# 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?

This cover sheet is provided for information only. It does not form part of 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?

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



# TD 94/5

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# 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Taxation Determination TD 94/5 is withdrawn with effect from today.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expenses for which a Medicare benefit is not payable, TD 94/5 no longer reflects the law on this issue and is therefore withdrawn.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

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

illness or operation