



# ***TD 2024/7 - Income tax: deductions for financial advice fees paid by individuals who are not carrying on an investment business***

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 There is a Compendium for this document: **[TD 2024/7EC](#)** .



Status: **legally binding**

## Taxation Determination

# Income tax: deductions for financial advice fees paid by individuals who are not carrying on an investment business

### **📌 Relying on this Determination**

This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Determination applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Determination. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Determination.

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### **What this Determination is about**

1. This Determination sets out when an individual may be entitled to a deduction under sections 8-1 or 25-5 of the *Income Tax Assessment Act 1997* (ITAA 1997) for fees paid for financial advice. It outlines the requirements that need to be satisfied for an individual to claim a deduction for financial advice fees.
2. All legislative references in this Determination are to the ITAA 1997, unless otherwise indicated.

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3. Taxation Determination TD 95/60 *Income tax: are fees paid for obtaining investment advice an allowable deduction under section 8-1 of the Income Tax Assessment Act 1997 (ITAA 1997) for taxpayers who are not carrying on an investment business?* (now withdrawn) outlined our view on the deductibility of fees paid by a taxpayer to an investment adviser for drawing up an investment plan, and for the ongoing management of the investments.

4. This Determination replaces TD 95/60 as a result of regulatory reforms to the financial services industry. However, it does not represent a change in our view on the deductibility of financial advice fees as outlined in TD 95/60.

5. This Determination does not apply to individuals carrying on an investment business.<sup>1</sup> It also does not consider circumstances where fees for financial advice are paid from a superannuation fund.

6. The term financial advice is not defined for tax purposes. The provision of financial advice is regulated under the *Corporations Act 2001*. The provision of financial advice relating to tax (tax (financial) advice service) is also regulated under the *Tax Agent Services Act 2009*.

7. From 1 January 2022, entities that provide tax (financial) advice services for a fee or other reward must either be a 'qualified tax relevant provider'<sup>2</sup> registered with the Australian Securities and Investments Commission or be a tax agent registered with the Tax Practitioners Board and meet the eligibility requirements to provide tax (financial) advice services.

8. 'Tax (financial) advice service' is defined in section 90-15 of the *Tax Agent Services Act 2009*. Broadly, it includes a service that relates to advising on or ascertaining liabilities, obligations or entitlements of an entity that could arise under a taxation law where it could be reasonably expected that a person would rely on the service to satisfy liabilities or claim entitlements under a taxation law.

## Ruling

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9. An individual is entitled to a deduction for fees paid to a financial adviser if they satisfy the requirements in sections 8-1 (general deductions) or 25-5 (tax-related expenses).

10. In certain circumstances, it may be necessary to apportion the deduction under sections 8-1 or 25-5 because the full amount of the fees paid may not be deductible.

### Section 8-1 – general deduction

11. An individual is entitled to a deduction for fees for financial advice under section 8-1 to the extent that the loss or outgoing is incurred in gaining or producing assessable income.

12. However, an individual is not entitled to deduct any loss or outgoing under section 8-1 to the extent that:

- it is an outgoing of capital or of a capital nature

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<sup>1</sup> This Determination does not consider the effect of section 40-880 as that section does not apply to an entity who does not carry on a business.

<sup>2</sup> 'Qualified tax relevant provider' is defined in section 910A of the *Corporations Act 2001*.

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- it is an outgoing of a private or domestic nature
- it is incurred in gaining or producing a taxpayer's exempt or non-assessable, non-exempt income, or
- a provision of the Act prevents it from being deducted.<sup>3</sup>

13. An individual must 'incur' an expense for it to be deductible under section 8-1. The expense is incurred when there is a presently existing liability to pay the expense or, in the absence of such a liability, when the expense is paid.<sup>4</sup>

### ***Incurred in gaining or producing assessable income***

14. The term 'incurred in gaining or producing assessable income' means incurred 'in the course of'<sup>5</sup> gaining or producing assessable income.<sup>6</sup>

