

# ***TR 94/D15 - Income tax: employee work-related deductions for teachers***



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## Draft Taxation Ruling

### Income tax: employee work-related deductions for teachers

#### other Rulings on this topic

IT 26; IT 85; IT 112; IT 208;  
IT 2199; IT 2230; IT 2370; IT  
2406; IT 2452; IT 2460; IT  
2481; IT 2543; IT 2566; IT  
2614; IT 2641; IT 2685; MT  
2027; TR 92/8;  
TR 93/30; TD 92/142;  
TD 92/154; TD 92/157;  
TD 93/101; TD 93/108;  
TD 93/109; TD 93/111;  
TD 93/113; TD 93/114;  
TD 93/159; TD 93/244

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## What this Ruling is about

1. This Ruling covers most deductions for work-related expenses generally claimed by teachers. It addresses the expenses of lecturers, tutors and early childhood, primary, secondary, special education and relief teachers. Expenses that are unique to lecturers at higher education institutions and teachers on exchange programs are not addressed in this Ruling.
2. The Ruling considers whether deductions are allowable under subsection 51(1) and sections 51AE, 54 and 55 of the *Income Tax Assessment Act 1936* (the Act).
3. Employment-related expenses over \$300 in total need to be substantiated by documentary evidence (sections 82KT to 82KZBB). However, these substantiation requirements are not discussed in this Ruling.

## Ruling

4. Deductions in respect of teachers' work-related expenses are listed below in alphabetical order. For further explanation, refer to the paragraph references in brackets in the Explanations section.

**Allowances and reimbursements:** The entitlement to a deduction does not alter merely because an allowance is received. A claim can only be made if the expenditure is incurred; it is allowable as a deduction and it satisfies the requirements of the substantiation provisions.

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If a taxpayer receives a reimbursement, the amount is not included in assessable income and a deduction is not allowable. However, if the reimbursement is for the cost of a depreciable item, a depreciation expense is allowable (paragraphs 6 to 10).

**Child care expenses:** A deduction for child care expenses is not allowable (paragraphs 11 to 13).

## **Clothing and footwear**

**Conventional clothing:** Expenditure on conventional clothing or footwear is not an allowable deduction (paragraphs 14 to 20).

**Occupation specific clothing and non-compulsory uniforms or wardrobe:** Clothing that is either specifically related to a particular occupation or is a non-compulsory uniform or wardrobe is deductible (paragraphs 21 to 30).

**Protective clothing:** Deductions for the purchase cost of protective clothing and safety shoes used for work purposes are allowable. Expenditure on items which provide protection from the natural environment is a private expense and is not an allowable deduction (paragraphs 31 to 39).

**Laundry:** A deduction is allowable for home laundry and dry cleaning expenses incurred on clothing that is deductible (paragraph 40).

**Depreciation of equipment:** A deduction for depreciation is allowable only to the extent of the income-producing use of the equipment (paragraphs 41 to 49).

**Driver's licence:** Expenses incurred in obtaining or renewing a driver's licence are not allowable (paragraph 50).

**Excursion expenses:** Deductions for excursion expenses (excluding meals) are allowable provided the excursion has a direct relevance to the curriculum (paragraphs 51 to 52).

**First aid courses:** The expenses associated with first aid courses are an allowable deduction (paragraph 53).

**Fitness expenses:** Expenses incurred in keeping fit are not deductible (paragraph 54).

**General teaching aids:** Deductions for the cost of general teaching aids are allowable to the extent they are used for work-related purposes (paragraphs 55 to 57).

## **Home office expenses**

**Private Study:** Deductions for the running expenses of a private study are allowable where work is performed at home (paragraphs 63 to 72).

***Place of business:*** Deductions for running and occupancy expenses are allowable where an area of the home has the character of a place of business (paragraphs 73 to 75).

### **Motor vehicle expenses**

***Travel to and from regular school, including travel outside normal school hours:*** This is private travel and not deductible (paragraphs 76 and 77).

***Travel between home, alternative venues and the regular school for work-related purposes:*** (paragraphs 78 to 87)

***Travel from the regular school to alternative venues and back to the regular school:*** The cost of travel between a regular school and an alternative venue for work-related purposes is deductible.

***Travel from home to an alternative venue and directly home:*** The cost of travel between home and an alternative venue is allowable as a deduction. This travel is to an alternative destination which is not itself a regular place of employment.

***Travel from home to the regular school, then to an alternative venue and then directly home:*** The cost of travel from home to the regular school is private travel and not deductible. The cost of travel from the regular school to an alternative venue and then from the alternative venue directly home is deductible.

***Travel from home to an alternative venue, then to the regular school and then directly home:*** The cost of travel from home to an alternative venue and then to the regular school is deductible. The cost of travel from the regular school directly home is private travel and not deductible.

***Incidental tasks on the way from a teacher's home to regular school:*** Expenses incurred in travelling between home and the regular school are private and not deductible. This principle is not altered by the performance of incidental tasks en route (paragraph 88).

***Travel to and from regular school but transporting bulky equipment or transporting students:*** Where the travel can be attributed to the transportation of bulky equipment or students rather than to travel from home to work, then the costs are allowable (paragraphs 89 to 95).

***Multiple campus schools:*** A campus is considered to be the regular school if teaching duties are performed there regularly. The cost of travel from home to each campus is not deductible. However, if a campus is not considered to be the regular school then travel from home to that campus is deductible. The cost of travel between the campuses is allowable (paragraphs 96 to 100).

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***Boarding school teachers:*** If a teacher lives on campus, all travel related to school duties is travel from the regular school to other schools or venues and is deductible (paragraphs 101 to 102).

***Travel by supply and relief teachers:*** Even though a relief teacher will travel from home to different schools, this does not alter the character of that travel, i.e., it remains private and is not deductible (paragraphs 103 to 109).

***Travel between places of employment or place of employment and a place of business:*** The cost of this travel is generally deductible provided that the person does not live at either of the places and the travel is undertaken for the purpose of engaging in income-producing activities (paragraphs 110 to 117).

***Newspapers:*** Generally, the cost of newspapers is not deductible. However, where the main reason for the purchase is for use in the course of teaching and that use can be clearly demonstrated, then the work-related portion of the cost is allowable (paragraphs 118 to 119).

