
Tax Deductibility of Financial Advice Fees: Accountant's brief

Taxation Determination TD 2024/7: Income tax: deductions for financial advice fees paid by individuals who are not carrying on an investment business was released by the ATO on 25 September 2024, following withdrawal of ***Tax Determination TD 95/60*** in December 2023. TD 2024/7 has retrospective and prospective application.

TD 2024/7 considers the deductibility of financial advice fees under both section 8-1 and section 25-5 of the *Income Tax Assessment Act 1997*. TD 95/60 only considered the general deductibility provision, section 8-1.

Key points from TD 2024/7:

- *Tax (financial) advice* fees are considered by the ATO to be an expense incurred in managing your tax affairs, if provided by a **Qualified Tax Relevant Provider (QTRP)** or a registered tax agent, and therefore deductible under s 25-5
- A QTRP is a financial adviser authorised to provide *tax (financial) advice* by their licensee. The adviser must meet certain requirements to be authorised as a QTRP. An adviser's status as a QTRP is shown on the ASIC [Financial Advisers Register](#) as:
 - *Can provide tax (financial) advice services*: Yes
- *Tax (financial) advice* includes financial advice pertaining to Acts or parts of an Act which the **Commissioner of Taxation has general administrative responsibility** for, including (but not limited to):
 - *Income Tax Assessment Act 1997*
 - *Income Tax Assessment Act 1936*
 - *Fringe Benefits Assessment Act 1986*
 - *Superannuation Guarantee (Administration) Act 1992*
 - *Superannuation Industry (Supervision) Act 1993* (to the extent the advice relates to self managed superannuation funds)
- Deductibility under s 25-5 applies to both **initial and ongoing financial advice fees**
- Generally, a financial advice fee will not be 100% deductible, so will **need to be apportioned** between what is deductible and what is not

- A financial adviser's invoice or fee summary statement will generally be sufficient to substantiate apportionment and a claim for deductibility, where the invoice/statement includes:
 - adviser's name
 - fee amounts
 - explanation of advice provided
 - date of advice
 - date of invoice

Examples from TD 2024/7 of deductibility and non-deductibility:

- Tax (financial) advice may include advice relating to the taxation implications of investment in specific managed investment funds. If the advice is provided for multiple purposes, the financial adviser will need to apportion the total amount of the fee between the different components of the advice on a fair and reasonable basis. (TD 2024/7 para 56)
- The component of a fee that relates to the provision of advice on an income protection insurance policy will be deductible under section 8-1, as it is incurred in the course of gaining assessable income and is not capital or of a capital nature. (TD 2024/7 para 66)
- The component of a fee that relates to advice on the tax implications of establishing a self-managed superannuation fund is deductible under section 25-5. (TD 2024/7 para 74)
- The portion of a fee for advice provided on household budgeting matters is not deductible under section 8-1 as it is not incurred in gaining or producing assessable income. It is considered to be a private or domestic expense. The fee is also not deductible under section 25-5 as it is not a fee incurred in managing tax affairs. (TD 2024/7 para 60)

References:

- [ATO Tax Determination TD 2024/7](#)
- [ATO Financial advice fees guidance](#)
- [FAAA resources page](#)
- [FAAA: A Practical Guide to Implementation](#)