15. For an expense to be incurred 'in the course of' gaining or producing assessable income, it is both sufficient and necessary that the occasion of the expense should be found in whatever is productive of assessable income.<sup>7</sup> However, an expense may still be deductible even if assessable income is:

- not gained or produced in the year in which the outgoing is incurred<sup>8</sup>, or
- expected to be earned but is not actually earned.<sup>9</sup>

16. What is required is that there is a sufficient connection between the expense and 'the activities which more directly gain or produce the assessable income'.<sup>10</sup>

17. Whether the connection exists between the expenses and what produces the assessable income is a question of fact having regard to all the circumstances in each case.

18. Relevant considerations include:

- whether the expense was entirely preliminary to the gaining or producing of assessable income<sup>11</sup>, and
- whether there is a lapse of time between incurring the expense and the commencement of the income-producing activity. If there is a significant time delay, then this may suggest that the expense may have been incurred for some purpose other than the gaining or producing of assessable income.<sup>12</sup>

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<sup>3</sup> Subsection 8-1(2).

<sup>4</sup> See Taxation Ruling TR 97/7 *Income tax: section 8-1 - meaning of 'incurred' - timing of deductions*.

<sup>5</sup> *Commissioner of Taxation v Payne* [2001] HCA 3.

<sup>6</sup> Subsection 8-1(1).

<sup>7</sup> *Commissioner of Taxation v Payne* [2001] HCA 3; *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15, *Commissioner of Taxation v Day* [2008] HCA 53. If no assessable income is produced, the occasion of the expense should be found in what would be expected to produce assessable income.

<sup>8</sup> *Amalgamated Zinc (De Bavay's) Limited v Federal Commissioner of Taxation* [1935] HCA 81; (1935) 54 CLR 295 at [309].

<sup>9</sup> *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15; 78 CLR 47 at [57].

<sup>10</sup> *Watson as trustee for the Murrindindi Bushfire Class Action Settlement Fund v Commissioner of Taxation* [2020] FCAFC 92. See also *Healy and Commissioner of Taxation* [2013] AATA 281.

<sup>11</sup> See *Softwood Pulp and Paper v Federal Commissioner of Taxation* 76 ATC 4439 at [4450].

<sup>12</sup> See *Steele v Deputy Commissioner of Taxation* [1999] HCA 7, *The Commissioner of Taxation of the Commonwealth of Australia v Brand R.G* [1995] FCA 758 and *Temelli, Coskun G & Anor v The Commissioner of Taxation of the Commonwealth of Australia* [1997] FCA 756.

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19. Fees for financial advice on a proposed investment prior to the acquisition of an asset will not be deductible under section 8-1 because they are an expense associated with putting the income-earning investment in place. The expenditure does not have a sufficient connection with earning income from the investment.<sup>13</sup> This would similarly be the case where an individual's existing adviser provides advice on how they can invest additional funds to grow their investment portfolio. Fees for initial advice on pre-existing investments at the commencement of an advisory engagement are also not deductible in the circumstances outlined at paragraph 29 of this Determination.

20. Fees for financial advice incurred on a regular or recurrent basis for an existing or ongoing income-producing investment are deductible under section 8-1. This includes fees for advice from an existing adviser on whether the mix of assets held is still appropriate for the individual's needs and advice on whether to retain or dispose of those assets.

21. The financial advice fees are deductible under section 8-1 in these circumstances because the expenditure is incurred in the course of gaining or producing assessable income from holding the investments. There is a sufficient connection between the fee for the ongoing advice and the investments which produce the assessable income.

22. However, to be wholly deductible, all of the fee must relate to gaining or producing assessable income otherwise only a proportion of the fee is deductible.

23. An individual may seek advice from a financial adviser in relation to various insurance products. The deductibility of financial advice fees for advice on insurance products will be consistent with whether the respective premiums for the insurance product are deductible to the individual under section 8-1.