***Professional library:*** Depreciation on a professional library is allowable as a deduction provided the content of the reference books is directly relevant to the duties performed (paragraphs 120 to 124).

***Removal and relocation expenses:*** Deductions for expenses incurred to take up a transfer in existing employment or to take up an appointment with a new employer are not allowable (paragraphs 125 to 129).

***School trips and camps:*** Certain costs associated with school trips and camps are allowable where the purpose of the trip and the activities undertaken are directly relevant to the curriculum or extra-curricula activities of the school (paragraphs 130 to 148).

***Self-education expenses:*** Deductions for self-education expenses are allowable where the self-education undertaken is directly relevant to employment activities or is likely to lead to an increase in income from those activities (paragraphs 149 to 172).

***Sickness and accident insurance:*** A premium paid under a sickness and accident insurance policy is an allowable deduction where the benefit obtained is assessable.

Premiums paid for health and life insurance policies are not deductible as the payments from these policies are of a private or capital nature (paragraphs 173 to 178).

***Social functions:*** Expenditure incurred in attending staff dinners, school formals or similar functions and in providing morning/afternoon teas or light refreshments is not allowable as a deduction (paragraphs 179 to 184).

**Student expenses:** A deduction is not allowable for expenditure on items required by students; rewards and gifts purchased for students and to meet students' personal costs (paragraphs 185 to 187).

**Technical or professional publications:** A deduction is allowable for the purchase or subscription cost of journals, periodicals and magazines which have a content specifically related to a teacher's work and are not general in nature (paragraphs 188 to 190).

### **Telephone expenses**

**Cost of calls:** The cost of work-related telephone calls is deductible (paragraph 191).

**Rental costs:** These costs are not allowable as a deduction (paragraphs 192 and 193).

**Installation costs:** A deduction for the cost of installing a telephone is not allowable (paragraph 194).

**Union dues, subscriptions and teacher registration:** These expenses are allowable as a deduction. Payments to staff social clubs or associations where the purpose of the club is predominantly social are not allowable as they are private expenditure (paragraphs 195 to 197).

## **Explanations**

5. A taxpayer can only make a claim if expenditure has been incurred; it is allowable as a deduction under subsection 51(1) or section 54 and it can be substantiated by documentary evidence as required by sections 82KT-82KZBB. An index of the topics covered in the Explanations is at paragraph 199.

### **Allowances and reimbursements**

6. When a taxpayer is paid a definite predetermined amount to cover an estimated expense, regardless of whether the expense is actually incurred, it is an allowance.

7. The receipt of an allowance in itself does not automatically entitle the taxpayer to a deduction. A claim can only be made if the expenditure is incurred; it is allowable as a deduction and it satisfies the requirements of the substantiation provisions under sections 82KT-82KZBB.

8. When a taxpayer is compensated in whole or in part for an expense already incurred although not necessarily disbursed, it is a reimbursement.

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9. If a taxpayer incurs expenditure on items which are generally deductible under subsection 51(1) and is then reimbursed for this expenditure, a deduction is not allowed and the amount of the reimbursement is not included in assessable income.

10. A taxpayer is entitled to a deduction for depreciation under section 54 in relation to an item of plant used for income-producing activities even if the cost of the item is reimbursed.

## **Child care expenses**

11. A deduction for child care expenses is not allowable under subsection 51(1), even if it is a prerequisite for a taxpayer to obtain and pay for child care so that he or she can go to work and earn income. Similarly, these expenses are also not deductible if incurred by a taxpayer to undertake studies relevant to his or her employment.

12. The High Court held in *Lodge v. FC of T* (1972) 128 CLR 171; 72 ATC 4174; 46 ALJR 575; 3 ATR 254; that child care expenditure was neither relevant nor incidental to gaining or producing assessable income and therefore not deductible. The expenditure was also of a private or domestic nature.

13. Taxation Determination TD 92/154 provides further information about these expenses.

## **Clothing and footwear expenses**

### ***Conventional clothing***

14. Conventional clothing is clothing that does not form part of a uniform, is not protective in nature and is not occupation-specific. Expenditure incurred on the purchase and maintenance of this clothing worn to work is not deductible under subsection 51(1). This expenditure is not directly related to the teaching activities which produce the income and, furthermore, it is of a private nature.

15. As the Federal Court per Lockhart J said in *FC of T v. Cooper* 91 ATC 4396 at p.4402; (1991) 21 ATR 1616 at p.1622:

'the deductibility of...(an expense)...depends upon determining the essential character of the expenditure itself and not upon the fact that, unless it is incurred, the taxpayer will not be able to engage in the activity from which his income is derived.'

16. If this clothing is damaged in an accident at school, this does not change the character of the clothing. The cost of purchase and

maintenance of such clothing retains its conventional nature and is not an allowable deduction.

17. **Example:** A teacher is attending to a sick child which results in the teacher's clothing being soiled. As the clothing is conventional, the cost of cleaning it remains private and not deductible. This principle also applies if the teacher replaces the clothing.

18. Expenditure on sports clothes (e.g. tracksuits, T-shirts, aerobics clothing, swimming costumes, shorts, socks and running/aerobic shoes) is expenditure on conventional clothing and therefore is not an allowable deduction. See Taxation Determination TD 93/109.

19. On occasions it may be necessary to outlay expenditure on clothing not normally worn in the teacher's everyday duties. The fact that the clothing was specifically obtained for that occasion does not change its conventional nature. In *Case N74*, 81 ATC 389; (1981) 25 CTBR(NS) *Case 28*, a geography teacher who went on a study tour to China and Thailand was disallowed her claim for expenditure on special clothing for cold conditions. See Taxation Determinations TD 93/101 and TD 93/111.

20. **Example:** A teacher hires a dinner suit to attend the Senior Formal. He is not allowed a deduction for the cost of hire as the clothing is conventional in nature.

***Occupation specific clothing and non-compulsory uniforms or wardrobes***

21. Occupation specific clothing distinctively identifies an employee as a member of a particular profession, trade, vocation, occupation or calling. It is not conventional clothing as it is distinguished from normal day-to-day apparel and it is generally not worn in the community. The purchase and maintenance costs of this clothing are deductible under subsection 51(1).

