IT 2532 - Income tax : deductions allowable to members of parliament

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TAXATION RULING NO. IT 2532

INCOME TAX : DEDUCTIONS ALLOWABLE TO MEMBERS OF PARLIAMENT

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1011229	MEMBERS OF PARLIAMENT	51(1)
	ALLOWABLE DEDUCTIONS	51AE, 51AG
	SUBSTANTIATION RULES	82KT - 82 KZBB
	ENTERTAINMENT EXPENSES	

OTHER RULINGS ON TOPIC: IT 2331

PREAMBLE Taxation Ruling No. IT 2331 issued on 30 June 1986 to answer questions that had been raised regarding the deductibility for income tax purposes of kinds of expenditures that are typically incurred by elected Members of the State and Federal Parliaments. The purpose of this Taxation Ruling is to bring the previous Ruling up to date in the light of changes that have been made to the substantiation requirements and to answer further questions that have been asked regarding deductible expenditure incurred by Members. While this Ruling refers to expenditure incurred by Members it has equal application to Senators and their counterparts in the various State Parliaments.

2. It must be emphasised that the question of whether particular expenditure incurred by a Member is an allowable income tax deduction can only be answered in the light of the particular circumstances.

RULING Substantiation Rules - Motor Vehicles

3. Following the Treasurer's statement of 29 October 1986, changes were made to the substantiation rules that apply to all taxpayers who claim car expenses as tax deductions. It is no longer necessary to keep receipts for petrol and oil expenses where car expenses are claimed using the actual business expenses or one-third of all actual expenses method. Rather, taxpayers may estimate petrol and oil costs based on total kilometres travelled, average fuel costs and fuel consumption. Records of car odometer readings at the beginning and end of each income year and details of the type of vehicle must be kept.

4. Log book requirements for taxpayers using the actual business expenses method have also been modified. For the first year in which car expenses are claimed on this basis a log book of business mileage needs to be kept for a continuous period of

twelve weeks at any time during the year. Details of the odometer readings at the start and end of the period will need to be available from the log book details.

5. A taxpayer estimates the business use of the motor vehicle for the year by starting with the business proportion established by the pattern of use of the vehicle over the twelve week survey and reducing this proportion by taking into account variations like holidays and seasonal factors. Where more than one car is claimed under the actual business expenses method, log books must be kept over the same twelve week period for each car.

6. A taxpayer can use the same business proportion for subsequent years as long as he or she is satisfied that the proportion of business use has not fallen substantially. A substantial fall for this purpose would be more than ten percentage points. Taxpayers must continue to keep a record of the total kilometres travelled in the car each year.

7. Where the car is replaced, a taxpayer may continue to use the previously established business proportion in claiming expenses for the replacement car. However, if a taxpayer commences to use an additional car for business travel and wishes to claim deductions on the actual business expense method, the taxpayer will need to keep log books at the same time for a further twelve week period for all cars being claimed on this basis.

8. Where the proportion of business use for the year has fallen by more than ten percentage points, a taxpayer may adopt the lower figure for that year. Alternatively, the taxpayer may switch to one of the other methods for claiming car expenses. If a taxpayer wishes to use the actual business expense method in a year following a significant reduction in the proportion of business use, he or she will need to keep a log book for a further twelve week period to establish a new business proportion for that and subsequent years.

9. It is open to a taxpayer to switch between the actual business expenses method and the other approaches each year. However, the taxpayer will need to keep a log book for a twelve week period in any year in which he or she switches from one of the other approaches to the actual business expense method.

10. To increase the nominated proportion of business travel in any year where the actual business expense method is used it is necessary to keep a log book for a further twelve week period.

11. Depreciation is an allowable car expense under the actual business expenses method and the one-third of all actual expenses method if the taxpayer owns the car. The maximum value of a car for depreciation purposes is $29,646, $34,775 and $39,331 for the income years ended 30 June 1987, 1988 and 1989 respectively. A taxpayer is required to retain proof of the cost of the car in order to claim depreciation on vehicles bought after 30 June 1986.

12. If a taxpayer owns a car or leases one for twelve months or longer and does 5,000 or less business kilometres in a year he or she may choose the rate per kilometre method. Under this method a taxpayer does not have to keep a record of expenses, a log book or a total kilometres summary. However, the taxpayer will need to be able to show that the stated business kilometres are soundly based on detailed and reasonable estimates. The rate of allowance per kilometre for the years ended 30 June 1988 and 1989 are:

Engine capacity of motor vehicles not powered by a rotary engine	Engine capacity of motor vehicles powered by a rotary engine	Rate per kilometre	
		1988	1989
More than 4,000 cubic centimetres	More than 2,000 cubic centimetres	40.1	42.0
More than 2,000 cubic centimetres but not more than 4,000 cubic centimetres	More than 1,000 cubic centimetres but not more than 2,000 cubic centimetres	38.8	40.6
More than 1,500 cubic centimetres but not more than 2,000 cubic centimetres	More than 750 cubic centimetres but not more than 1,000 cubic centimetres	33.8	35.4
1,500 cubic centimetres or less	750 cubic centimetres or less	28.9	30.3

Substantiation Rules - Travel Within Australia

13. As a general proposition, it is accepted that a Member of Parliament uses his or her home as a base of operations in relation to his or her parliamentary duties. It follows that travel from home and return on electorate or parliamentary duties is business travel. Travel is a regular incident of a Member's duties and even when he or she is away for an extended period of time the Member will still be regarded as travelling rather than living away from home.

