


TR 95/19A - Addendum - Income tax: airline industry employees - allowances, reimbursements and work-related deductions

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Addendum: Income tax: airline industry employees - allowances, reimbursements and work-related deductions

*This Addendum forms part of the Ruling and, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the **Taxation Administration Act 1953**, it is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Ruling is a public ruling and how it is binding on the Commissioner.*

Taxation Ruling TR 95/19 is amended as follows:

1. **Paragraph 23**

- (a) Omit from the subparagraph entitled ***Clothing, uniforms and footwear*** 'A deduction is not allowable for the cost of stockings or shoes worn by flight attendants'.
- (b) Insert before the subparagraph entitled ***Depreciation of tools and equipment***:

'Expenditure on shoes, socks and stockings may give rise to a deduction where these items form an integral part of a compulsory and distinctive uniform, the components of which are set out by the employer in its expressed uniform policy or guidelines. The employer's uniform policy or guidelines should stipulate the characteristics of the shoes, socks and stockings that qualify them as being a distinctive part of the compulsory uniform, e.g., colour, style, type, etc. The wearing of the uniform must also be strictly and consistently enforced with breaches of the uniform policy giving rise to disciplinary action. These latter factors reflect the fact that image is of critical importance to the particular employer (paragraph 56A, also see Taxation Ruling TR 96/16).'

(c) Omit the subparagraph entitled **Grooming**, substitute:

'Grooming: A deduction is not allowable for the cost of grooming including cosmetics, skin care products, hairdressing and other personal grooming expenses. A deduction may be allowable, in limited circumstances, for rehydrating moisturiser and rehydrating hair conditioner used to combat the drying effects on the skin and hair when constantly exposed to harsh working conditions and to meet the employer's strict grooming requirements (see paragraphs 82 to 89 and also Taxation Rulings TR 96/17 and TR 96/18).'

2. Paragraph 47

Omit the paragraph, substitute:

'47. A deduction is not allowable for the cost of conventional footwear such as running shoes, sports shoes and casual shoes, as it is not considered to be protective.'

3. After Paragraph 56

Insert:

'56A. Expenditure on shoes, socks and stockings is essentially of a private nature and, even when these items are worn at the request of the employer, their cost will only be deductible in limited circumstances. To qualify for deduction, the items must firstly form an integral part of a distinctive and compulsory uniform the components of which are set out by the employer in its expressed uniform policy or guidelines (see paragraphs 54 and 55). In addition, the employer's uniform policy or guidelines should stipulate the characteristics of the shoes, socks and stockings that qualify them as being a distinctive part of the compulsory uniform, e.g., colour, style, type, etc. The wearing of the uniform must also be strictly and consistently enforced, with breaches of the uniform policy giving rise to disciplinary action. It is only in strict compulsory uniform regimes that expenditure on shoes, socks and stockings is likely to be regarded as work-related rather than private in nature (see Taxation Ruling TR 96/16).'

4. Paragraph 66

Omit the paragraph; insert:

'66. Expenditure on shoes, socks and stockings is usually a private expense and no deduction is allowable. However, it may give rise to a deduction where these items form an integral part

of a distinctive and compulsory uniform, the components of which are set out by the employer in its expressed uniform policy or guidelines (paragraph 56A, also see Taxation Ruling TR 96/16).'

5. Paragraphs 83 to 89

Omit the paragraphs; insert:

'83. The decision of the Federal Court of Australia in *Mansfield v. FC of T* 96 ATC 4001; (1995) 31 ATR 367, involving a female flight attendant, confirms the long held view that expenditure on cosmetics, personal care products and hairdressing expenses is private and not deductible (see Taxation Ruling TR 96/18).

84. In *Mansfield's* case, Mr Justice Hill stated (ATC at 4008, ATR at 374):

"Even if makeup as such is required by the airline as an incident of the employment, I am presently of the view that makeup retains an essential personal characteristic which excludes it from deductibility."

85. When considering the non deductibility of hairdressing expenditure, Mr Justice Hill stated (ATC at 4009, ATR at 376):

"The fact that Mrs Mansfield was required by her employer to be well groomed and presentable does not of itself operate to confer deductibility. Expenditure on hairdressing is of a private nature. There is no additional feature which shows any relationship between the expenditure on the one hand and Mrs Mansfield's employment as a flight attendant. The expenditure does not have the character of employment-related expenditure and in my view is not deductible. Her selection of a perm, which requires somewhat regular maintenance, is her choice. It is not occasioned by her employment."

86. The Federal Court in *Mansfield's* case considered the deductibility of expenses incurred by a flight attendant on rehydrating moisturiser and rehydrating hair conditioner. It was found that Mrs Mansfield's employer placed great importance on the presentation and grooming of its flight attendants. It was, for example, not acceptable for a flight attendant to fly with dry or cracked skin, blemishes or cold sores that could not be concealed. The relevant award also conferred an entitlement to sick leave if an employee was unable to work because of cosmetic problems.

87. However, the requirement to be well groomed and the receipt of an allowance to cover expenses were not sufficient to make the deduction allowable. The "additional feature" to the grooming requirements of the employer, which showed the relationship between the expenditure on rehydrating moisturiser and rehydrating hair conditioner and the income earning activity, was the effect on Mrs Mansfield of her abnormal and unique working environment, i.e., the detrimental effects on her skin and hair of dehydration brought about by constant exposure to the low humidity of the pressurised airline cabin.

88. This led Mr Justice Hill to conclude (ATC at 4007, ATR at 374) that:

"...expenditure for moisturiser, the necessity for which was brought about by the harsh conditions of employment which Mrs Mansfield was called upon to endure, is incidental and relevant to her occupation as a flight attendant. It has the necessary connection with her activities in the cabin itself. It is these activities which are directly relevant to her gaining and producing assessable income by way of salary."

89. A deduction for rehydrating moisturiser and rehydrating hair conditioner is allowable only where there are harsh working conditions and a requirement that the taxpayer be well groomed. Where a deduction is allowable, only the amount actually spent on such items for work purposes can be claimed as a deduction. That is, only the proportion of the total expenditure on these products that relates specifically to the taxpayer's income earning activities will be an allowable deduction (see Taxation Ruling TR 96/17).'

Commissioner of Taxation

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