22. If the clothing is not occupation specific, a deduction may be allowable for the purchase and maintenance costs of the clothing, if the clothing meets the criteria of a non-compulsory uniform or wardrobe under section 51AL. This section provides that this expenditure will only be allowable if the design of the clothing has been entered on the Register of Approved Occupational Clothing kept by the Textiles, Clothing and Footwear Development Authority (TCFDA) or if the design of the clothing is approved by the Australian Taxation Office (ATO) under IT 2641.

23. **Example:** A teacher is the manager of a school hockey team which attends the secondary schools state titles. The teacher purchases a tracksuit monogrammed with the school logo and team details. This clothing is not occupation-specific as it does not

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distinctively identify the taxpayer as a teacher. Therefore, the purchase and maintenance costs of the tracksuit are not deductible.

24. The teacher will only be entitled to a deduction for the purchase and maintenance costs of the tracksuit if the design is entered on the Register of Approved Occupational Clothing kept by the TCFDA or if the design of the clothing is approved by the ATO under IT 2641.

25. An item of clothing in house, team or school colours is not occupation specific clothing by virtue of its colours. The purchase and maintenance costs are not allowable as a deduction (*Case H2*, 76 ATC 7; (1976) 20 CTBR(NS) *Case 56*).

26. In some instances, a teacher is required to wear full academic dress when attending speech nights or graduation ceremonies of the school. The attendance at such functions is part of the duties of a teacher. Full academic dress is occupation-specific clothing and the purchase or hire costs are deductible under subsection 51(1).

27. If these garments are purchased, the expenditure will generally be allowable in the year of purchase as depreciation under section 55. For further information on the calculation of depreciation refer to paragraphs 42 to 50. Similarly, where these gowns are hired for such occasions, the hire expenses are allowable as a deduction under subsection 51(1).

28. A teacher cannot claim for expenditure on full academic dress to attend his or her own graduation ceremony. The attendance at such functions is not directly related to teaching duties and therefore the expense is not incurred in the course of producing assessable income.

29. Where the academic dress has been purchased initially for attendance at the teacher's own graduation ceremony and is subsequently used for work-related purposes then a depreciation expense is allowable. If it is not used for income-producing purposes in the year, a depreciation expense is not allowable as a deduction.

30. In determining the value of the academic gown to be depreciated, its opening value is the original cost to the taxpayer less the amount of any depreciation expense that would have been allowed had it been used, since purchase, to produce assessable income. Paragraph 50 of this Ruling provides an example of the calculation of the opening written down value.

## ***Protective clothing***

31. Protective clothing as defined in subsection 51AL(26) is any item of clothing that protects the taxpayer from the risk of personal injury in performing his or her duties or is of a character generally worn by persons in the taxpayer's line of work to protect conventional

clothing. The expenditure on the purchase and maintenance of this clothing is generally allowable as a deduction under subsection 51(1).

32. When teaching particular subjects, teachers may require protective clothing. This includes:

- laboratory coats, dust jackets, protective gloves and gumboots worn for safety reasons by teachers of science and agriculture;
- leather aprons, overalls, steel capped boots and safety goggles worn by Industrial Arts or Manual Arts teachers;
- art smocks worn by teachers when teaching arts and craft and;
- aprons worn by teachers when conducting cooking classes.

33. The protective clothing criteria does not extend to conventional protection from the natural environment. Items which provide such protection (i.e., sunglasses, sun hats and sunscreen; raincoats, umbrellas and other wet weather clothing) are a private expense even if it is a requirement of the employment. The purchase costs of these items are not allowable deductions under subsection 51(1). This view is supported in *Case Q11*, 83 ATC 41; (1983) 26 CTBR (NS) *Case 75* and *Case N84*, 81 ATC 451; (1981) 25 CTBR(NS) *Case 43*. Reference is made to Taxation Determination TD 93/244.

34. This is in contrast to the decisions expressed in *Case UI24*, 87 ATC 741; (1987) 18 ATR 3624 and *Case 10/94*, 94 ATC 168; *AAT Case 9254* (1994) 27 ATR (date of decision; 18 January 1994).

35. In *Case UI24*, 87 ATC 741; (1987) 18 ATR 3624, the taxpayer was a visual display unit (VDU) operator who wore tinted eyeglasses to protect her eyes while at work. The glasses bore a distinct occupational character because of their special protective qualities against the glare arising from the VDU screen used in her occupation. The glasses protected the taxpayer from possible personal injury in performing the duties of her employment and assisted her in performing those duties. The cost of the glasses was an outgoing incurred in gaining or producing assessable income and was deductible under section 51(1).

36. The Administrative Appeals Tribunal (AAT) in *Case 10/94*, 94 ATC 168; *AAT Case 9254* (1994) 27 ATR (date of decision; 18 January 1994) allowed a police motorcycle patrolman a deduction for a pair of wrap-around sunglasses. In this case, the wrap-around sunglasses protected the taxpayer from foreign particles due to the additional safety features of these glasses.

37. In these cases, the glasses were considered to be protective equipment as they protected the taxpayer from personal injury in

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performing the duties of employment rather than protection from the natural environment. As sunglasses worn by a teacher are for protection from the natural environment, the cost of these sunglasses is not deductible.

38. Some clothing and footwear may be worn to prevent injury at work or to protect other conventional clothing. Where the apparel is conventional, its use or purpose does not change its character. It remains conventional and a deduction is not allowed. This principle is confirmed in *Case T103*, 86 ATC 1182, and Taxation Determination TD 92/157.

39. **Example:** A science teacher wears leather lace-up shoes in the laboratory. These shoes may offer protection but they are conventional in nature and not allowable as a deduction.

## ***Laundry***

40. A claim for home laundry and dry cleaning may be made for clothing that is allowable as a deduction under subsection 51(1). For an explanation of how to calculate home laundry expenses refer to Income Tax Ruling IT 2452.

## **Depreciation of equipment**

41. Certain items of a capital nature, used for income-producing purposes, are not deductible under subsection 51(1). Equipment that comes within the definition of plant or articles under section 54 may be depreciated. The type of equipment for which depreciation is allowable includes computers, furniture and fittings used in a home office and professional libraries.

