IT 2229 - Entertainment and overtime meal allowances : P.A.Y.E. arrangements

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TAXATION RULING NO. IT 2229

ENTERTAINMENT AND OVERTIME MEAL ALLOWANCES : P.A.Y.E. ARRANGEMENTS

F.O.I. EMBARGO : May be released

REF H.O. REF: L85/102-7 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1194370		51AE 221C

PREAMBLE Section 51AE was introduced into the Income Tax Assessment Act 1936 by section 9 of the Taxation Laws Amendment Act (No. 4) 1985 which received the Royal Assent on 16 December 1985. This provision operates to deny deductions for losses and outgoings incurred after 19 September 1985 to the extent to which they are in respect of the provision of entertainment.

2. One of the effects of this amending legislation is that deductions will no longer be available to employees for entertainment expenses incurred in respect of allowances paid for that purpose. Similarly, expenditure incurred by employees in respect of overtime meal allowances will not be deductible to either an employer or an employee unless the allowance is paid pursuant to an industrial award. An industrial award is an award, order, determination or industrial agreement in force under a law of the Commonwealth or of a State or Territory of the Commonwealth.

3. Sub-section 221C(1A) of the Assessment Act requires employers to make tax instalment deductions at the prescribed rate from salaries and wages (including allowances) paid to employees. As advised in Taxation Ruling No. 2200 of 2 October 1985, enforcement action under this provision has not been taken generally to compel deductions of instalments from entertainment allowances, or other allowances having a substantial entertainment purpose, pending the enactment of the legislation (now encompassed in section 51AE) that had been foreshadowed by the Government to disallow deductions for entertainment expenses.

4. That action had been placed in abeyance on the basis that it could ordinarily be expected that the amount of the allowance assessable as income would be wholly or substantially offset on assessment by allowable deductions attributable to expenditure of the allowance.

5. Now that section 51AE has been enacted, an allowance

paid to an employee to meet entertainment expenses continues to be assessable as income but there can be no entitlement to offset any entertainment expenses incurred after 19 September 1985 in connection with the allowance.

RULING 6. For pay periods commencing on or after 23 January 1986, employers are required to make tax instalment deductions from entertainment allowances and other allowances having a substantial entertainment purpose that are paid to their employees, on the basis that the allowances form part of the salaries or wages of the employees. Tax instalment deductions should also be made on the same basis from any overtime meal allowances not made under an industrial award.

COMMISSIONER OF TAXATION
16 December 1985

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