24. Fees for financial advice on income protection insurance are deductible under section 8-1 where the premiums for the income protection insurance are deductible to an individual under section 8-1. This is because they have a sufficient connection with gaining or producing the individual's assessable income.<sup>14</sup>

25. However, fees for financial advice on other types of insurance products where the premiums are not deductible under section 8-1 (such as life, total and permanent disability or trauma insurance) are not deductible under section 8-1. This is because the advisory fees are not incurred in gaining or producing assessable income. They may also be capital or of a capital nature.<sup>15</sup>

### **Capital or of a capital nature**

26. Even if the amount is incurred in gaining or producing the individual's assessable income, a deduction is not available if the amount is capital or of a capital nature.<sup>16</sup>

27. In determining whether an expense is capital or of a capital nature, it is necessary to consider the advantage that is sought from incurring the expense, the manner in which that advantage is to be used and whether the means of its acquisition is a once-and-for all expense for the acquisition of something of enduring advantage or a periodical outlay to

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<sup>13</sup> *Commissioner of Taxation (Cth) v Maddalena* 71 ATC 4161 and the discussion of that case by Hill J in *Commissioner of Taxation v Cooper, R.J.* [1991] FCA 190.

<sup>14</sup> *Commissioner of Taxation (Cth) v Smith* [1981] HCA 10; Taxation Ruling TR 95/9 *Income tax: employee lawyers - allowances, reimbursements and work-related deductions.*

<sup>15</sup> See paragraphs 26 and 27 of this Determination.

<sup>16</sup> Paragraph 8-1(2)(a).

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cover the use and enjoyment of something for periods commensurate with those payments.<sup>17</sup>

28. Fees for financial advice on a new investment are not deductible under section 8-1 because the amount is considered to be capital or of a capital nature. This is because the expenditure is incidental to the cost of acquiring the income-producing investment. However, the expenditure may qualify as an incidental cost of the acquisition of the asset and for capital gains tax purposes, it may be included in the cost base of the asset under subsection 110-25(3) and section 110-35.

29. Fees for financial advice on pre-existing investments are not deductible under section 8-1 when:

- an individual seeks advice from a new financial adviser at the commencement of an advisory engagement, and
- that advice involves the consideration of the individual's circumstances by that financial adviser for the first time and making recommendations and advising on the income-earning structure.

In these circumstances, the fees for that advice are capital or of a capital nature.

30. If an individual's existing adviser provides advice on how they can invest additional funds to grow their investment portfolio, the fees for advice in relation to these amounts would be capital or of a capital nature and would not be deductible under section 8-1.

### **Private or domestic nature**

31. Even if the amount is incurred in gaining or producing the individual's assessable income, a deduction is not available if the amount is private or domestic expenditure.<sup>18</sup>

32. The terms private and domestic are not defined in the ITAA 1997 but have the ordinary meanings of 'personal' and 'relating to the home, household or household affairs' respectively.<sup>19</sup>

33. Characterisation of an expense as private or domestic typically supports a conclusion that the expense does not have a sufficiently close connection to the earning of assessable income by the individual.

34. Fees for advice incurred about an individual's household budgeting are private or domestic expenditure and will not be deductible under section 8-1.

### **Section 25-5 – tax-related expenses**

35. Fees for financial advice an individual incurs<sup>20</sup> may be deductible under section 25-5 to the extent that the advice relates to managing their 'tax affairs'.<sup>21</sup>

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<sup>17</sup> See *Commissioner of Taxation v Sharpcan Pty Ltd* [2019] HCA 36 at [18]. See also *Sun Newspapers Limited v Federal Commissioner of Taxation* [1938] HCA 73.

<sup>18</sup> Paragraph 8-1(2)(b).

<sup>19</sup> Refer to paragraph 46 of Taxation Ruling TR 2020/1 *Income tax: employees: deductions for work expenses under section 8-1 of the Income Tax Assessment Act 1997*.

<sup>20</sup> The word 'incur' has the same meaning as in the context of section 8-1. Refer to paragraph 14 of this Determination.

