

IT 2406 - Income tax : house auction expenses of public servant moving at employer's request

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TAXATION RULING NO IT. 2406

INCOME TAX : HOUSE AUCTION EXPENSES OF PUBLIC SERVANT
MOVING AT EMPLOYER'S REQUEST

FOI EMBARGO: May be released

REF N.O. REF : 87/3596-4 DATE OF EFFECT: Immediate

B.O. REF :

F.O.I. INDEX DETAIL

REFERENCE NO: SUBJECT REFS: LEGISLAT REFS:

I 1218507 REMOVAL EXPENSES 51(1)

OTHER RULINGS ON TOPIC IT 2173

PREAMBLE The Administrative Appeals Tribunal recently considered the deductibility under sub-section 51(1) of the Income Tax Assessment Act of expenses of auctioning an employee's house following a transfer of employment at the request of the employer.

FACTS 2. The taxpayer, a Commonwealth public servant, was transferred at the request of his employer from a State office to the central office of the department in Canberra. At the time of the transfer, the taxpayer owned a house in the State capital and a house in Canberra. He decided to sell the house in which he resided in the State capital. A real estate agent consulted by the taxpayer suggested that the house be auctioned. An auction was held but was unsuccessful. The house was sold, however, within a week by private treaty to a person who had not attended the auction. The expenses of the auction, \$742.50, were not reimbursed by the Public Service. The taxpayer's claim for a deduction under sub-section 51(1) of the Act was disallowed.

3. The Tribunal adopted the reasoning of Taxation Board of Review No.2 in Case B18 70 ATC 78 and held that the expenses were too remote from the income producing process to be incurred in gaining or producing assessable income. In any event the essential nature of the expenses of the abortive auction was of a private or domestic nature.

4. The effect of the Tribunal's decision is to confirm present official practice as stated in IT 2173 and paragraph 1.7.73 of the Non-Business Assessing Manual Vol 1 Part 1, viz. claims for expenses incurred in moving house or travelling when changing employment are not deductible under section 51.

COMMISSIONER OF TAXATION

4 June 1987