



TD 93/57 - Income tax: are compulsory school enrolment fees deductible under paragraph 78(1)(a)(xv) of the Income Tax Assessment Act 1936 if paid or transferred to a school building fund?

 This cover sheet is provided for information only. It does not form part of *TD 93/57 - Income tax: are compulsory school enrolment fees deductible under paragraph 78(1)(a)(xv) of the Income Tax Assessment Act 1936 if paid or transferred to a school building fund?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *1 April 1993*

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).

Taxation Determination

Income tax: are compulsory school enrolment fees deductible under paragraph 78(1)(a)(xv) of the *Income Tax Assessment Act 1936* if paid or transferred to a school building fund?

1. No. Payments made for acceptance of an application or confirmation of enrolment are not deductible under paragraph 78(1)(a)(xv). A fee is not a gift.
2. Payments to a school building fund which result in a benefit to the payer are not deductible gifts for taxation purposes.
3. A compulsory payment which may later be transferred to a school building fund is not deductible at any time. This is so even if the parent/guardian can choose to have the fee directed to the building fund via an administering body.

Example:

On 1 May 1992 P pays \$500 to the XYZ School General Account to confirm enrolment of child C for the 1993 school year. This money may or may not be refunded when the child leaves the school.

On 1 March 1992 the \$500 is transferred at P's direction from the XYZ School General Account to the School Building Fund. As P has no control over the money other than to direct it to the School Building Fund, and the fact that the initial payment was compulsory, no deduction is available as a gift.

Commissioner of Taxation

1/4/93

FOI INDEX DETAIL: Reference No.

I 1214577

Previously issued as Draft TD 92/D138

Related Determinations:

Related Rulings: IT 2071, IT 2443

Legislative Ref ITAA 78(1)(a)(xv)

ATO Ref: BRI0004

ISSN 1038 - 8982