



# ***CR 2003/65 - Income tax: Overseas travel expenses - employees of National Capital Authority***

 This cover sheet is provided for information only. It does not form part of *CR 2003/65 - Income tax: Overseas travel expenses - employees of National Capital Authority*

 This document has changed over time. This is a consolidated version of the ruling which was published on *1 July 2003*



## **Class Ruling**

### **Income tax: Overseas travel expenses - employees of National Capital Authority**

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#### ***Preamble***

*The number, subject heading, and the **What this Class Ruling is about** (including **Tax law(s)**, **Class of persons** and **Qualifications** sections), **Date of effect**, **Withdrawal**, **Arrangement** and **Ruling** parts of this document are a 'public ruling' in terms of Part IVAAA of the **Taxation Administration Act 1953**. CR 2001/1 explains **Class Rulings** and **Taxation Rulings** TR 92/1 and TR 97/16 together explain when a Ruling is a public ruling and how it is binding on the Commissioner.*

## **What this Class Ruling is about**

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1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax law(s)' identified below apply to the defined class of persons, who take part in the arrangement to which this Ruling relates.

#### **Tax law(s)**

2. The tax law(s) dealt with in this Ruling are sections 8-1 and Division 900 of the *Income Tax Assessment Act 1997* ('ITAA 1997').

#### **Class of persons**

3. The class of persons to which this Ruling applies is employees of the National Capital Authority who, as members of an official delegation, incur expenditure in travelling to Washington DC and Chicago in October 2003.

#### **Qualifications**

4. The Commissioner makes this Ruling based on the precise arrangement identified in this Ruling.

5. The class of persons defined in this Ruling may rely on its contents provided the arrangement actually carried out is carried out in accordance with the arrangement described below at paragraphs 10 to 16 in this Ruling.

6. If the arrangement actually carried out is materially different from the arrangement that is described in this Ruling:

- (a) this Ruling has no binding effect on the Commissioner because the arrangement entered into is not the arrangement on which the Commissioner has ruled; and
- (b) this Ruling may be withdrawn or modified.

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## Date of effect

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8. This Ruling applies from 1 July 2003. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20). Furthermore, the Ruling only applies to the extent that:

- it is not later withdrawn by notice in the Gazette;
- it is not taken to be withdrawn by an inconsistent later public ruling; or
- the relevant tax laws are not amended.

## Withdrawal

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9. This Ruling is withdrawn and ceases to have effect after 30 June 2004. The Ruling continues to apply, in respect of the tax law(s) ruled upon, to all persons within the specified class who enter into the specified arrangement during the term of the ruling. Thus, the Ruling continues to apply to those persons, even following its withdrawal, for arrangements entered into prior to withdrawal of the Ruling. This is subject to there being no change in the arrangement or in the persons' involvement in the arrangement.

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## Arrangement

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10. The arrangement that is the subject of the Ruling is described below. This description is based on:

- Application for Class Ruling received 15 April 2003; and
- Further information provided by the applicant.

11. The National Capital Authority is the Commonwealth Government agency responsible for the planning and development of Canberra as Australia's national capital.

12. In October 2003, the National Capital Authority is sending a delegation to Washington DC to attend a three-day meeting of members of the newly formed 'Capitals Alliance' – an alliance formed between Washington DC, Ottawa, Brasilia and Canberra. A side trip to Chicago will also form part of the itinerary.

13. The purpose of the trip is to discuss key planning issues relevant to national capital cities and is likely to include workshops, conference sessions, meetings with staff from the National Planning Commission in Washington DC, meetings with planners in Chicago and tour sessions for group activities. At this stage there are no free days envisaged.

14. The delegation is expected to depart from Australia on 16 October 2003, spend approximately 7 days in Washington DC and Chicago and arrive back in Australia on 24/25 October 2003. The National Capital Authority will be arranging flight and accommodation bookings for the members of the delegation.

15. In addition to a main group, whose travel costs will be met, the National Capital Authority has issued invitations to a number of its employees to join the official delegation. Whilst those employees are under no obligation to go, they are required to pay their own travel expenses if they do.

16. The employees who privately fund their trip will be representing the National Capital Authority in an official capacity in Washington DC and Chicago, and they will be 'on duty' for the duration of the trip. That is, they are not required to take leave to attend and will continue to be paid. They have been invited having regard to their experience in particular areas of the organisation and possess qualifications and expertise in areas such as architecture, planning and financial and business management.

## Ruling

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17. Employees of the National Capital Authority who are invited to join the official delegation and incur travel expenses in attending the 'Capital Alliance' conference in Washington DC and subsequent activities in Chicago in October 2003 are entitled to claim the expenses as a deduction under section 8-1 of the ITAA 1997 provided the requirements of the substantiation provisions are satisfied.

## Explanation

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18. Section 8-1 of the ITAA 1997 allows a deduction for all losses and outgoings to the extent to which they are incurred in gaining or producing assessable income except where the outgoings are of a capital, private or domestic nature, or relate to the earning of exempt income.

19. For expenditure to be deductible under section 8-1 there must be a sufficient nexus or relationship between the outgoing and the assessable income so that the outgoing is incidental and relevant to the gaining of the assessable income (*Ronpibon Tin NL v. FC of T* (1949) 78 CLR 47; (1949) 8 ATD 431).

20. In this case, some employees of the National Capital Authority have been invited by their employer to undertake a trip for the purpose of discussing key planning issues relevant to national capital cities. Those employees have been invited having regard to their experience in particular areas of the organisation and their qualifications and expertise. Whilst these employees will privately fund their trip they will be representing the National Capital Authority in an official capacity in Washington DC and Chicago, and be 'on duty' for the duration of the trip.

