IT 2487 - Income tax : variation of tax instalment deductions - non arbitrated allowances

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TAXATION RULING NO. IT 2487

INCOME TAX : VARIATION OF TAX INSTALMENT DEDUCTIONS - NON ARBITRATED ALLOWANCES

F.O.I. EMBARGO: May be released

REF H.O. REF: J237/18/7 Pt3, 87 3941-2 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1010715	COLLECTION OF TAX BY INSTALMENTS - VARIATION FROM PRESCRIBED RATES	221D

OTHER RULINGS ON TOPIC : IT 2200, IT 2299, IT 2300, IT 2414, IT 2488

PREAMBLE This ruling supersedes Taxation Ruling No. IT 2300 and updates the guidelines for exercising the discretion available in section 221D in respect of allowances paid to employees, other than allowances of the kind referred to in Taxation Ruling No. IT 2488.

2. Section 221D of the Income Tax Assessment Act provides the Commissioner of Taxation with the authority to vary the amount of tax instalments to be deducted from the salary or wages of an employee or class of employees in order to meet the special circumstances of any case or class of cases.

RULING 3. Special circumstances as envisaged by section 221D will be accepted as applying to employees in receipt of allowances, other than allowances referred to in Taxation Ruling No. IT 2488 in any case or class of cases where:

(a) the amount of the allowance paid is reasonable;

(b) the employee can be reasonably expected to incur expenditure of an amount at least equal to the amount of allowance paid;

(c) the allowance can be reasonably expected to be expended for the purpose for which it is paid; and

(d) the expenditure to which the allowance relates can reasonably be expected to be deductible on assessment.

4. Approval of variations of tax instalment deductions in relation to allowances, other than "reasonable travel allowances" as described in Taxation Ruling No. IT 2327, will be subject to the following conditions:

(a) the amount and nature of allowance appears separately

on the group certificate or tax stamp sheet of the employee to whom the allowance will be paid;

(b) the amount and nature of the allowance must be shown separately in the accounting records of the employer;

(c) a request for variation of instalments is actually made by an organisation or association representing employees or employers, or an individual employee or employer; and

(d) deduction of instalments at the prescribed rates, on account of the likely deductibility of the expenditure, would in the general run of cases result in actual deductions exceeding expected tax by the lesser of 10% or $500.

5. It has been decided that travel allowances which are reasonable in terms of the guidelines in Taxation Ruling No. IT 2327, and thus free from the substantiation requirements, need not be shown on group certificates or tax stamp sheets provided the other conditions in paragraph 4 are met. However, travel allowances which cease to be free of the substantiation requirements will again be subject to all the conditions set out in paragraph 4 of this ruling.

6. It should be noted that approval to vary the prescribed rates of deduction in accordance with this ruling does not amount to an acceptance that expenditure of an amount to which the allowance relates will be conceded as deductible on assessment. The deductibility or otherwise of the expenditure to which the allowance relates will be determined on the basis of the income tax law as it exists when the time comes to make an assessment, and in the light of the established facts.

7. It should also be understood that an approval to vary the prescribed rates of deduction will not relieve an employee of the need to substantiate his or her expenditure where there is a requirement to do so.

COMMISSIONER OF TAXATION
21 July 1988