<sup>21</sup> Paragraph 25-5(1)(a).

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36. The term tax affairs is defined in subsection 995-1(1) as affairs relating to tax.<sup>22</sup> We take the view that 'tax (financial) advice' as defined in section 90-15 of the *Tax Agent Services Act 2009* would be included within the meaning of tax affairs.

37. An individual must be able to identify that the payment was for advice to assist them in managing their tax affairs.<sup>23</sup> For example, fees for advice in relation to salary sacrifice arrangements will be advice that assists an individual in managing their tax affairs. If all the other requirements set out in section 25-5 are satisfied, the fees for the advice provided by the financial adviser will be deductible.

38. Not all advice provided by a financial adviser will be considered to be tax (financial) advice. Where an adviser merely provides factual information about a financial product that does not involve the application or interpretation of the taxation laws to the client's personal circumstances, the advice will not be for managing the individual's tax affairs.

39. However, an individual cannot deduct a fee or commission for advice about the operation of a Commonwealth law relating to taxation, unless that advice is provided by a 'recognised tax adviser'.<sup>24</sup>

### **Capital expenditure**

40. An individual cannot claim a deduction for capital expenditure under subsection 25-5(1). However, expenditure incurred in managing tax affairs is not considered to be capital expenditure merely because the advice relates to matters of a capital nature.<sup>25</sup>

41. In determining whether expenditure is capital expenditure, all the circumstances of each case must be considered.<sup>26</sup>

### **No double deduction**

42. If the financial advice fees are deductible under both sections 8-1 and 25-5, the fees can only be deducted once under the most appropriate provision.<sup>27</sup>

43. For the purposes of this Determination, where financial advice fees are deductible under both sections 8-1 and 25-5, the most appropriate provision will be the specific deduction in section 25-5.

### **Apportionment**

44. The use of the phrase 'to the extent' in sections 8-1 and 25-5 means that it will be necessary in some circumstances to establish which parts of the expenditure are deductible.

45. Expenses may be partly deductible under section 8-1 if they are incurred in gaining or producing assessable income as well as for some other purpose.<sup>28</sup> There must be a

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<sup>22</sup> A reference to 'tax affairs' includes affairs relating to 'tax', which is defined in subsection 995-1(1) as:

- (a) income tax imposed by the *Income Tax Act 1986* as assessed under this Act; or
- (b) income tax imposed as such by any other Act, as assessed under this Act.

<sup>23</sup> See *Harvey and Commissioner of Taxation* [2008] AATA 457 which considers the application of section 25-5.

<sup>24</sup> Paragraph 25-5(2)(e). A 'recognised tax adviser' is defined in subsection 995-1(1).

<sup>25</sup> See subsection 25-5(4).

<sup>26</sup> *AusNet Transmission Group Pty Ltd v Federal Commissioner of Taxation* [2015] HCA 25 at [19], per French CJ, Kiefel and Bell JJ, *Clough Limited v Commissioner of Taxation* [2021] FCAFC 197.

<sup>27</sup> Section 8-10.

<sup>28</sup> *Kidston Goldmines Ltd v Commissioner of Taxation* [1991] FCA 351.

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sufficient connection between the financial advice fee and gaining or producing assessable income. Expenditure incurred for advice that is for other purposes will not be deductible under section 8-1.

46. Similarly, if the financial advice received relates to managing tax affairs and to other matters, then a deduction for the full amount of the fees under section 25-5 will not be available.

47. In both these circumstances, the fees will need to be apportioned on a fair and reasonable basis.<sup>29</sup> What is fair and reasonable will depend on the facts and circumstances of the case.

48. It is up to the individual to provide evidence of a fair and reasonable method of apportionment. If sufficient evidence is not available to support the apportionment methodology used, no deduction will be allowable.<sup>30</sup>

### **Evidentiary requirements**

49. If the expenses incurred for financial advice meet the requirements of sections 8-1 or 25-5, the individual must have sufficient evidence of that expenditure in order to claim the expense as a deduction.

