IT 2641 - Income tax : corporate wardrobes and corporate uniforms

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TAXATION RULING IT 2641

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Reference no.:	Subject refs:	Legislative refs:
I 1012714	**CORPORATE WARDROBES**	**51(1)**
	CORPORATE UNIFORMS	**20 FBTAA**
	CLOTHING	**24 FBTAA**
	- DEDUCTIONS	**40 FBTAA**
		44 FBTAA

OTHER RULINGS ON THIS TOPIC: IT 297, IT 2096, IT 2452

TITLE: INCOME TAX: CORPORATE WARDROBES AND CORPORATE UNIFORMS.

NOTE: . Income Tax Rulings do not have the force of law.

. Each decision made by the Australian Taxation Office is made on the merits of each individual case having regard to any relevant Ruling.

PREAMBLE

This Ruling:

(a) explains that the cost of a corporate wardrobe or corporate uniform can be deducted by an employee under subsection 51(1) of the Income Tax Assessment Act 1936 (the "Act") ; and

(b) sets out factors to be considered in deciding whether clothing items constitute (wholly or in part) a corporate wardrobe or corporate uniform.

2. An employee's outgoings are allowable deductions under subsection 51(1) to the extent to which they are incurred in gaining or producing the employee's assessable income except to the extent to which they are outgoings of capital, or of a capital, private or domestic nature. In the vast majority of cases, clothing worn by an employee while at work is of a conventional nature and expenditure on the clothing is rarely an allowable deduction. One exception to this general rule concerns corporate wardrobes or corporate uniforms.

3. Broadly speaking, a corporate wardrobe or corporate uniform is a collection of inter-related items of clothing and accessories which distinctively identifies a particular employing organisation and which employees are encouraged by the employer to buy. Corporate wardrobes

are usually not provided by the employer, though the employer will usually provide a subsidy or discount on the cost.

4. The word "corporate", in the phrases "corporate wardrobe" and "corporate wardrobe", is used to refer to both incorporated and unincorporated bodies and applies to trusts, partnerships and sole traders who introduce a wardrobe for their staff. There is no specific limit on the number of employees for whom a corporate wardrobe is introduced. For example, a corner store which employs three or four people could, if it wishes, introduce a corporate wardrobe. A corporate wardrobe may be used as a means of differentiating between various staffing levels within an organisation e.g., a different collection for executive staff or service staff. In these cases, the factors listed in this Ruling should be considered in the context of the collection which applies to each separate staffing group within the organisation. For example, the collection to be worn by the executive should be considered separately to see whether it is distinctive and unique.

5. However, uniforms which are commonly worn by workers in particular industries, e.g., red, blue or grey uniforms worn by employees in restaurants, are not covered by this Ruling. This clothing is not considered to be distinctive and unique to a particular organisation. It is freely available for use by the general public.

RULING

Deductibility of Corporate Wardrobes and Corporate Uniforms

6. For expenditure to be deductible under the first limb of subsection 51(1) of the Act (the only limb available to employees), the High Court of Australia has indicated that the expenditure must have the essential character of an outgoing incurred in gaining assessable income or, in other words, of an income producing expense (Lunney v. F.C.of T. (1958) 100 CLR 478 at 497-498). There must be a nexus between the outgoing and the assessable income so that the outgoing is incidental and relevant to the gaining of the assessable income (Ronpibon Tin N.L. v. F.C.of T. (1949) 78 CLR 47).

7. This Office accepts that the essential character of an employee's expenditure on clothing items in a corporate wardrobe or corporate uniform is expenditure directly related to the need to provide clothing of an occupational character that is clearly appropriate for, or adapted to, or truly incidental to the employee's income producing activities. It is not necessary that the clothing be peculiar in the sense that it is, by its nature or physical condition, inherently unsuitable for private use. However, the wardrobe must be more than simply ordinary civilian clothing.

Capital Exclusion

8. The initial purchase cost of corporate wardrobe items is not considered to be a capital expense. The benefit of the expenditure on the corporate wardrobe, taken as a whole, will generally endure for between three and five years. It is recognised, however, that the individual items will be worn almost daily and will need to be replaced more frequently. This differs from judges' robes or mess officers' uniforms. In the case of a judge's robe, the initial purchase cost of

the robe itself is significant and the average life of the robe has been estimated at between five and ten years. A mess officer's uniform is only worn on special occasions and the individual items are not replaced frequently.