42. There are two methods to calculate a deduction for depreciation. These are the prime cost method and the diminishing value method. Prime cost depreciation is calculated as a percentage of the cost of the equipment. Diminishing value depreciation is calculated initially as a percentage of the equipment's cost and thereafter as a percentage of the written down value.

43. Any equipment or articles purchased on after 1 July 1991 is able to depreciated at a rate of 100% if the cost is not more than \$300, or if the effective life is less than three years (section 55). This means an immediate deduction is available for the cost of such items in the year in which they are purchased. However, the article may be depreciated at a rate less than 100% if the taxpayer so elects (subsection 55(8)). The current depreciation rates are set out in Taxation Ruling IT 2685.

44. Where the property is used partly in the course of employment and partly for other purposes, then the depreciation expense should be apportioned based on an estimate of the percentage of income-

producing use (section 61). This principle would apply to equipment such as musical instruments, video recorders, tape recorders, camping gear and sporting equipment.

45. **Example:** A music teacher plays the guitar for his enjoyment. He also uses the guitar in his music lessons at school. The instrument is used partly for work and partly for private purposes. Thus, the depreciation expense should be appropriately apportioned between the private and work-related use.

46. Where the property used is purchased part way through the year, then the yearly depreciation expense should be reduced accordingly.

47. An arbitrary figure is not acceptable when determining the value of equipment for depreciation purposes (*Case R62*, 84 ATC 454; (1984) 27 CTBR(NS) *Case 113*). In determining the value of an item to be depreciated, its opening value is the original cost to the taxpayer less the amount of any depreciation expense that would have been allowed if the unit had been used, since purchase, to produce assessable income. Refer to Taxation Determination TD 92/142.

48. **Example:** A bookshelf is purchased on 1 July 1991 for \$400. It is not used for work-related purposes until 1 July 1993. It is depreciated at a rate of 13.5% using the diminishing value method.

49. To determine the opening written down value of the bookshelf for taxation purposes, it should be depreciated at the specified rate from the date of purchase to 30 June 1993. The depreciation in the 1992 and 1993 years is \$54 and \$47 respectively. The opening written down value of the bookshelf at 1 July 1993 is \$299. In the 1994 tax year the bookshelf is used for work-related purposes and the depreciation expense able to be claimed is  $\$299 \times 13.5\% = \$40.36$ , rounded to \$41.

### **Driver's licence**

50. Teachers may be required to drive a motor vehicle in the course of their duties, eg, driving students to events not held at the regular school. These duties do not alter the fact that the costs of obtaining or renewing a driver's licence are private expenditure and accordingly not deductible under subsection 51(1); see Taxation Determination TD 93/108.

### **Excursion expenses**

51. The costs of planning and accompanying students on school excursions are allowable as a deduction under subsection 51(1), provided the excursion has a direct relevance to the curriculum being

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taught. These costs would include entry fees into art galleries, museums or exhibitions, motor vehicle expenses and public transport costs. Where the excursion is for the day only, the cost of meals is not allowable as a deduction.

52. Paragraphs 131 to 149 provide further information on the deductibility of school trips.

## First aid courses

53. If it is necessary for teachers to undertake first aid training to assist in emergency situations, the expenses of such training are an allowable deduction under subsection 51(1).

## Fitness expenses

54. The expenses of keeping fit such as gym fees and aerobic class fees are not deductible under subsection 51(1). It is not a requirement that teachers, including physical education teachers, maintain a high level of fitness. This type of expense does not have the essential character of being incurred in the course of gaining or producing assessable income; see Taxation Determination TD 93/114.

## General teaching aids

55. Where a taxpayer purchases general teaching aids to be used in the course of carrying out the duties of employment and that expenditure is not of a private, domestic or capital nature, a deduction may be allowable under subsection 51(1). The items purchased must have a direct and relevant use in carrying out the teaching duties.

56. Where an item or article is used for both work-related and other purposes then the cost should be apportioned and a deduction claimed only for that proportion which is work-related.

57. Expenditure on items or teaching aids used in the everyday duties of a teacher would be allowable as a deduction. Examples of this type of expenditure would include:

- pens, pencils, textas/markers/high-lighters, colouring pencils/pens, stamps/stamp pads, stickers, paints, stationery, posters, maps, laminating, etc;
- storybooks, jigsaws, games, toys used by early childhood, primary school or special education teachers;
- items used in cooking or sewing classes or science experiments;

- whistles and stopwatches used by physical education teachers. Conventional watches with a stopwatch function are not deductible.
- calculators/calculator batteries where the calculator is used in teaching relevant subjects such as mathematics, physics, accounting or business practices and
- costs of maintaining class pets.

### **Home office expenses**

58. Our policy on home office expenses has been consolidated in Taxation Ruling TR 93/30 and is summarised below.

59. Generally, expenses associated with a taxpayer's home are of a non-deductible, private or domestic nature. However, a portion of expenses associated with a taxpayer's home are allowable deductions where either:

- (a) part of the home is used in connection with the taxpayer's income-producing activities but does not constitute a place of business, i.e., an area of the home is a private study or
- (b) part of the home is used for income-producing activities and has the character of a 'place of business'

60. The Ruling distinguishes between two broad categories of deductible expenses.

- *Occupancy expenses* relating to ownership or use of a home. These include rent, mortgage interest, municipal and water rates and house insurance premiums.
- *Running expenses* relating to the use of facilities in the home. These include heating/cooling and lighting expenses, cleaning costs, depreciation, leasing charges and the cost of repairs of furniture and furnishings in the office.

61. Where taxpayers maintain an office or study at home where they can do income-producing work which is not convenient to carry out at their normal place of work, the occupancy expenses referable to their home office are not deductible. This is clearly established by the High Court decisions in *Handley v. FC of T* 81 ATC 4165; (1981) 11 ATR 644 and *Forsyth v. FC of T* 81 ATC 4157; (1981) 11 ATR 657.

62. However, where it is considered that an area of a home is a place of business, a portion of the expenses from both categories may be claimed as a deduction.

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## ***Private study***

63. If a teacher maintains an office or study at home where income-producing work can be more conveniently carried out at home (e.g., lesson preparation, student assessment, marking essays and setting examinations), deductions for the running expenses incurred as a result of the income-producing activities are allowable.

