



Income Tax Interpretation Bulletin

Fees Paid to Investment Counsel

NO: **IT-238R2**

DATE: October 6, 1983

SUBJECT: INCOME TAX ACT

Fees Paid to Investment Counsel

REFERENCE: Paragraph 20(1)(bb)

This bulletin replaces and cancels IT-238R dated November 15, 1976. Current revisions are indicated by vertical lines.

1. Paragraph 20(1)(bb) allows a taxpayer to deduct fees, other than commissions, paid for advice on buying or selling a specific share or security by the taxpayer or for the administration or the management of the shares or securities of the taxpayer. The fees must be paid to a person whose principal business is advising others whether to buy or sell specific shares or whose principal business includes the administration or management of shares or securities. A person is defined in subsection 248(1) to include any body corporate and politic.

2. Provided the amounts are reasonable, the total fees paid will be deductible even though, in the case of a trust administering shares or securities, part or all of the fees may have been charged to the capital account of the trust. Investment counsel fees paid to unrelated persons will be considered to be reasonable for purposes of section 67 and will be wholly deductible from income. Such fees paid to related persons will be deductible only to the extent that they are reasonable. In determining whether a fee is reasonable, the amount of time spent and the type of work done by the person providing the advice or service will be taken into consideration.

3. Fees paid for other types of advice such as general financial counselling or planning are not within the provisions of paragraph 20(1)(bb) even though the principal business of the advisor or counsellor otherwise qualifies. Also, where the principal business of the person providing the service does not meet the requirements specified in 1 above, fees paid for advice on buying or selling a specific share or security of the taxpayer or for the administration of the shares or securities of the taxpayer are not deductible under paragraph 20(1)(bb).

4. Whether services provided by a person whose principal business meets the requirements of 1 above are in respect of administration or management of shares or securities is a question of fact. However, the following services would normally qualify:

- (a) the custody of securities,
- (b) the maintenance of accounting records,
- (c) the collection and remittance of income, and
- (d) the right to buy and sell on their own judgement on behalf of some clients without reference to those clients.

Fees that are not commissions but that otherwise meet the requirements of paragraph 20(1)(bb) are not disallowed solely by reason of the fact that they are determined or computed with reference to the fair

market value of the portfolio at a particular time.

5. The deduction by virtue of paragraph 20(1)(bb) applies only to fees paid on account of capital. Fees chargeable against income are allowable as a deduction under subsection 9(1) where they meet the usual criteria necessary for deduction in the computation of income from business or property, viz "made or incurred for the purpose of gaining or producing income from the business or property."

6. Fees paid to stockbrokers are not deductible under paragraph 20(1)(bb) as a stockbroker's principal business is not that of advising others regarding the buying and selling of stock and securities. However, where a stockbroker's principal business also includes the provision of investment portfolio management and administration services, as discussed in 4 above, for which a separate fee is charged, that fee will be deductible under paragraph 20(1)(bb).

7. Fees charged by the trustee of a registered retirement savings plan directly to the annuitant are not deductible by the annuitant pursuant to the provisions of paragraph 20(1)(bb), as the shares or securities of the plan belong to the trust and not the annuitant.

8. Subscription fees paid for financial magazines and newspapers are not deductible under paragraph 20(1)(bb).

9. The fact that part or all of a taxpayer's investment income is exempt from tax does not affect a deduction under paragraph 20(1)(bb) that is otherwise allowable.

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