What Constitutes a Corporate Wardrobe or Corporate Uniform

9. To be a corporate wardrobe or corporate uniform, the clothing must be unique, distinctive and peculiar to the particular organisation, with a timeless quality unaffected by short term changes in fashion.

10. Whether clothing constitutes a corporate wardrobe or corporate uniform is a question of fact and impression that can only be determined on a case by case basis in the light of all the circumstances. The following factors (failure to satisfy one or more of which will not necessarily mean that the clothing is not a corporate wardrobe or corporate uniform) should be considered:

(a) Objective

A corporate wardrobe or corporate uniform should be designed to enhance the public image of an employing organisation and to act as a form of indirect advertising. The wardrobe or uniform should also be intended to secure a commitment from employees to the corporate culture of the organisation and to be a means of easily identifying employees and of avoiding their fashion excesses.

(b) Understanding on How the Wardrobe is to be Worn

At the time of purchasing a corporate wardrobe there should exist a general understanding among employees that such items will only be worn while on official duty, including travel to and from work. They must also understand that the wardrobe should generally be worn as an entirety rather than as individual pieces. The constant wearing of corporate uniform items in conjunction with ordinary clothing may lead to the conclusion that the items are simply a collection of ordinary clothing items. However, the collection of clothing items will not lose its essential character as a corporate wardrobe or corporate uniform simply because individual items within the wardrobe or uniform are occasionally worn with non-uniform garments while not on official duty.

(c) Fabric

(i) The word "fabric" is used in the sense of material type, i.e., what the material is made of e.g., cotton, silk, a mixture of cotton and polyester, etc. There should only be a limited range of fabrics used in the wardrobe because the greater the range of fabrics used the more likely it is the wardrobe will lose its distinctive and unique look. A range of 5 or 6 fabrics will generally not be considered excessive. These fabrics should be readily identifiable as belonging to the corporate wardrobe of the particular organisation. This may be satisfied by ensuring that the fabric is unique or at the very least only in limited use by the general public. Simply having a distinctive and unique lining to a jacket, etc., is not sufficient because the lining is not generally visible and does not serve to identify the item as part of a corporate uniform.

(ii) Plain fabrics are generally not in themselves considered to be sufficiently unique and distinctive so as to render them easily identifiable. It will therefore be necessary for plain fabrics to have some distinguishing feature either woven, printed or embroidered into them. However, individual items should be considered in the context of the overall look of the wardrobe.

(d) Colours

The total number of colours or shades used in the wardrobe should be limited. The use of a large number of colours may make it difficult to say that the wardrobe is distinctive or unique, particularly when taken into account with the number of fabrics and styles used. Colours should be in distinctive shades or combinations. For example, if an organisation has corporate colours, then it may be appropriate to limit the number of colours to those corporate colours plus one or two additional colours.

(e) Style There should be a limited number of styles available both in respect of individual items of apparel, (e.g., women's blouses), and in respect of the wardrobe as a whole. The greater the number of styles possible the more likely it is that the wardrobe will be viewed simply as a collection of conventional clothing.

(f) Corporate Identifiers

These are features which readily identify a particular organisation and include such things as logos, initials or insignias on buttons, pockets etc. Identifiers are not compulsory but they add to the distinctive and unique nature of the wardrobe, particularly when incorporated into items which in and of themselves are not distinctive or unique, e.g., a plain white shirt. The identifier should be in a contrasting colour or shade and be of sufficient size to be plainly visible to the casual observer.

(g) Durability

(i) In order to be distinctive and unique, a corporate wardrobe should be durable in the sense that the overall concept or look of the wardrobe should be intended to last for a number of years. Rapid changes in style, colour or fabric can detract from the wardrobe's ability to be easily recognised as a corporate uniform and therefore also detract from its distinctive and unique character. Where these rapid changes do occur, the wardrobe might in reality be nothing more than a collection of items of ordinary clothing. For example, substantial changes to the wardrobe on a yearly basis to take into account changing fashions may result in employees wearing a vast array of different clothing composed of items from both the current and previous years' collections. In this situation, it would be difficult to say that there is a distinctive and unique corporate uniform. Consequently, fabrics, styles and colours should not be adversely affected by altering fashion trends. As a general rule, the overall look or concept of a corporate wardrobe should be designed to last between three to five years, although it is accepted that individual items of clothing within that wardrobe may wear out in a shorter period. However, regard should always be had to the type of industry involved. For example, a period of less than three years may be acceptable in some parts of the retail fashion industry.