## ***Heating/cooling and lighting expenses***

64. For the running expenses to be deductible, the area of a teacher's home set aside as a private study must be used *exclusively* for these activities. For example, if a teacher corrects students' work in the lounge room where other family members are able to watch television, the expenditure for lighting and heating/cooling retains its private or domestic character and is not deductible. However, if the taxpayer uses the room at a time when others are not present or uses a separate room, he or she is entitled to a deduction. This applies even if the room is not set aside solely as a home office.

65. A deduction may be allowable where *additional* heating/cooling and lighting expenses are incurred as a result of teaching duties performed at home. The formula for calculating the additional expense for an appliance is:  $A \times B \times C$

**A** is the cost per unit of power used;

**B** is the average units used per hour; and

**C** is the total annual hours used for income-producing purposes.

66. An estimate based on a reasonable percentage of the household annual bill will be acceptable. In determining a 'reasonable percentage', consideration must be given to the fact that the number of appliances in a private study and the total units used by these appliances is generally small in comparison to the total units used by all other appliances in the home.

## ***Depreciation of professional library***

67. Paragraphs 42 to 50 of this Ruling provide information on the deductibility of depreciation of a professional library.

## ***Equipment***

68. Equipment including computers, printers, word processors and typewriters used in the course of a teacher's duties are generally depreciable under subsection 54(1) of the Act. Where items used for income-producing purposes are also used for domestic or private purposes, the depreciation claim should be apportioned on the basis of an estimate of the percentage of income-producing use. Paragraphs 42 to 50 of this Ruling provide information on the deductibility of depreciation of this equipment.

69. **Example:** A lecturer uses his personal computer to prepare lectures and exams. The computer is also used by his children to complete their school work and to play computer games. He is only entitled to a deduction for depreciation based on the income-producing use of the computer.

70. The purchase cost of software is an allowable deduction in the year of purchase. Where the software is used partly for producing income and partly for private purposes, the cost can be apportioned. Taxation Ruling IT 26 provides further information on the deductibility of software expenses.

71. The cost of repairs to such equipment will generally be deductible under subsection 53(3) of the Act to the extent to which the equipment is used for income-producing purposes.

72. In addition, if money has been borrowed to finance the purchase of an item of equipment, for which depreciation is allowable, then the interest payments are deductible under subsection 51(1). The deduction is to be apportioned on the basis of income-producing and private usage of the equipment.

### ***Place of business***

73. Whether an area of a home has the character of a place of business is a question of fact. Paragraphs 5, 11, 12 and 13 of Taxation Ruling TR 93/30 provide information on whether or not an area set aside has the character of a 'place of business'.

74. The taxpayer may be entitled to deduct a portion of both the running and occupancy expenses. Paragraphs 65 to 73 of this Ruling provide an explanation for the calculation of the running expenses. The amount of occupancy expenses allowable is based on the ratio of the business area to the total floor area of the dwelling.

75. **Example:** A music teacher gives lessons in a room at her home which she uses exclusively for this purpose. The room is 10% of the home, based on floor area. She receives tuition fees for these music lessons. She is entitled to claim a portion of the running expenses and 10% of the occupancy expenses provided the room is characterised as a place of business.

### **Motor vehicle expenses**

#### ***Travel to and from regular school, including travel outside normal school hours***

76. Generally, the cost of travel by a teacher from home to his or her regular school is private travel and not deductible under subsection 51(1). While travel to work is a necessary prerequisite to producing

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income it is not undertaken in the course of producing that income (*Lunney v. FC of T*; *Hayley v FC of T* (1958) 100 CLR 478; 7 AITR 166 and Taxation Ruling IT 112). The fact that the travel is outside normal school hours or involves a second or subsequent trip does not change this principle. For more information see paragraph 6 of Taxation Ruling IT 2543 and Taxation Determination TD 93/113.

77. **Example:** A teacher is required to attend his school's parent-teacher night at 7.00 pm. He returns home from school in the afternoon at the end of the normal school day. After dinner, he drives back to the school to attend the meeting. He is not entitled to a deduction for his travelling costs in attending the meeting. This is because they relate to travel to and from his place of work. The fact that the travel is outside normal school hours or involves a second or subsequent trip does not change this position.

### ***Travel between home, alternative venues and the regular school for work-related purposes***

78. Examples of alternative venues to which travel is deductible providing they are away from the regular school include other schools; sporting venues; visiting students on work experience; a marking centre to mark exams; employer's administrative centre; attendance at meetings of professional organisations; school dances; formals and graduation ceremonies.

### ***Travel from the regular school to alternative venues and back to the regular school***

79. The cost of travel between a teacher's regular school and other schools or venues (other than the teacher's home) is deductible under subsection 51(1). As discussed in Taxation Ruling MT 2027, this travel is undertaken in the performance of a teacher's duties. It is incurred in the course of gaining assessable income and is allowable as a deduction.

80. **Example:** A primary school teacher travels from her regular school to a tennis centre, where students are playing tennis during their sports afternoon, and then back to the school. The cost of this travel is an allowable deduction.

81. **Example:** An art teacher travels from her regular school to an arts and craft store to collect supplies to be used in the classroom. The cost of travel from her regular school to the store and then back to school is deductible.

### ***Travel from home to an alternative venue and directly home***

82. The cost of travel from home to a venue away from the regular school and then directly home is deductible provided the travel is related to the income-producing activities of the teacher. The cost is

deductible because it is travel to an alternative destination which is not itself a regular place of employment. See paragraph 32 of Taxation Ruling MT 2027.

83. **Example:** A teacher attends the school dance to supervise students. The function is held in the town's community centre. As this venue is not the regular school, the cost of the travel to attend the dance is allowable.

*Travel from home to the regular school, then to an alternative venue and then directly home*

84. The cost of travel from home to the regular school is private travel and not deductible under subsection 51(1). The cost of travel from the regular school to an alternative venue and then from the alternative venue directly home is deductible. See paragraphs 32 to 35 of Taxation Ruling MT 2027.

85. **Example:** A teacher goes to his regular school in the morning and then in the afternoon travels to a meeting at the regional administrative centre. The cost incurred in travelling from his home to the regular school is not allowable but the cost incurred in travelling from the regular school to the administrative centre and then directly home is allowable.

