IT 2315 - Income tax : deductibility of expenditure on overseas travel

This document has been Withdrawn.
There is a Withdrawal notice for this document.

TAXATION RULING NO. IT 2315

INCOME TAX : DEDUCTIBILITY OF EXPENDITURE ON OVERSEAS TRAVEL

F.O.I. EMBARGO: May be released

REF H.O. REF: 86/4350-4 DATE OF EFFECT: Immediate

B.O. REF: 505/1985 DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1209434	OVERSEAS TRAVEL	51(1)

PREAMBLE In a recent reference before it (reported as Case T23 86 ATC 228), Taxation Board of Review No.1 was considering a claim by a secondary school teacher of Italian that costs incurred in attending a course in advanced Italian at the University for Foreigners in Perugia, Italy, were deductible under sub-section 51(1) of the Act. This ruling deals with the decision of a majority of the Board (the Chairman, Mr Stevens, and Mr McCarthy) to allow the taxpayer a deduction of $277 in respect of the cost of attending the course itself. The majority held that the airfare was not allowable.

FACTS 2. The taxpayer, in the relevant income year, taught Italian, Maths and Science at a private secondary school. Towards the end of a year in which he had been teaching Italian at Year 11 level, and earning approximately $13,000 per year, the taxpayer approached his headmaster in relation to the possibility of his teaching the Year 12 level the following year, the first year in which the subject would be taught at that level at that school. Although it had originally been proposed that a new teacher be employed for the Year 12 level, the headmaster accepted and encouraged a proposal by the taxpayer that, whilst he was in Italy over the Christmas holidays, he attend an advanced Italian course at Perugia. The headmaster agreed that the taxpayer would then be given the Year 12 level to teach and that he could have two weeks paid leave in February to enable him to complete the course.

3. After spending the first month of his holidays in Italy on vacation, the taxpayer completed the advanced Italian course and returned to teach the Year 12, but with no consequential increase in salary.

4. There appears to be no disagreement in the Board as to the underlying legal principles although there were varying assessments of the facts. The Chairman and Mr McCarthy, member, found that it had not been expected of the taxpayer that he incur expenditure on overseas travel nor could it be seen as incidental and relevant to his employment activities. The expenditure could not be seen to have been incurred in the

course of gaining or producing the taxpayer's assessable income.

5. The third member, Mr Roach would have allowed a proportion of the expenses incurred in travelling to Italy as well as costs incurred at the University. This latter expenditure was regarded as having been incurred by the taxpayer in keeping up to date and broadening his knowledge and as such was part and parcel of his income-producing activities. Mr McCarthy also considered the University costs to be allowable, although with some difference as to quantum. The Chairman reached a different view on this aspect but he was prepared to join in Mr McCarthy's overall decision in order that the Board might give a decision.

RULING 6. The decision has been accepted. Although the Board members came to rather disparate conclusions according to their individual view of the facts, the decision overall is not inconsistent with leading cases such as FCT v. Finn (1961) 106 CLR 60 and does not require any departure from existing practice.

COMMISSIONER OF TAXATION
17 JUNE 1986

<