IT 2595 - Income tax : reasonable overtime meal allowances

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TAXATION RULING NO. IT 2595

INCOME TAX : REASONABLE OVERTIME MEAL ALLOWANCES

F.O.I. EMBARGO: May be released

REF N.O. REF: 90/3972-4 DATE OF EFFECT: Immediate

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

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1012147	OVERTIME MEAL ALLOWANCES SUBSTANTIATION	51AE(5)(j) 82KU 82KZ

OTHER RULINGS ON TOPIC: IT 2326

PREAMBLE The purpose of this Ruling is to update Taxation Ruling No. IT 2326.

2. Subsection 51AE(4) of the Income Tax Assessment Act 1936 denies a deduction for entertainment expenses incurred after 19 September 1985, subject to certain exceptions authorised by subsection 51AE(5). One of those exceptions, in paragraph (5)(j), is for the cost of overtime meals incurred by an employee who receives an overtime meal allowance under the provisions of an "industrial instrument", i.e., a law or an award, determination or industrial agreement in force under a law.

3. Where, after 30 June 1986, a deduction is claimed for such overtime meal expenses, sections 82KZ and 82KZA specify that the deduction is not allowable unless documentary evidence of the expense has been obtained and retained by the taxpayer. Broadly, documentary evidence of an expense is a receipt, invoice or similar document that sets out particulars (as specified in section 82KU) sufficient to prove the amount of the deduction claimed and the nature of the expense.

4. The substantiation requirements relating to overtime meal expenses do not apply, however, where the taxpayer has received an overtime meal allowance from his or her employer pursuant to an industrial instrument and the Commissioner of Taxation considers the allowance to be reasonable, having regard to the amounts of expenditure on food and drink for which the allowance is payable, that the taxpayer could reasonably be expected to incur. In those circumstances, provided the taxpayer's claim for deduction does not exceed the amount of the allowance, sections 82KZ and 82KZA will not apply (subsection 82KZ(4)).

RULING 5. As a general principle, an overtime meal allowance will be treated as reasonable where the rate of allowance has been set by reference to a survey of actual costs of meals in a range of

establishments where meals could be purchased and consumed during the overtime meal break. That is, the allowance should be set so as to fairly compensate an employee for the average cost of such a meal, on the basis that, when the meal is purchased, the employee would be neither out of pocket nor able to retain appreciable amounts of unspent allowance.

6. Against that background, and having regard to a range of overtime meal allowances payable under existing industrial awards, overtime meal allowances up to an amount of $14 per meal received during the financial year ending 30 June 1990 will be treated as reasonable.

COMMISSIONER OF TAXATION
21 June 1990

ERRATUM

It has been decided that IT 2595 will apply for the year ended 30 June 1991.
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