50. An itemised invoice (including for example, a fee disclosure statement<sup>31</sup> or an advice fee consent form) from a financial adviser which details the following will be sufficient evidence to be entitled to claim a deduction:

- the name of the financial adviser
- the amount of the expense
- an explanation of the advice provided
- the date that the expense was incurred, and
- the date that the invoice was produced.

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### **Example 1 – initial advice arrangement**

51. *Claudio is a financial adviser authorised to provide personal advice to retail clients by a financial services company which holds a financial service licence. Claudio is a recognised tax adviser for the purposes of section 25-5.*

52. *Claudio meets with a new client Min-Ji, an Australian resident who earns salary, has savings in an interest-bearing account, holds shares in several Australian public companies and who is a member of a superannuation fund. Min-Ji is seeking financial advice from Claudio on her financial circumstances, including her pre-existing investments, to enable her to increase her regular income.*

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<sup>29</sup> *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15.

<sup>30</sup> *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15; *Drummond v Commissioner of Taxation* [2005] FCA 1129.

<sup>31</sup> Schedule 1 to the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024* removed the requirement for advisers to provide a fee disclosure statement from 10 January 2025 and inserted new consent rules for ongoing fee arrangements. Refer Part 10.78 of Chapter 10 of the *Corporations Act 2001* for the application and transitional arrangements.



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53. *Claudio and Min-Ji agree that Claudio will provide the financial advice for a fee. Claudio makes relevant enquiries through the completion of a fact-finding process to determine Min-Ji's needs and objectives.*

54. *Claudio assesses Min-Ji's financial situation by considering her assets and liabilities, income, risk profile and tax profile. Min-Ji's portfolio already includes shares in several Australian public companies which she receives dividends from each year. In order to diversify her portfolio, Claudio recommends that Min-Ji retain her existing investment in Australian public companies and invest any new savings in units in a managed investment fund which provides a periodic return. In providing this advice, Claudio interprets and applies the tax laws to Min-Ji's circumstances and provides advice about liabilities, obligations and entitlements when acquiring, holding and disposing of the units in the managed investment fund. It is reasonable to expect that Min-Ji will rely on the advice provided by Claudio.*

55. *To the extent that Claudio charges Min-Ji for reviewing her financial situation, including her pre-existing investments and recommending she acquire the units in the managed investment fund, this portion of the fee is not deductible under section 8-1. This is because this portion of the fee is incurred in putting an income-earning investment in place as well as being in relation to the income-earning structure. It is accordingly considered to be capital or of a capital nature.*

56. *Min-Ji is able to claim a deduction under section 25-5 in relation to the portion of the fee that is for tax (financial) advice provided by Claudio. This is because the advice is provided by a recognised tax adviser in relation to managing Min-Ji's tax affairs and the requirements of section 25-5 are satisfied. The tax (financial) advice in this situation is the advice relating to the taxation implications of the investment in the specific managed investment fund nominated. As the advice is provided for multiple purposes, Min-Ji needs to apportion the total amount of the fee between the different components of the advice on a fair and reasonable basis.*

### **Example 2 – continuing arrangement**

57. *After Min-Ji acquires the investment in the managed fund, she agrees to enter into an ongoing arrangement where Claudio will continue to provide her with advice on the suitability and performance of her investment for a fee. Claudio also agrees to provide Min-Ji with budgeting advice to enable her to increase her savings.*

58. *From time to time, Claudio suggests that Min-Ji change her mix of investments in order to achieve her original goals and objectives. When Min-Ji agrees with these changes, Claudio actions Min-Ji's request which results in Min-Ji acquiring and disposing of her interests in various assets.*

59. *In this case, the component of Claudio's fee that relates to the ongoing advice on the suitability of Min-Ji's investments is deductible under section 8-1. This is because this expenditure is incurred in the course of gaining or producing assessable income from managing her investments. There is a sufficient connection between the fee for the ongoing advice and the investments which produce Min-Ji's assessable income.*

