IT 2115 - Income tax : home office expenses, overseas travel expenses, entertainment expenses, clothing and dry cleaning claimed by magistrate

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TAXATION RULING NO. IT 2115

INCOME TAX : HOME OFFICE EXPENSES, OVERSEAS TRAVEL EXPENSES, ENTERTAINMENT EXPENSES, CLOTHING AND DRY CLEANING CLAIMED BY MAGISTRATE

F.O.I. EMBARGO: May be released

REF H.O. REF: J35/1051 P4 F22-23 80/5781 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED: 26 October 1984

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1127196	HOME OFFICE EXPENSES OVERSEAS TRAVEL EXPENSES ENTERTAINMENT EXPENSES ALLOWABLE DEDUCTIONS	51(1)

PREAMBLE It has been decided that no appeal will be lodged against a decision of Taxation Board of Review No. 2 dated 20 September 1984 in which the Board held (inter alia) that a magistrate/coroner was entitled to deductions in respect of the expenses of cleaning his home office and telephone calls. The decision was reported as Case R93 84 ATC 623 and Case 146 27 CTBR (NS) 1140.

FACTS 2. The taxpayer was employed as a relieving stipendiary magistrate until December 1978 and thereafter as a coroner. The income years in issue in the references were the 1978 - 1981 income years.

3. One of the rooms in the taxpayer's home was exclusively used by him as an office. The office was used in attending to urgent telephone calls which, on average, occurred about 3 times per week and occasionally in the reception of police officers in relation to his duties.

4. The taxpayer undertook a 23 day tour of the USA and Canada in which he visited coronial complexes and entered into dialogue with people of authority on a range of professional topics. Upon his return he provided a written report to the Law Department on his findings.

5. The taxpayer claimed deductions for home office expenses (insurance, mortgage interest, cleaning and repairs), overseas travel expenses, entertainment expenses, clothing and dry cleaning expenses, local travel expenses and telephone calls.

6. The Board held that the home office expenses were not allowable deductions except for a proportion of the expense of cleaning the taxpayer's home which was deductible according to

the principles enunciated in FC of T v Faichney 72 ATC 4245, 3 ATR 435. No part of the amount claimed for overseas travel was allowed as a deduction - the additional knowledge acquired did not assist the taxpayer in securing either a higher position or an increase in salary. Furthermore, the trip was not part and parcel of his employment. The evidence adduced indicated that the expenses were essentially of a private nature.

7. It was also found that no amount was allowable for entertainment expenses, clothing and dry cleaning expenses and local travel expenses. The position of coroner required the taxpayer to deliver lectures to various groups and the expenses associated with attending these functions were deductible in character. However, the taxpayer failed to adduce evidence as to the quantum of this expense.

8. The Commissioner's representative conceded at the hearing that the cost of telephone calls, to the extent that they were incurred in the course of carrying out the duties of coroner, was deductible in terms of sub-section 51(1). An amount of $12 was allowed by the Board for this expense in the 1980 income year.

RULING

9. To the extent that the references were decided against the Commissioner, the decision reached by the Board was open to it on the evidence adduced at the hearing. The decision applies the law as it is understood by the Commissioner to the facts established before the Board and no change in assessing policy is necessary.

COMMISSIONER OF TAXATION
13 November 1984

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