IT 140 - Expenses of home office or study

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TAXATION RULING NO. IT 140

EXPENSES OF HOME OFFICE OR STUDY

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PREAMBLE The decision of Mason J. in FC of T v Faichney (1972) 129 CLR 38 should serve to put an end to the divergence of views which seemed to be developing between Taxation Boards of Review on the question of deductibility of expenditure and depreciation associated with the use by a taxpayer of part of his home as an office or study in connection with the derivation of assessable income.

FACTS 2. The respondent was a research chemist employed by the C.S.I.R.O. It was accepted in evidence that the nature of his occupation was such that it was impracticable for him to perform his duties satisfactorily within normal working hours. As facilities at his laboratory were not conducive to scientific reading and research, the taxpayer purchased a four bedroom house to enable him to have one room available as a study. He installed a desk and bookshelves in the room, in which the curtains and carpets were identical with those elsewhere in the house. Although his wife used the study occasionally in connection with charity work and stored papers on the bookshelves, the study was used predominantly by the taxpayer in reading scientific journals and in writing scientific reports and papers for publication. Publication of the results of his research was an essential part of his duties as a scientist with the C.S.I.R.O.

3. The taxpayer claimed deductions for part of the interest paid on a mortgage obtained to build the house, electricity charges for light and heating attributable to the study and depreciation on the desk, bookshelves, curtains and carpets. It was held on appeal that -

(i) the claim in relation to interest was not allowable because the outgoing was of a capital, private or domestic nature;

(ii) the electricity charges were allowable under section 51

on the score that they represented expenditure incurred exclusively while engaged in work from which income was derived and were not of a private or domestic nature;

(iii) depreciation was allowable on the various items because section 54 simply requires that the articles be used for the purpose of gaining assessable income and does not exclude articles of a private or domestic nature.

So far as the depreciation aspect is concerned, it is enough if the taxpayer can show that there is a use for the specific purpose, in which event it is for the Commissioner to decide under section 61 what proportion that use bears to the total use.

4. The decision handed down necessitates a review of some of the directions contained in the memorandum dated 30 June 1972 from Head Office. These aspects are discussed under the headings set out below.

RULING Interest, Rent, Insurance and Repairs

5. In his reasons, Mason J. did not find it necessary to examine in detail whether the interest payment fell within the first limb of section 51(1). Apart from being inclined to the view that it fell outside the provision, he found it more convenient to consider whether the expenditure was of a capital, private or domestic nature.

6. The view expressed in the judgment was that a study in a taxpayer's home is a part of that home regardless of the extent to which it is used in the pursuit of the activities from which the taxpayer earns his income. "Expenditure incurred in the erection of the study or in its renovation is as much an outgoing of a capital, private or domestic nature as expenditure on any other part of the home."

7. Support for this approach was found in the earlier decision of Walsh J. in Thomas v FC of T (72 ATC 4094, 3 ATR 165). In that case the taxpayer was a barrister who borrowed money partly for the purpose of adding to his home a study which was used for professional purposes. In rejecting the claim for the allowance of part of the interest payment, the conclusion reached was that the expenditure did not lose its character as an outgoing of a capital, private or domestic nature simply because the taxpayer, in common with most professional men, did some of his work at home and used the study for that purpose. The money was not spent in erecting premises suitable only for use as business premises but in adding rooms to his house.

8. It follows that a person in employment who has a room set aside in his home for use as a study should not be allowed deductions for interest, rent, insurance or repairs in respect of the home. The same applies to professional people and other self-employed persons who carry on their income producing activities in business premises but who, as in Thomas' case, maintain a study at home for use in connection with those

activities.

9. In certain limited situations, however, a taxpayer carrying on a business may be entitled to a proportionate part of his expenditure on these outgoings. An example was given in the judgment in the Faichney case where Mason J. pointed out that, where a doctor's home contains a surgery, the surgery is a place of business and is not part of the home in the relevant sense. The distinction drawn was that, whereas a study does not cease to be part of the taxpayer's home simply because it is used in the pursuit of income producing activities, a surgery is used solely as a place of business and is clearly identifiable as such.

10. Apart from medical practitioners, dentists etc., who have a surgery attached to their homes, there are other classes of taxpayers who carry on business from their private residences. The issue in each case turns upon the particular facts but the broad test to be applied is whether a particular area of the premises is set aside exclusively as a place of business and that area is not readily suitable or adaptable for use as part of the taxpayer's domestic establishment. The test would not be satisfied, for example, if an insurance agent maintains a study in his residence for the storage of his business papers and for interviewing prospective clients.

Heating and Lighting Expenses

11. Where a taxpayer, whether self-employed or an employee, can establish that for the purpose of deriving his assessable income he has incurred additional expenditure for light, power and heating in his home, a deduction may be allowed equal to the difference between the amount actually incurred and the amount which would normally be incurred if the income producing activities had not been carried out in the home.

12. In this regard, it is unnecessary to differentiate between occupations. The test to be applied is whether, in fact, a taxpayer incurs additional expense by performing work at home which can reasonably be said to be occasioned by the nature of his occupation, profession or calling.

13. It is also not essential that a taxpayer should have the use of a separate study or office. However, as Mason J. said in Faichney's case, the extra light and heating must be provided exclusively for the taxpayer's benefit while he is working. If, for example, he merely sits in his lounge room with his wife and family and at the same time carries out some activity (e.g. reading or writing) related to his occupation, the expenditure for lighting and heating retains its private or domestic character.

14. Generally speaking, the quantum of any deduction which may be allowed for additional lighting and heating will be small. Accordingly, once it has been established that a taxpayer does, in fact, incur additional expense by reason of working at home, any reasonable estimate made by the taxpayer

may be accepted. In this regard, while the Commissioner accepted the amounts claimed by Dr Faichney, he did not accept the basis on which they were calculated primarily because no attempt had been made to exclude the cost of operating kitchen, bathroom and laundry appliances and facilities.

Depreciation

15. The allowance of depreciation should be confined to plant or articles which are clearly used wholly or partially for the purpose of carrying out work at home which is occasioned by the nature of the taxpayer's occupation. A broad estimate should be made of the proportionate use of the plant or article for "occupation" purposes on the one hand, and family or private purposes on the other. The depreciation normally allowable on particular items should then be apportioned in the ratio of "occupation" use to private use.

16. As a practical working rule, it would usually be safe to assume that the "occupation" use of a study and its furniture and furnishings and other equipment (e.g. typewriter) would normally not exceed 50 per cent, but any special circumstances would need to be taken into account. Where a separate study is not available and work is carried out, for example, in the dining room only a nominal amount (if any) should be allowed as depreciation.

COMMISSIONER OF TAXATION