60. *The portion of the fee for the advice provided on the household budgeting matters is not deductible under section 8-1 as it is not incurred in gaining or producing Min-Ji's assessable income. It is considered to be a private or domestic expense. The fee is also not deductible under section 25-5 as it is not a fee incurred in managing Min-Ji's tax affairs. As the advice is provided for multiple purposes, Min-Ji needs to apportion the total amount of the fee between the different components of the advice on a fair and reasonable basis.*

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**Example 3 – advice in relation to insurance policies**

61. *Lara is a financial adviser and authorised to provide a comprehensive range of personal advice to retail clients as a representative of a company which holds a financial services licence. Lara is a recognised tax adviser for the purposes of section 25-5.*

62. *Lara meets with Ollie who is seeking advice on his insurance needs to protect his lifestyle and family.*

63. *Lara makes relevant enquiries about Ollie’s personal circumstances. Lara assesses Ollie’s financial situation by considering his assets and liabilities, income, risk profile and tax profile. In doing so, Lara considers the costs and benefits of holding insurance policies both inside and outside of superannuation before making any recommendations.*

64. *Lara provides advice to Ollie about how much insurance cover Ollie needs to protect his lifestyle and family. Lara advises Ollie about the tax implications of making payments for income protection, life, total and permanent disability and trauma insurance policies. She also advises Ollie about the income tax treatment of any payments received under the policies. It is reasonable to assume that Ollie will rely on Lara’s advice.*

65. *Lara advises Ollie to apply for a number of policies provided by an insurance company and that these policies should be held outside of the superannuation system. Lara charges Ollie a fee for providing this advice.*

66. *The component of the fee that relates to the provision of advice on the income protection insurance will be deductible under section 8-1 as it is incurred in the course of gaining assessable income and is not capital or of a capital nature.*

67. *The component of the fee that relates to the provision of advice on the life, total and permanent disability and trauma insurance policies will not be deductible under section 8-1 as this expenditure is not incurred in the course of gaining or producing assessable income and is capital or of a capital nature.*

68. *Ollie will be able to claim a deduction under section 25-5 for the portion of the fee that is for tax (financial) advice provided by Lara. This is because the advice was provided in relation to managing Ollie’s tax affairs, it is provided by a recognised tax adviser and the requirements of section 25-5 are satisfied. In this situation, the tax (financial) advice is the advice relating to the taxation implications of the insurance policies he has chosen to take out. As the advice is provided for multiple purposes, Ollie needs to apportion the total amount of the fee between the different components of the advice on a fair and reasonable basis.*

**Example 4 – superannuation and estate planning advice**

69. *Nate is a financial adviser authorised to provide a comprehensive range of personal advice to retail clients as a representative of a company which holds a financial services licence. Nate is also a recognised tax adviser for the purposes of section 25-5.*

70. *Nate meets Juanita who is seeking advice on maximising her income in retirement and transferring wealth to her children when appropriate. Juanita is employed as a teacher earning \$115,000 per annum and she has \$450,000 in superannuation.*

71. *Nate agrees to provide Juanita with advice for a fee. Nate makes relevant enquiries through the completion of a thorough fact-finding process to ascertain Juanita’s needs and objectives. Nate assesses Juanita’s financial situation by considering her assets, liabilities, income, risk profile and tax profile.*

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72. *Nate then provides financial advice to Juanita and recommends she establish a self-managed superannuation fund, increase contributions to the new superannuation fund by entering into a salary sacrifice arrangement with her employer and suggests that she will need to arrange for her solicitor to update her will and power of attorney. It is reasonable to assume that Juanita will rely on Nate's advice.*

73. *In particular, Nate:*

- *interprets and applies the income tax laws to Juanita's circumstances*
- *gives advice about liabilities, obligations and entitlements and tax implications resulting from the establishment of a self-managed superannuation fund, and*
- *provides advice on the tax implications of increasing contributions to the new superannuation fund by entering into a salary sacrifice arrangement with Juanita's employer.*