*Travel from home to an alternative venue, then to the regular school and then directly home*

86. The cost of travel from home to an alternative venue and then to the regular school is deductible under subsection 51(1). The cost of travel from the regular school directly home is private travel and not deductible under subsection 51(1). See paragraphs 32 to 35 of Taxation Ruling MT 2027.

87. **Example:** A teacher travels from home to a marking centre to mark exams and then travels to the regular school. The expense incurred in travelling from home to the marking centre and then to the regular school is allowable. However, the cost incurred from the regular school to home is not deductible.

***Incidental tasks on the way from the teacher's home to regular school***

88. Collecting mail, stationery supplies, educational resources and performing other comparable incidental tasks while travelling between the teacher's home and his or her regular school does not, of itself, transform private travel into work-related travel. The cost of this travel is not deductible under subsection 51(1). This is confirmed in Paragraph 34 of Taxation Ruling MT 2027.

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## ***Travel to and from regular school but transporting bulky equipment or transporting students***

89. A teacher is generally entitled to a deduction under subsection 51(1) for travel when transporting bulky equipment even if travelling from home to his or her regular school. In this case, the costs are attributed to the transport of the bulky equipment rather than to the travel to and from work. See *FC of T v. Vogt* 75 ATC 4073; (1975) 5 ATR 274.

90. **Example:** On a particular day, a drama teacher drives from home to her regular school with bulky props and costumes needed for the school play. She is entitled to a deduction for her travelling costs.

91. A teacher is not entitled to deduct travelling costs if, as a matter of convenience, work is performed at home and items such as papers, books and material (whether bulky or not) are transported between home and work for that purpose. In *Case QI*, 83 ATC 1; (1983) 26 CTBR (NS) *Case 65*, the use of a car by a school principal in these circumstances was treated as private use as it was travel from home to the place of employment.

92. Travel attributable to the transport of students in the course of the teacher's duties is also deductible. This is so, even if the travel begins at the teacher's home and ends at his or her regular school. The cost of the full distance travelled (beginning at home and ending at school) is deductible.

93. **Example:** On Saturday afternoon, the school rugby union team plays a competition match at the sporting field located at the regular school. As part of his duties as the coach, the teacher collects several players on the trip from home to the sporting field. After the match, he then takes the players home and continues his journey home. The teacher is entitled to a deduction for the cost of travel between his home and the regular school. The cost is allowable in this circumstance because it is attributable to the transport of the players rather than to his travel to and from home.

94. However, a deduction is not allowable if the teacher acts 'in loco parentis', i.e., 'in the place of a parent'.

95. **Example:** A teacher is employed at the same school where her children and the neighbour's children are students. As a matter of convenience, she transports the children to and from school. The cost of travel to and from the school is not allowable as the teacher is acting 'in loco parentis'. The travel is attributed to her relationship to the children and not to the transport of the students in the course of her duties. She is not entitled to a deduction for the travelling costs as they relate to travel to and from work.

***Multiple-campus schools***

96. The principles of deductibility for home to work travel also apply in relation to schools with more than one campus. However, only the campus or campuses at which the teacher performs regular teaching duties count as the 'regular school'.

97. **Example:** A teacher works at a secondary school campus on Monday, Wednesday and Thursday of each week and at another campus of this multi-campus school, some kilometres away, on Tuesday and Friday of each week. As both campuses are considered to be the 'regular school', the cost of travel from home to each campus is not deductible as the expenditure is of a private nature.

98. However, if the teacher performs regular teaching duties at only one of the campuses, only that campus counts as the 'regular school'.

99. The cost of any travel from one campus to another is deductible. As discussed in Taxation Ruling IT 2199, this cost is incurred in travelling between two places of employment and it is allowable deduction.

100. **Example:** A special education teacher is required to teach at her base school and two other schools. On three days of the week, she travels directly from home to the base school. Once she has performed her duties at the base school, she then travels to one or both of the other schools. On the remaining two days, she travels directly to a school other than her base school. Each of the three schools is considered to be the 'regular school'. Travel to and from home to the base school and travel to and from home to one of the other schools is travel to and from home to the regular school. The cost of this travel is of a private nature and not deductible. She is entitled to deduct the cost of travel between schools.

***Boarding school teachers***

101. If a teacher lives on campus, there is no travel that can be attributed to travel from home to the regular school. Accordingly, all travel related to school duties counts as travel from the regular school to other schools or venues and is therefore deductible.

102. See Taxation Ruling IT 2199 and paragraphs 23 to 24 of MT 2027.

***Travel by supply and relief teachers***

103. Supply and relief teachers are those teachers who are required to replace the regular classroom teacher at various schools at short notice. Generally, the teacher will be telephoned at home and asked to attend a particular school for the day. The cost of travelling between home and the various schools is not allowable as a deduction.

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104. Even though a relief teacher will travel from home to the particular school in response to a telephone call, this does not alter the character of that travel, i.e., it remains private. Home is not considered to be a place of work as the teacher's duties commence upon arrival at the school and not on receipt of the telephone call (*Case U112*, 87 ATC 672).

105. This decision is also supported by the Federal Court in *FC of T v. Genys* 87 ATC 4875; (1987) 19 ATR 356. This case involved a nursing sister employed at various hospitals through an agency, but who did not travel to more than one hospital each day. Her travel from home to hospital was not deductible. Northrop J said at ATC 4883; ATR 364:

'In conclusion, in my opinion, the mere fact that the taxpayer in this case does not have a regular place of employment in the sense of a permanent employment at one hospital is not sufficient to take her outside the general principles expressed in *Lunney*'.

106. Special circumstances apply where the teacher's employment is inherently of an itinerant nature such as that of the teacher in *FC of T v. Wiener* 78 ATC 4006; (1978) 8 ATR 335.

107. The teacher in that case was engaged in a pilot scheme involving the teaching of foreign languages. From Monday to Thursday, she taught at five different schools, spending about one hour a day at each school. The Court held that she was entitled to a deduction not only for the cost of the travel between schools but also for the cost of travel between home and the first school at the beginning of the day and between the last school and home at the end of the day.