14. Members who are required to travel on electorate or parliamentary duties and who are absent overnight from their homes are entitled to claim income tax deductions for accommodation, meals and incidental expenses incurred while travelling. Where a Member is paid a travel allowance which is a reasonable travel allowance within the guidelines contained in Taxation Ruling No. IT 2327 substantiation of travel expenditure in relation to the allowance is not necessary.

15. An electorate allowance cannot qualify as a reasonable travel allowance because it is not paid in respect of specific journeys undertaken or to be undertaken by the Member. A Member

cannot apportion the electorate allowance and treat part of it as a reasonable travel allowance and thus avoid the need to substantiate travel expenses. Where a Member pays for his or her travel expenses out of the electorate allowance any income tax claims for deductions for the travel expenses must be fully substantiated.

Substantiation Rules - Overseas Travel

16. When a taxpayer is travelling overseas the requirement to substantiate expenditure incurred on food, drink and incidentals which are paid for out of an allowance has now been relaxed. The law provides that substantiation is not needed where the Commissioner considers that the food, drink and incidentals components of the allowance are reasonable having regard to the kind of expenditure that the taxpayer is expected to meet from the allowance. Taxation Ruling No. IT 2524 sets out guidelines for such situations. Members will still have to substantiate other expenses (such as accommodation expenses) and continue to keep a travel diary to record work activities undertaken while travelling overseas.

Substantiation Rules - Petty Cash

17. An expense diary entry is accepted as proof of expenditure if the expense is no more than $10 and the total of these small expenses does not exceed $200 in the year.

18. The diary entry must be made as soon as possible after the expense is incurred. The entry must contain all the details that would be required on a receipt or invoice and the taxpayer must sign the entry.

Substantiation Rules - Undocumentable Expenses

19. In addition to small expenses, a Member may record all the necessary details in an expenses diary if the expense is "undocumentable". An undocumentable expense arises where the circumstances are such that it would be unreasonable to expect a receipt to be obtained, e.g., toll bridge fees. The monetary limits that apply to small expenses do not apply to undocumentable expenses.

Travelling Expenses - Party Business

20. Some Members have questioned the distinction made in paragraph 20(n) of IT 2331 with respect to the deductibility of expenditure incurred in attending party meetings. The Ruling states that the question of deductibility depends upon the nature of the business conducted at such meetings. The cost of attending parliamentary party meetings, annual party conventions, etc., is allowable. On the other hand, if the expenditure relates solely to internal party matters, e.g., party administration, disputes, etc., it is not allowable.

21. Expenditure incurred by a Member in attending meetings involving internal party matters is not regarded as expenditure

incurred in the course of doing the work of a parliamentarian. The expenditure might be said to relate to the preservation of party endorsement and in that way might prevent the loss of the means of deriving assessable income. However, such expenditure is not incurred in the course of gaining assessable income and is not an allowable income tax deduction.

Entertainment Expenses

22. As a general rule deductions are no longer allowable in respect of losses or outgoings incurred after 19 September 1985 to the extent to which they are in respect of the provision of entertainment. Entertainment is defined to be the provision of entertainment by way of food, drink or recreation. "Recreation" includes amusement, sport and leisure-time pursuits generally.

Cost of Spouse Representing a Member at a Function

23. The cost of a spouse representing or accompanying a Member at a function where the spouse is provided with entertainment, i.e., given food, drink or access to amusement, sporting or theatrical events, is not an allowable deduction. The non-deductibility of entertainment expenses applies to spouses in the same way it applies to Members.

24. The travel expenses of a spouse who accompanies a Member when that Member is travelling in the course of carrying out his or her parliamentary duties are not allowable income tax deductions. Section 51AG of the Income Tax Assessment Act denies a deduction, except in certain limited cases, in respect of expenses of travel that relate to an accompanying spouse, de facto spouse or other relative of a person undertaking travel in the course of performing duties as an employee. Broadly, those exceptions relate to situations where the accompanying spouse or relative is either an employee of the same employer or employed by the person they are accompanying and the accompanying spouse or relative performs substantial duties during the trip.

25. Paragraph 20(p) of IT 2331 also covers the rare occasions where a Member, as a result of illness or parliamentary obligations, may not be able to attend a function to which he or she has accepted an invitation and the spouse then attends on the Member's behalf. The Ruling states that costs incurred in the spouse attending functions (other than entertainments) in these circumstances would be allowable. It must be recognised that the exclusion of entertainments would rule out (as in the case of the Member) those functions where the spouse is merely present in the audience and is provided with food, drink or recreation. In practical terms functions qualifying for deduction are those where the spouse had to perform some official duty as well as meetings, conferences, etc., involving parliamentary, electoral or party activities.

26. Although IT 2331 would only allow the costs incurred by Members in having a spouse represent them where illness or work prevents the Member attending after having previously accepted an invitation, it has now been decided that such a restriction

is not necessary. In other words, costs incurred by Members in respect of a spouse representing them at non-entertainment type functions (i.e., functions where the spouse has to perform some official duty) and at parliamentary, electoral or party meetings, conferences, etc., will now generally be allowable.

27. Of course, no deduction would be allowable in respect of the costs of the spouse representing a Member in circumstances where the Member would not have been able to claim a deduction if he or she had attended personally (see for example paragraphs 20 and 21).

COMMISSIONER OF TAXATION
18 May 1989