TD 93/111 - Income tax: is expenditure on dinner suits and other similar clothing worn by members of an orchestra deductible?

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Australian Taxation Office

Taxation Determination **TD 93/111**

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part . Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: is expenditure on dinner suits and other similar clothing worn by members of an orchestra deductible?

1. Expenditure on formal black dinner suits and other items of conventional clothing worn by members of an orchestra is not deductible. Conventional items, expenditure on which does not qualify for deduction, include tails, evening dresses, shirts, black trousers, shoes and bow ties.

2. Subsection 51(1) of the *Income Tax Assessment Act 1936* denies a deduction for expenditure which is private in nature. Expenditure on clothing is considered to be essentially an item of private expenditure unless the clothing is incidental and relevant to the taxpayer's occupation. Expenditure on clothing which is in the nature of a uniform prescribed by the employer (such as a bus conductor's uniform) or is protective in nature (for example, overalls worn by a furnace worker or operating gowns worn by a surgeon) is deductible. However, expenditure on conventional clothing (that is, clothing of a type which is usually worn by men or women regardless of their occupation) is considered to be private in nature and is not deductible.

3. Tails which may on occasion be worn by conductors and other members of orchestras are also considered to be conventional clothing. We consider that tails are simply a style of evening dress, and not unique to orchestral performances. Accordingly, their cost is not deductible.

4. Expenses incurred on the dry cleaning and upkeep of conventional clothing worn at orchestral performances such as dinner suits (including tails) and white shirts are not deductible.

Commissioner of Taxation
17/6/93

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