


IT 283 - Self -education expenses - Professional year of study

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TAXATION RULING NO. IT 283

SELF-EDUCATION EXPENSES - PROFESSIONAL YEAR OF STUDY

F.O.I. EMBARGO: May be released

REF

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1070172	SELF-EDUCATION EXPENSES PROFESSIONAL YEAR OF STUDY CONCESSIONAL REBATES DEFINITIONS - OTHER PLACE OF EDUCATION DEFINITIONS - COURSE OF EDUCATION	51(1) 159U

FACTS

In 80 ATC Case M11; 23 CTBR (NS) Case 97 Taxation Board of Review No.2 held that expenditure incurred by an employee accountant in completing the professional year of study as required by the Institute of Chartered Accountants in Australia was fully deductible under section 51(1) of the Income Tax Assessment Act.

2. During the year ended 30 June 1979 the taxpayer incurred expenditure of \$426 in undertaking a professional year of study. He claimed that the expenditure was an outgoing incurred in gaining or producing his assessable income and deductible in terms of section 51(1). On objection the first \$250 was treated as a rebatable amount under section 159U and the balance of \$176 allowed as a deduction under section 51(1). The Board held that the total amount was deductible under section 51(1).

3. For the Commissioner it was argued that the professional year of study enabled participants to extend their understanding of professional accountancy by a planned series of activities and was, therefore, a post-graduate "course of education" with some degree of direct tuition by the discussion leaders. It was also argued that the Institute was an "other place of education" within the meaning of that expression in section 159U.

4. Although Mr Voumard (member), in whose decision the other members concurred, referred to a number of authorities to the effect that the term "education" involved the giving or imparting of instruction or knowledge, he did not find it necessary to reach a conclusion whether the professional year of study was a course of education. He based his decision on the ground that the Institute was not a place of education in the

sense referred to in section 159U.

5. In support of his conclusion Mr Voumard said that in the context of section 159U the words "other place of education" should be read ejusdem generis with "school, college or university". Thus the meaning was limited to places of education which were similar to schools, colleges or universities. The Institute was clearly not such a place of education. He found additional support for this conclusion from Barry v. Hughes [1973] 1 All ER 537 where it was said that an educational establishment was one whose primary function was that of education. Having regard to the objects of the Institute it could not be said that its primary function was that of education.

RULING

6. For the purposes of section 159U, it is not agreed that the principle for which the decision in Barry v. Hughes is authority, applies. It is considered that, if a course or programme of study is a course of education in terms of section 159U, then the place where it is given is a place of education within the meaning of the section.

7. Notwithstanding this reservation it has been decided not to appeal against the Board's decision. Because the professional year of study does not involve systematic instruction, training or schooling which is basic to the concept of education it may be said that it is not a prescribed course of education within the meaning of section 159U. It is more akin to on-the-job training. In this light the Institute is not performing an educational function but instead is seeking to ensure that its members have the practical skills necessary to carry out their duties.

8. It follows, therefore, that expenditure in relation to the professional year of study may be allowed as a deduction in terms of section 51 provided of course, that it can otherwise be said to have been incurred in gaining or producing the assessable income in the relevant sense. Where an employer reimburses an employee in respect of expenditure incurred in undertaking a professional year for which the employee has been allowed a deduction the amount should be regarded as assessable income of the employee. Similarly, if an employer directly meets the expenses involved there would be a benefit to the particular employee assessable in terms of section 26(e).

9. This instruction may also be applied to the professional orientation programme conducted by the Australian Society of Accountants.

COMMISSIONER OF TAXATION