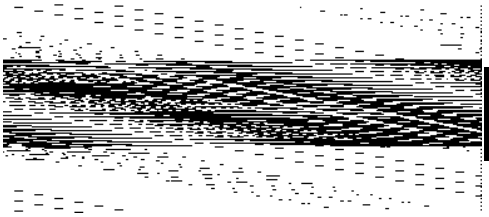
TD 93/195 - Income tax: to what extent is a registration fee for a Continuing Professional Development (CPD) seminar deductible if a part of the fee represents the cost of food and drink to be provided as part of the seminar?

This cover sheet is provided for information only. It does not form part of *TD 93/195 - Income tax: to what extent is a registration fee for a Continuing Professional Development (CPD) seminar deductible if a part of the fee represents the cost of food and drink to be provided as part of the seminar?*

This document has changed over time. This is a consolidated version of the ruling which was published on *24 April 2013*



Taxation Determination TD 93/195

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part . Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

*[**Note:** This is a consolidated version of this document. Refer to the Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]*

Taxation Determination

Income tax: to what extent is a registration fee for a Continuing Professional Development (CPD) seminar deductible if a part of the fee represents the cost of food and drink to be provided as part of the seminar?

1. If the registration fee is otherwise deductible under section 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997)[1], other than as deductible travel, the extent to which the fee is deductible, according to the terms of Division 32, is:

(a) if the food and drink does not amount to entertainment, the registration fee is deductible in full (see Taxation Ruling IT 2675 for an explanation of the meaning of the expression, 'entertainment by way of food, drink or recreation', which appears in section 32-10).

(b) if the food and drink does amount to entertainment but the CPD seminar is a seminar as defined in section 32-65 and the seminar expenses exception in section 32-35 applies, the registration fee is deductible in full. Section 32-35 includes the requirement that the food and drink provided is 'reasonably incidental' to a participant's attendance at the seminar. 'Reasonably incidental' is not defined. Food and drink is reasonably incidental to a CPD seminar if it:

  (i) is provided for sustenance because of the duration, time of day or location of the seminar;

  (ii) is provided immediately before, during or immediately following working sessions of the seminar; and

  (iii) is available to all seminar participants.

(c) if the food and drink does amount to entertainment but the seminar expenses exception in section 32-35 does not apply (because, for example, the seminar is a business meeting), the registration fee is deductible only to the extent that it does not represent a cost of food and drink. The level at which a registration fee is set is generally determined, at least in part, by the estimated costs of the organiser including the cost of food and drink to be provided. The amount of the registration fee to be disallowed is that amount included in the fee in respect of the food and drink. It is not necessary for a participant to actually consume any food or drink

[1] All subsequent legislative references are to the ITAA 1997 unless indicated otherwise.

for the fee to be apportioned. It is simply enough that the fee includes an amount in respect of food and drink.

2. The following decision tree is a useful way of establishing the extent to which a registration fee is deductible:

Does registration fee satisfy section 8-1?	No	No part of fee deductible.	Yes
Does some part of registration fee represent cost of food and drink?	No	Fee fully deductible (section 8-1)	Yes
Does food and drink amount to entertainment?	No	Fee fully deductible (section 8-1).	Yes
Is there a seminar (as defined in section 32-65)?	No	Fee deductible in part only (Division 32)	Yes
Does seminar satisfy the exception in section 32-35?	No	Fee deductible in part only (Division 32)	Yes

Fee fully deductible (Division 32)

Examples

An industry association arranges a series of three seminars for its practising members on current legislative developments. The seminars have been structured as follows:

Description	*Seminar 1*	*Seminar 2*	*Seminar 3*
Seminar Type	*Workshop*	*Twilight*	*Luncheon*
Total Duration	*2 hours*	*5 hours*	*4 hours*
Starting Time	*2pm*	*4pm*	*11.30am*
Refreshments	*Afternoon Tea*	*Dinner*	*Lunch*
	15 minutes at 3pm	*1 hour at 6pm*	*1 hour at 1pm*
	Tea & Coffee	*3 course meal*	*2 course meal*

(The registration fee for Seminar 3 is $50 based on the association's estimated costs of $1000 venue hire, $600 speaker's fee, $400 photocopy and other administration costs and $3000 luncheon costs spread over 100 anticipated registrations - the amount included in each fee for food and drink is therefore $30).

Using the decision tree, the deductibility of each registration fee can be summarised as follows:

Does expense satisfy s8-1	*Yes*	*Yes*	*Yes*
Is food & drink included	*Yes*	*Yes*	*Yes*
Is food & drink 'entertainment'	*No*	*Yes*	*Yes*
Is a seminar as defined	*Not applicable*	*Yes*	*Yes*
Is the s32-35 exception satisfied	*Not applicable*	*Yes*	*No (seminar only 3 hours)*
Allowable	*In Full (s8-1)*	*In Full (Div 32)*	*$20 only (Div 32)*

Commissioner of Taxation
7/10/93

FOI INDEX DETAIL: Reference No. I 1216274 Previously issued as Draft TD 93/D146
Related Determinations:
Related Rulings: IT 2675
Subject Ref: continuing professional development; eligible seminar; entertainment expenses; reasonably incidental
Legislative Ref: ITAA 1997 8-1; ITAA 1997 Div 32; ITAA 1997 32-10; ITAA 1997 32-35; ITAA 1997 32-65
Case Ref:
ATO Ref: UMG0061

ISSN 1038 - 8982