

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

Additional Budget Estimates 20 February 2008

Question **AET 65**
Topic: **Union levies-tax deductibility**
Hansard Page: **E36**

Senator Bushby asked

Are special levies raised by unions of their members tax deductible by the members?

Mr D'Ascenzo—We do have a ruling on special levies, particularly levies developed for hardship purposes, but I am not quite sure what the answer is.

Senator BUSHBY—Can you take it on notice to provide the full details of which levies may be tax deductible and, if some are not, which ones are not and why?

Mr D'Ascenzo—I will cover what we have and what the range of that information is.

Answer:

The Tax Office has published two Taxation Rulings in relation to the tax treatment of payments by members to unions. The Taxation Rulings provide the Commissioner's interpretation of the law. The two relevant Taxation Rulings are:

Taxation Ruling TR 2000/7 Income tax: subscription, joining fees, levies and contributions paid to associations by individuals.

- This Ruling covers the deductibility of levies generally under sections 8-1 and 25-55 of the *Income Tax Assessment Act 1997* (the Act). Broadly, periodic subscriptions paid by a person for membership of a trade, business or professional association are deductible under section 8-1 of the Act where the principal activities or the trade, business or professional association are relevant to the gaining or producing of assessable income by the member, or the carrying on of a business by the member for the purpose of gaining or producing assessable income.
- Where a payment cannot satisfy the requirements of section 8-1 of the Act, a deduction is allowable to the person under section 25-55 of the Act if the payment is made for membership of a trade, business or professional association. This deduction is limited to a maximum of \$42 in an income year for payments in respect of each association to which the person belongs.
- In addition, at paragraph 10 the Ruling advises that the payment of a special levy or contribution by a person to a trade, business or professional association is an allowable deduction under section 8-1 of the Act where the purpose for which it is made is clearly linked to the activities by which the assessable income of the person is derived.

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- Paragraph 12 in the Ruling specifically advises that levies or contributions paid to assist families of employees suffering financial difficulties as a result of employees being on strike or having been laid off by their employers are not allowable deductions under section 8-1 of the Act. In addition, these types of levies and contributions are not deductible under section 25-55 of the Act because they are not payments for membership of a trade, business or professional association.

Taxation Ruling TR 2002/7 Income tax: deductibility of payments to strike funds.

- This Ruling applies to the class of persons who make payments to strike funds and contingency strike funds and to the class of arrangement in which the above class of persons make payments to such funds. Once again, the Ruling advises that payments of these types to strike funds or contingency strike funds are not deductible under sections 8-1 or 25-55 of the Act.