74. *The component of the fee that relates to the advice on the establishment of the self-managed superannuation fund will not be deductible under section 8-1 as it is incurred in relation to Juanita's income-earning structure and is capital or of a capital nature. However, the component of the fee that relates to advice on the tax implications of establishing the self-managed superannuation fund are deductible under section 25-5.*

75. *The component of the fee that relates to providing advice on interpreting and applying the income tax laws to Juanita's circumstances (including entering into the salary sacrifice arrangement) are deductible under section 25-5. This is because the advice is in relation to managing Juanita's tax affairs, it is provided by a recognised tax adviser and the requirements of section 25-5 are satisfied. As the advice is provided for multiple purposes, Juanita needs to apportion the total amount of the fee between the different components of the advice on a fair and reasonable basis.*

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#### **Date of effect**

76. This Determination applies to arrangements both before and after its date of issue. However, this Determination will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of this Determination (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

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**Commissioner of Taxation**

25 September 2024

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## References

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### *Previous draft*

TD 2023/D4

### *Related Rulings/Determinations:*

TR 95/9

TR 97/7

TR 2006/10

TR 2020/1

### *Previous Rulings/Determinations:*

TD 95/60

### *Legislative references:*

- ITAA 1997 8-1
- ITAA 1997 8-1(1)
- ITAA 1997 8-1(2)
- ITAA 1997 8-1(2)(a)
- ITAA 1997 8-1(2)(b)
- ITAA 1997 8-10
- ITAA 1997 25-5
- ITAA 1997 25-5(1)
- ITAA 1997 25-5(1)(a)
- ITAA 1997 25-5(2)(e)
- ITAA 1997 25-5(4)
- ITAA 1997 40-880
- ITAA 1997 110-25(3)
- ITAA 1997 110-35
- ITAA 1997 995-1(1)
- Corporations Act 2001 910A
- Corporations Act 2001 Pt 10.78
- Tax Agent Services Act 2009 90-15
- Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024 Sch 1

### *Cases relied on:*

- Amalgamated Zinc (De Bavay's) Limited v Federal Commissioner of Taxation [1935] HCA 81; 54 CLR 295; 9 ALJR 342; 3 ATD 288; [1936] ALR 67
- AusNet Transmission Group Pty Ltd v Federal Commissioner of Taxation [2015] HCA 25; 255 CLR 439; 2015 ATC 20-521; 99 ATR 816; 89 ALJR 707
- Commissioner of Taxation v Cooper, R.J. [1991] FCA 190; 29 FCR 177; 91 ATC 4396; 21 ATR 1616; 99 ALR 703
- Commissioner of Taxation v Day [2008] HCA 53; 236 CLR 163; 2008 ATC 20-064; 70 ATR 14; 250 ALR 388
- Commissioner of Taxation v Payne [2001] HCA 3; 202 CLR 93; 2001 ATC 4027; 46 ATR 228; 177 ALR 270

- Commissioner of Taxation (Cth) v Smith [1981] HCA 10; 147 CLR 578; 81 ATC 4114; 11 ATR 538
- Clough Limited v Commissioner of Taxation [2021] FCAFC 197; 2021 ATC 20-805; 114 ATR 1
- Drummond v Commissioner of Taxation [2005] FCA 1129; 2005 ATC 4783; 60 ATR 356; 220 ALR 691; [2006] ALMD 730
- The Commissioner of Taxation of the Commonwealth of Australia v Brand R.G [1995] FCA 758; 95 ATC 4633; 31 ATR 326
- Commissioner of Taxation (Cth) v Maddalena 71 ATC 4161; 2 ATR 541; 45 ALJR 426
- Commissioner of Taxation v Sharpcan Pty Ltd [2019] HCA 36; 269 CLR 370; 2019 ATC 20-715; 373 ALR 414; [2019] ALMD 4829
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