TD 93/112 - Income tax: is a taxpayer who is required, as a condition of employment, to be within a specified weight to height ratio entitled to a deduction for a weight reduction program?

This cover sheet is provided for information only. It does not form part of *TD 93/112 - Income tax: is a taxpayer who is required, as a condition of employment, to be within a specified weight to height ratio entitled to a deduction for a weight reduction program?*

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 a taxpayer who is required, as a condition of employment, to be within a specified weight to height ratio entitled to a deduction for a weight reduction program?

1. No. The expense of a program which is specifically designed to reduce the weight of an employee is not deductible under subsection 51(1) of the *Income Tax Assessment Act 1936.*

2. Expenditure in respect of a weight reduction program does not have the essential character of expenditure incurred in the course of gaining or producing assessable income.

3. An employer's requirement that an employee incur expenditure which is not related to income-producing activities does not convert that expenditure into a deductible outgoing (per Hill J in *FC of T v. Cooper* 91 ATC 4396 at 4414; (1991) 21 ATR 1616 at 1636).

4. Therefore, despite being a condition of employment that an employee remains within a specified weight to height ratio, a deduction for the expense of doing so is not allowable.

Example:

Police Officer A appears for a medical examination for fitness for promotion. He is advised that at present, although he is fit in all other respects, he is unfit for promotion due to his obesity. Police Officer A undertakes a weight loss program and successfully loses enough weight to be reconsidered for promotion. Police Officer A is not entitled to a deduction for the cost of the weight loss program.

Commissioner of Taxation
17/6/93

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Related Determinations:
Related Rulings: IT 54
Subject Ref: Deductions; weight reduction programme; police officers
Legislative Ref: ITAA 51(1)
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