



## HIGH COURT OF AUSTRALIA

11 November 2010

### COMMISSIONER OF TAXATION v ANSTIS [2010] HCA 40

Today the High Court held that a university student in receipt of youth allowance payments was entitled to claim various self-education expenses as income tax deductions.

Symone Anstis was enrolled as a full-time student in a teaching degree at the Australian Catholic University. In the 2006 income year she earned \$14,946 in wages as a part-time sales assistant, and \$3,622 in youth allowance payments. In her tax return for that period she claimed a \$920 deduction for self-education expenses, comprising the depreciation in value of a computer, textbooks and stationery, a student administration fee, supplies for children during her teaching rounds, and travel expenses other than to university.

Section 8-1 of the *Income Tax Assessment Act 1997* (Cth) ("the 1997 Act") relevantly provides that a person can deduct from their assessable income any loss or outgoing to the extent that it is incurred in gaining or producing their assessable income except to the extent that it is a loss or outgoing of a private or domestic nature.

The Commissioner of Taxation disallowed the deduction, and Ms Anstis was unsuccessful in an application for review by the Administrative Appeals Tribunal ("AAT"). In 2009, the AAT's decision was reversed by the Federal Court. The Full Federal Court dismissed an appeal by the Commissioner against that decision.

The High Court unanimously dismissed an appeal by the Commissioner of Taxation. The Court held that youth allowance payments amounted to assessable income under the 1997 Act as they fell within the concept of "ordinary income". Because Ms Anstis' entitlement to youth allowance arose from her undertaking full-time study, the expenses claimed were incurred in gaining or producing her assessable income. The Court also held that the expenses were not of a private or domestic nature, and as such were deductible under s 8-1 of the 1997 Act.

The Commissioner of Taxation was ordered to pay Ms Anstis' costs.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*