108. This was because the taxpayer's employment was inherently itinerant and she was travelling in the performance of her duties from the moment of leaving home to the moment of returning there. The travel was not a prerequisite to the earning of assessable income but incurred in gaining or producing the assessable income.

109. We consider that this principle will only apply in special circumstances where it is considered that the teacher's employment is inherently itinerant.

## ***Travel between places of employment or place of employment and a place of business***

110. The cost of travelling directly between two places of employment or a place of employment and a place of business is generally deductible provided that the person does not live at either of the places and the travel is undertaken for the purpose of engaging in income-producing activities.

111. **Example:** A teacher travels from his school to a technical college to give night lectures. He would be entitled to the cost of this travel.

112. The position is less clear where the person lives at one of the places of employment or business. In these circumstances, it is necessary to establish whether the income-producing activity carried on at the person's home qualifies the home as a place of employment or business. The fact that a room in the taxpayer's home is used in association with employment or business conducted elsewhere will not be sufficient to establish entitlement to a deduction for travel between two places of work.

113. Travel between a person's home, at which a part-time income-producing activity is carried on, and a place of full-time employment will not be deductible unless there is some aspect of the travel which is directly related to the part-time activity (*Case N44*, 81 ATC 216; (1981) 24 CTBR(NS) *Case 114*).

114. In this case, a qualified accountant, employed by a firm of accountants, conducted a limited private practice from his home. He set up a separate room in his home as an office. The taxpayer claimed a deduction for car expenses incurred in travelling between his residence/office and place of employment. The fact that the taxpayer's home was, incidentally, used in the production of income was insufficient to make the travel between his home and place of employment an outgoing incurred in the production of assessable income. The travel retained its essential character of travel between home and work and therefore, it was not deductible.

115. **Example:** A drama teacher who teaches drama at school undertakes private lessons in the evening at her home. The expenditure incurred in travelling from the school to her home is a private expense rather than an expense incurred in gaining assessable income. It is not deductible.

116. Taxation Rulings IT 2199 and MT 2027 provide further information on the deductibility of travelling expenses between places of employment/business.

117. Motor vehicle expenses in relation to self-education are addressed at paragraph 164 of this Ruling.

## **Newspapers**

118. The cost of daily newspapers is generally not allowable as a deduction under subsection 51(1). It is a private expense. A taxpayer may be able to use some part of the information derived in the course of his or her duties. However, in most circumstances the benefit

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gained is remote and the proportion of expenditure on newspapers that relates directly to the duties undertaken is incidental to the private expenditure. This view is supported in *Case P30*, 82 ATC 139; 25 CTBR(NS) *Case 94* and *Case P114*, 82 ATC 586; (1982) 26 CTBR(NS) *Case 47*.

119. However, where the main reason for the purchase of the newspapers is for their use in the course of teaching and that use can be clearly demonstrated, then the work-related portion of the cost is allowable. Reference is made to *Case S12*, 85 ATC 165; (1985) 28 CTBR(NS) *Case 18* and *Case U5*, 87 ATC 124.

## Professional library

120. Depreciation on a professional library may be claimed as a deduction under section 54. If an individual reference book is purchased after 1 July 1991, and the cost does not exceed \$300 or its effective life is less than 3 years, it may be depreciated at 100% in the year of purchase under section 55. See Taxation Determination TD 93/159.

121. For depreciation purposes, reference books may only be included in the professional library if their content is directly relevant to the duties performed. Encyclopaedias and general reference books are too general in nature to warrant a deduction.

122. In *Case P26*, 82 ATC 110; 25 CTBR(NS) *Case 90*, a university lecturer was allowed a claim for depreciation expenses on legal books but denied a deduction for depreciation on general reading and fiction books. 'No doubt the illustrations and anecdotes which he was able to use did serve as useful teaching aids but in my view these were not plant or articles within the meaning of section 54 of the Act, as they were not used or installed ready for use for the purposes of producing assessable income' (ATC at 112; CTBR at 661).

123. Where the cost of a textbook has been claimed as a deduction previously, its cost may not be subsequently added to the value of a professional library and depreciated. For example, a teacher may have claimed a deduction for cost of a textbook as part of her self-education expenses. The cost of this textbook is not able to be included in the value of a professional library for depreciation purposes.

124. Paragraphs 42 to 50 of this Ruling provide further information on the deductibility of depreciation.

**Removal and relocation expenses**

125. Removal or relocation expenses incurred by a taxpayer to take up a transfer in existing employment or to take up an appointment with a new employer are not deductible under subsection 51(1). This applies whether the transfer of employment is voluntary or at the employer's request. The non-deductible expenses that may be incurred include temporary board and lodging; freight to consign personal and educational items; insurance and hire of vehicles to transport items. These expenses come at a point of time too early to be regarded as being incurred in gaining or producing assessable income.

126. We consider that where a taxpayer transfers employment from one locality to another and incurs expenditure in moving from one place of residence to a new place to take up duties of the new position, that expenditure is not incurred in gaining or producing assessable income and is not deductible under subsection 51(1). The taxpayer is travelling to his work and not between two places of employment.

127. Our view is supported in the following two cases:

In *Fullerton v. FC of T* 91 ATC 4983; (1991) 22 ATR 757, the taxpayer worked for the Queensland Forest Service (QFS) as a professional forester for over 20 years. In that time, QFS transferred him to a number of different locations. As a result of a reorganisation his position ceased to exist. He had no choice but to accept a transfer as he may have been retrenched. The QFS reimbursed a portion of the relocation expenses and the taxpayer claimed the remainder as a tax deduction. It was held that the expenditure on the taxpayer's domestic or family arrangements is not deductible under subsection 51(1), even though the expenditure had a causal connection with the earning of income.

128. In *Case U91*, 87 ATC 525, the taxpayer, a Commonwealth public servant, was transferred at the request of his employer from a State office to the central office of the department in Canberra. He was denied a deduction for expenses incurred in attempting to auction his house. It was held that the expenses were too remote from the income-producing process to be incurred in gaining or producing assessable income.

129. Taxation Rulings IT 2406, IT 2481, IT 2566 and IT 2614 provide further information on the treatment of these expenses.