(ii) It is also accepted that, in the initial stages of establishing a corporate wardrobe, changes may be necessary as items prove unsuitable. For example, experience may show that

particular fabrics are not long lasting or popular with staff. If these changes do not result in substantial changes in the wardrobe as originally designed, they will not alter the tax deductible status of the wardrobe. Summer and winter variations in a corporate wardrobe need not be introduced at the same time if they clearly form part of the overall wardrobe package.

(h) Range

(i) It is necessary to take into account the total number of possible variations in fabrics, colours and styles in order to determine whether the wardrobe, as a whole, has a cohesive identity or whether the wardrobe should simply be considered a collection of conventional clothing items. For example, suit combinations (e.g. men's and women's suits) which are designed and intended to be worn as a whole must be considered in their entirety rather than as individual items. If the suit combination is distinctive and unique, it is irrelevant that one or more of the individual items can be characterised as ordinary clothing or that the items may be worn with non-uniform items. However, if the suit combination is essentially conventional, it will not be sufficient simply for one or two items within the combination to have a corporate identifier or colour.

(ii) It is accepted that where an organisation operates over a wide geographic and climatic area, it may be necessary to vary the wardrobe so as to take into account variations in climate. For example, fabrics suitable for the climate in northern Queensland may not be suitable for Tasmania.

(i) Accessories

Expenditure on accessory items, such as handbags, shoes, and trenchcoats which do not bear any distinguishable features such as a corporate identifier, is considered to be of a private nature. Accessories such as ties, handkerchiefs and hair ribbons which are made of the same unique fabrics as the other items in the corporate wardrobe, or have clearly visible distinguishing features such as a corporate logo, will form a deductible part of the wardrobe. The cost of belts which have a clearly visible logo embossed or engraved on to them will also be deductible.

11. The explanation of the factors in paragraph 10 is based, in part, on Case R55 84 ATC 411 at 416-419; 27 CTBR (NS) 867 at 874-877.

Fringe Benefits

12. The provision of financial support by an employer to enable employees to purchase items in a corporate wardrobe may give rise to a fringe benefit under the Fringe Benefits Tax Assessment Act 1986 (FBTAA). However, the otherwise deductible rule in the FBTAA may operate to reduce the taxable value of any such fringe benefit. For example, depending on its method of operation, the financial assistance may constitute either an expense payment fringe benefit under section 20 of the FBTAA or a property fringe benefit under section 40 of the FBTAA. The otherwise deductible rule in either section 24 of the FBTAA or section 44 of the FBTAA respectively would then operate to reduce the taxable value of the fringe benefit by the amount of any tax deduction that would be available to the employee in respect of the particular item purchased. Consequently, the taxable value of the fringe benefit will be limited to the value of any support provided by the employer for non-deductible items of the corporate wardrobe e.g., handbags and shoes. Financial support provided by the employer for deductible wardrobe items will not attract fringe benefit tax.

The taxable value of the benefit in this case, by applying the otherwise deductible rule, will be nil.

Effect on Taxation Ruling IT 2096

13. It is no longer necessary for the wearing of the corporate wardrobe to be a condition of employment. To that extent, paragraph 8 of Taxation Ruling IT 2096 is withdrawn. It will be sufficient if the employer encourages staff to wear the corporate wardrobe and employees have the understanding in subparagraph 10(b) of this Ruling on how the wardrobe is to be worn.

Cleaning Costs

14. Costs for dry cleaning or laundering items of a corporate wardrobe are an allowable deduction (see Taxation Ruling IT 2452 for the requirements to be satisfied).

Date of Effect

15. This Ruling applies to all corporate wardrobes or corporate uniforms except those which have been approved by this Office previously. The cost of items of previously approved corporate wardrobes or corporate uniforms will continue to be deductible even if the wardrobes or uniforms do not strictly comply with the principles set out in this Ruling, provided that there has been no substantial change made to the approved wardrobe.

Substantial Change to a Wardrobe

16. This Office would regard a complete change in the style, colours or fabrics of a corporate wardrobe as a substantial change. However, replacement of one or two items of clothing of an older or no longer desired style within a corporate wardrobe, or the addition of one or two new accessories, would not ordinarily be regarded as a substantial change.

Further Advice

17. Taxpayers requiring further advice about the tax deductibility of a new corporate wardrobe, or about a substantial change in an existing wardrobe should contact the Deputy Commissioner's office at which the employer's taxation returns are lodged. Any request for advice should include photographs or sketches of the wardrobe items along with samples of the material to be used.

COMMISSIONER OF TAXATION
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