



TD 94/5W - Income tax: can expenditure incurred on cosmetic surgery qualify as medical expenses for the purpose of section 159P and therefore qualify for a medical expenses rebate?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *16 January 2008*



Notice of Withdrawal

Taxation Determination

Income tax: can expenditure incurred on cosmetic surgery qualify as medical expenses for the purpose of section 159P and therefore qualify for a medical expenses rebate?

Taxation Determination TD 94/5 is withdrawn with effect from today.

1. Taxation Determination TD 94/5 explains that expenses incurred for cosmetic surgery performed by a legally qualified medical practitioner are medical expenses for the purposes of section 159P of the *Income Tax Assessment Act 1936* (ITAA 1936).
2. *Tax Laws Amendment (2005 Measures No. 6) Act 2006* amended section 159P of the ITAA 1936 to exclude 'ineligible medical expenses' from the calculation of the medical expenses rebate. Ineligible medical expenses are defined as payments in respect of a cosmetic operation for which a Medicare benefit is not payable, and payments for dental services or treatment that are solely cosmetic. The amendment applies to assessments for the 2005-06 and later income years.
3. As section 159P now expressly excludes cosmetic surgery expenses for which a Medicare benefit is not payable, TD 94/5 no longer reflects the law on this issue and is therefore withdrawn.

Commissioner of Taxation
16 January 2008

ATO references

NO: 2006/20258

ISSN: 1038-8982

ATOlaw topic: Income Tax ~ Tax offsets, credits and benefits ~ medical expenses tax offset - illness or operation