4) and limited the computation of separate net income to 'the year of income in issue'.

Commissioner of Taxation
18/8/94

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: CITCM 408, 635

Subject Ref: separate net income; losses of previous years; dependants; concessional rebates; medicare levy; zone rebates

Legislative Ref: ITAA 159J; ITAA 159J(4)

Case Ref: Case N 49 81 ATC 243; 25 CTBR (NS) Case 3

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