

IT 2457 - Income tax: deductibility of self-education expenses incurred in respect of a post-graduate degree

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TAXATION RULING NO. IT 2457

INCOME TAX : DEDUCTIBILITY OF SELF-EDUCATION EXPENSES
INCURRED IN RESPECT OF A POST-GRADUATE DEGREE

FOI EMBARGO: May be released

REF N.O. REF : 86/8106-6 DATE OF EFFECT: Immediate
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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT REFS:
I 1010316	SELF-EDUCATION EXPENSES	51(1) 82A

OTHER RULINGS ON TOPIC IT 271, IT 285

PREAMBLE In a decision reported as Case T78 86 ATC 1094; the Administrative Appeals Tribunal allowed in part the taxpayer's claim for a deduction for self-education expenses incurred in respect of a post-graduate degree in international law at Cambridge University.

2. The self-education expenses claimed consisted of the cost of studying at the University, a return airfare to the United Kingdom and travel insurance. The Tribunal disallowed the claim for travel insurance in full. By virtue of section 82A of the Income Tax Assessment Act, \$250 of the remaining expenditure was excluded from deductibility under sub-section 51(1) of the Act.

FACTS 3. In a schedule attached to his return for the income year ended 30 June 1982, the taxpayer was described as being employed as a solicitor with a firm of solicitors until September 1981. The schedule stated that in September 1981 the taxpayer had travelled to the United Kingdom to undertake a post-graduate course in international law. It went on to say that the taxpayer anticipated becoming a barrister and that the course in international law would enable him to specialise in that field. The claim for self-education expenses consisted of "study costs" at Cambridge University, return airfare to the United Kingdom and travel insurance. The "study costs" were university fees and living expenses.

4. The schedule did not accurately reflect the facts of the case based on the evidence adduced at the hearing. On his graduation from the University of Queensland with a Bachelor of Laws degree, the taxpayer had been admitted to practise as a barrister in December 1980. He had been employed as a law clerk with a firm of solicitors until his departure for the United Kingdom. He was not qualified to practise as a solicitor. On his return to Australia in October 1982, the taxpayer immediately began practising as a barrister. The evidence adduced at the hearing was accepted by the Tribunal.

5. The Tribunal held that the expenditure incurred in relation to the course of study at Cambridge University and the airfare fell within the first limb of sub-section 51(1), having been incurred in gaining the taxpayer's future assessable income from his practice as a barrister. The Tribunal disallowed the claim for travel insurance on the basis that it was of a private nature. The Tribunal also decided that section 82A operated in this case to exclude the amount of \$250 from deductibility. The Tribunal held that the University College at Cambridge was a place of education and that the post-graduate degree was a qualification for use in carrying on the profession of barrister.

6. In its reasons the Tribunal noted that the taxpayer had been admitted to practise as a barrister before he went overseas to study. In undertaking the post-graduate course the taxpayer had formed the view that it would enable him to do more work as a barrister in relation to international law and would also assist him in municipal law matters.

RULING 7. It was decided not to lodge an appeal against the decision. The decision was based on additional evidence adduced at the hearing to show that the expenditure was not incurred for the purpose of enabling the taxpayer to derive income from any new professional activity. That activity remained the professional practice of law. No change is considered necessary to the assessing policy set out in IT 271 and IT 285.

COMMISSIONER OF TAXATION
14 January 1988