21. It is therefore considered that the expenses incurred in travelling overseas to attend the conference in Washington and associated activities in Chicago are directly related to those employees income earning activities and hence are incidental and relevant to the gaining of their assessable income. Those expenses are therefore deductible under section 8-1 of the ITAA 1997.

### Allowable expenditure

22. Expenses incurred in undertaking the trip that may be claimed as a deduction include:

***Airfares***

23. Airfares incurred on the work-related conference are deductible as they are a necessary cost of attending the conference.

***Accommodation and meals***

24. Expenditure on accommodation and meals ordinarily has the character of a private or domestic expense. However, because the employees of the National Capital Authority will be away from home on a work-related activity the expenditure takes on the character of an income-producing expense and is an allowable deduction.

***Interest on a loan used to finance an overseas trip***

25. Interest incurred on moneys borrowed to pay for the trip to Washington DC and Chicago would be allowable as a deduction because the interest expense has the necessary connection with income-earning activities.

***Other costs***

26. Other expenses incurred on work related items such as telephone calls, photocopying and taxi fares are deductible.

**Expenses which cannot be claimed as a deduction*****Travel insurance***

27. Travel insurance policies invariably cover items that are generally private in nature. For example, illness, loss of baggage and theft or damage to belongings - see *Case T78 86 ATC 1094*. Accordingly, travel insurance costs are not deductible.

***Passports***

28. The expenses associated with acquiring passports relate primarily to the taxpayer's personal right to travel to any overseas destination. They closely parallel the costs associated with obtaining a driver's licence, which were characterised as being of a private nature (*Case P55 82 ATC 253*; 25 CTBR (NS) *Case 117*). Accordingly, as expenditure in obtaining a passport is generally private in nature, the cost is not deductible.

## *Accompanying relatives*

29. Section 26-30 of the ITAA 1997 prevents a deduction for expenses attributable to the travel of a relative where the relative simply accompanies a taxpayer while they travel.

## **Personal travel after completion of official duties**

30. If the trip is extended for private travel after the completion of official duties, some apportionment of the expenditure incurred (airfares for example) between that which is work-related and that which relates to private pursuits may be required. The extent to which this is required will depend on the particular circumstances in each case. For further information and examples see paragraphs 63 to 70 of Taxation Ruling TR 98/9. National Capital Authority employees in this situation should discuss their circumstances with their taxation adviser or the Australian Taxation Office.

## **Substantiation of expenses**

31. In addition to actually incurring the expenditure and satisfying the tests for deductibility in section 8-1 of the ITAA 1997, section 900-10 of the ITAA 1997 requires that the taxpayer must be able to substantiate work expenses. In order to claim work expenses the taxpayer needs to provide written evidence (for example receipts). Overseas travel expenses incurred by an employee in producing salary or wage income are work expenses (section 900-30 of the ITAA 1997). Therefore, written evidence of all expenses must be obtained by National Capital Authority employees.

32. If employees have a number of small expenses that must be substantiated, they can make a record of the expenses instead of getting a document from the supplier. Each expense must be less than \$AUD10 and the total of all small expenses that a taxpayer wishes to claim in the income year must be \$AUD 200 or less (section 900-125 of the ITAA 1997).

33. In addition, section 900-20 of the ITAA 1997 provides that the taxpayer must keep travel records if the expense being claimed is for travel that involves them being away from their ordinary residence for six or more nights in a row. This applies whether the travel is inside or outside of Australia.

34. The purpose of a travel record is to show what activities were undertaken in the course of producing assessable income so that any expenses, or a portion of them, can be attributed to income producing purposes (section 900-145 of the ITAA 1997).

35. Under section 900-150 of the ITAA 1997, a taxpayer is required to keep a record, such as a diary, in which they provide the following:

- the nature of the activity;
- the day and approximate time when it began;
- how long it lasted; and
- where it was engaged in.

An activity should be recorded before it ends or as soon as possible afterwards. It should also be recorded in English.

36. Once a taxpayer has written evidence and a travel diary, they must retain the records for five years from the date they lodge their income tax return. The retention period is extended if, when the five years end, a taxpayer is involved in a dispute with the Commissioner that relates to the expense.

37. If National Capital Authority employees wish to claim a deduction for expenses incurred in undertaking the trip to Washington DC and Chicago, they must obtain written evidence of expenses and keep a travel diary as they will be away from home for six or more nights in a row.

## **Detailed contents list**

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38. Below is a detailed contents list for this Class Ruling:

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## Commissioner of Taxation

6 August 2003

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### *Previous Ruling*

Not previously issued in draft form

### *Related Rulings/Determinations:*

TR 92/1; TR 92/20; TR 97/16; TR 98/9; CR 2001/1

### *Subject references:*

- Overseas travel expenses
- Work expenses
- Deductions
- Substantiation
- Private and domestic expenses
- Accompanying relatives

### *Legislative references:*

- TAA 1953 Part IVAAA
- ITAA 1997 8-1
- ITAA 1997 900-10
- ITAA 1997 900-20
- ITAA 1997 900-30
- ITAA 1997 900-125
- ITAA 1997 900-145
- ITAA 1997 900-150
- Copyright Act 1968

### *Case references:*

- Ronpibon Tin NL v. FC of T (1949) 78 CLR 47; (1949) 8 ATD 431
- Case T78 86 ATC 1094
- Case P55 82 ATC 253; 25 CTBR (NS) Case 117

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ATO references

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