

IT 341 - University staff on overseas study leave : income tax deductions for expenditure.



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TAXATION RULING NO. IT 341

UNIVERSITY STAFF ON OVERSEAS STUDY LEAVE : INCOME TAX
DEDUCTIONS FOR EXPENDITURE.

F.O.I. EMBARGO: May be released

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UNIVERSITY STAFF

51(1)

OVERSEAS STUDY LEAVE

23(q)

EXEMPT INCOME - OVERSEAS STUDY

EXPENDITURE APPORTIONED

PREAMBLE

Consideration has been given to several cases involving claims for overseas travelling expenses by university staff members on study leave.

RULING

2. University fellows and lecturers are generally encouraged to avail themselves of study leave to pursue a course of study overseas. When applying for leave the applicant is normally required to set out a plan of study and to state whether financial assistance additional to his normal salary is required. Any financial assistance which he expects to receive from other sources (e.g. overseas universities) is also taken into account by the relevant university body in determining the amount of a study leave grant. In most cases, the amount of the grant is much less than either the taxpayer's anticipated or actual costs.

3. While it is clear that the grant received forms part of the taxpayer's assessable income in the year of receipt, some difficulty arises in determining the deductions allowable under section 51 for expenses incurred while on study leave.

4. The decisions in Finn's case and subsequent Board of Review decisions require acceptance of the proposition that the quantum of expenditure allowable under section 51 is not necessarily limited to the amount of the grant received. The main problem in these cases is rather to determine the quantum of expenditure allowable, particularly with regard to living expenses and incidental expenses such as entertainment, daily fares, etc.

5. Claims for fares to and from overseas paid by the taxpayer should be allowed in full along with the cost of travelling from place to place while pursuing study overseas. Where a taxpayer incurs daily expenditure from an overseas place of residence to universities etc. to pursue his study, reasonable claims for the cost of daily travel may also be allowed. However, where it is ascertained that travelling expenses on holidays or sightseeing are incurred while overseas,

no deduction should be allowed for those expenses.

6. With regard to living expenses (meals and accommodation etc.) unverified claims of up to \$10 per day may be allowed without query but, if the taxpayer supplies satisfactory evidence of expenditure in excess of \$10 per day, the higher figure may be allowed. No deduction for living expenses while on holidays or sightseeing should be allowed.

7. The figure of \$10 per day is not intended to be inflexible but is regarded as a reasonable amount to cover the average living costs of a taxpayer who visits several countries while overseas. The actual costs in each case must, of course, differ and assessors will need to use their discretion when considering such claims. For example, where it is obvious that the taxpayer has resided in the one place for the major part of his stay overseas, \$10 per day would normally be the maximum amount allowable. However, where there is an extended visit to the United States, this amount may not be sufficient because of the higher cost of living in that country.

8. Other incidental expenditure incurred in pursuing study, e.g. transport of books, telephone, insurance, conference fees, typing, postage etc., should be allowed in full.

9. In general, no deduction should be allowed for the travelling or living expenses of the taxpayer's wife or children and any claim that a wife was required to accompany her husband in the capacity of a secretary should not be admitted without detailed scrutiny.

10. It often happens that the overseas trip extends over two income years. In some of the cases examined, the full amount of the travel grant and the full cost of travelling to and from overseas were shown in the first year's return. In the interests of simplicity, this basis was accepted for assessment purposes even though it was not strictly accurate. This practice may also be followed in comparable cases where it produces a fair and equitable result. It was found on examination that the transfer of part of these items from one return to another would have had very little effect on the total taxes payable for the two years.

11. Where a taxpayer derives income from lecturing, research work etc., while overseas and that income remains liable to Australian tax, deductions should be allowed for expenses which fall within the categories already mentioned. However, if such overseas income is exempt from Australian tax because of the provisions of section 23(q), it is necessary to ascertain what part of the expenditure is attributable to the derivation of exempt income and consequently not deductible under section 51.

12. If the exempt income is earned concurrently with the earning of assessable income at one place over the whole duration of the trip as in the unreported decision of Board of Review No.3, the apportionment of the allowable deductions

should be calculated along the lines upheld in the Board's decision, the disallowance being calculated by the formula -

$$\frac{\text{Exempt income}}{\text{Total income}} \quad \text{of allowable expenses.}$$

13. In other cases, however, a taxpayer may in the course of going from place to place derive exempt income for a limited period only and then proceed to other places where no exempt income is derived. In this situation, it is usually not practicable to establish any direct relationship between the cost of travelling to and from overseas and the derivation of exempt income. As a practical working rule, therefore, such expenditure should be wholly allowed as a deduction. On the other hand, the quantum of exempt income may warrant some adjustment to the deduction otherwise allowable in respect of the taxpayer's living costs while overseas.

14. Consistently with the principle applied in the case mentioned in paragraph 12 above, the portion of the living expenses disallowed should be based on the ratio which the exempt income derived during the relevant part of the income year bears to the total income derived during the same period. The following example illustrates the method of calculation. Assuming that a taxpayer on a salary of \$10,800 per annum receives a travel grant of \$1,200 to cover a full year's study leave and earns \$4,000 exempt income during a period of four months, half the living costs (\$10 per day for 120 days) applicable to the period in which exempt income was derived should be disallowed, viz:-

$$\frac{\text{Exempt income}}{\text{Total income}} \quad \text{of living costs,}$$

i.e.,

$$\frac{4000}{4000 + 400 + 3600} = \frac{4000 \times \$1200}{8000} = \$600$$

In the above calculation, \$4,000 is the exempt income, \$400 represents one-third of the travel grant and \$3,600 represents one-third of taxable salary received while on study leave.

COMMISSIONER OF TAXATION