**School trips and camps**

130. In deciding whether the costs incurred by a teacher when accompanying students on educational and sporting trips qualify as deductions under subsection 51(1), it is necessary to determine

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whether the attendance on these trips is an integral part of the duties undertaken by a teacher in gaining assessable income.

131. Some factors that would be considered in determining the relevance of such trips to a teacher's duties would include the purpose of the trip, activities undertaken and the duties of the teacher whilst on the trip.

132. The purpose of the trip and the activities undertaken must have an educational benefit and a direct relevance to the curriculum or syllabus of a particular subject taught at the school.

133. It would also be expected that the teacher participate in the task of supervising students. Where the trip does not have a direct connection to the syllabus of the school, a teacher's supervisory role would not be sufficient to make the teacher's expenses deductible.

134. **Example:** A teacher accompanies a class of primary school students from a country school on a visit to the state capital city. As part of the social studies curriculum, they visit Parliament House, the Museum and Art Gallery.

135. **Example:** A teacher accompanies a group of students enrolled in biology on a camp to a national park. The purpose of the trip is to study the ecology of a rain forest.

136. In both these examples, the expenses incurred by the teacher would be allowable as a deduction because the purpose of the trip and the activities undertaken have a direct relevance to the curriculum.

137. In *Case R42*, 84 ATC 357; (1984) 27 CTBR(NS) *Case 97*, a lecturer at a college of advanced education was allowed a deduction after he was able to demonstrate that his expenses in accompanying a group of trainee students on a trip to Fiji were incurred in the course of his duties. He demonstrated that the excursion formed part of the official college program; was compulsory for all students and that staff involved in teacher-education courses were expected, as part of their employment, to participate in various out-of-college activities.

138. The opportunity to go on such tours may provide social or cultural benefits to the students and teacher. However, these benefits alone do not suffice to make the expenses in relation to the trip deductible.

139. **Example:** A school teacher accompanies a group of students on a trip to the snowfields to go skiing in the school vacation. This trip does not form part of the curriculum for any subject at the school and while it may be of benefit to the students, this is not sufficient to make the expenses incurred by the teacher allowable.

140. **Example** A school in Australia has a sister school in an overseas country. Every second year a teacher accompanies a group of

students on a trip to visit the sister school. Attendance on the trip is not compulsory and is open to any student of the school. Whilst on the trip, 6 of the 10 days are spent at the sister school engaging in social, classroom and sporting activities. The remaining days are spent touring the country.

141. The teacher would not be entitled to claim any of the expenses incurred in connection with the trip. The trip is open to all students and does not form part of the curriculum of any particular course at the school. While the students may have engaged in classroom or sporting activities, these do not form part of the curriculum of a subject studied by the students undertaking the trip. The trip may provide social and cultural benefits to the students, but this does not make the expenses of the trip allowable as a deduction.

***Extra-curricula activities***

142. Whilst relevance to the school curriculum is an important factor in determining the character of such trips, a deduction is not necessarily denied in the absence of this factor. In some instances, the reason for the trip and the activities undertaken will not be curriculum-related but may be an integral part of the extra-curricula activities of the school. Where a teacher is involved in such activities and accompanies students as a representative of the school, the expenses incurred by the teacher would be allowable. Examples of such activities would be attendance at school-related sporting events, tours conducted by the school band and attendance at competitions by student representatives of the school.

143. **Example:** A teacher is the coach of a school sports team. He accompanies this team on a trip to another town to participate in interschool competition. The team is representing the school and he is attending as the coach. Any costs incurred in attending such a tour are allowable.

144. **Example:** A teacher is the manager/adviser of the school debating team. The team has won the right to compete in a competition in New Zealand. The teacher is also attending as a representative of the school and the costs incurred are allowable.

145. **Example:** Members of a Brisbane school's drama club undertake a trip to Sydney to see *Phantom of the Opera*. A teacher accompanies the students. As the students going on the trip are not representing the school in any official capacity and the trip is not connected to any course offered by the school, the expenses incurred by the teacher in going on the trip would not be allowable as a deduction.

146. In cases where the trip is an integral part of the duties undertaken by a teacher in gaining or producing assessable income, the

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expenses allowable as a deduction may include accommodation, airfares, bus and train fares, motor vehicle expenses, meals, public transport costs, entrance fees, guide books/information books, film/developing costs, photo albums used in the class room and teaching aids.

147. Those expenses incurred which are not allowable would include expenditure on special clothing (e.g., outdoor/indoor, thermal clothing; see paragraphs 14 to 20) and any costs related to the prior inspection of the venue (e.g., airfares, motor vehicle, accommodation and meals). These expenses do not have a direct connection to the teacher's role as representative of the school and as such are not allowable as a deduction.

148. Where the trip has both private and work-related purposes, the expenses should be apportioned accordingly. For example, if the teacher undertakes sightseeing or recreational activities, these are private and not deductible under subsection 51(1).

## Self-education expenses

149. Self-education expenses are deductible under subsections 51(1) and 54(1), if the self-education is directly relevant to the activities by which a taxpayer currently derives assessable income or is likely to lead to an increase in income from those activities. Self-education includes courses undertaken at an educational institution (whether leading to a formal qualification or not), attendance at work-related conferences or seminars, self-paced learning and study tours.

150. Expenses incurred in attending courses, seminars or conferences designed to update the knowledge of the taxpayer in his or her particular occupational field so that the taxpayer may become more proficient in his or her occupation, or improve his or her chances of promotion are deductible. Our policy on the deductibility of self-education expenditure has been consolidated in Taxation Ruling TR 92/8.

151. On occasions, it is difficult to determine whether self-education expenses have a sufficient connection with income production to justify a deduction. The following Court decisions outline the various principles that have emerged.

152. In *FC of T v. Finn* (1961) 106 CLR 60; 12 ATD 348, the High Court held that the expenditure incurred by a senior government architect on an overseas tour devoted to the study of architecture was allowable. Although the Full High Court recognised that the tour expenses were relevant to the activities by which the taxpayer was currently producing income and to the likelihood of his actually

gaining more income in the future, the expenditure was also regarded as a professional obligation to keep up to date.

153. In *FC of T v. Hatchett* 71 ATC 4184; (1971) 2 ATR 557, a primary school teacher incurred expenditure in relation to the submission of a thesis to gain a Teacher's Higher Certificate and university fees for an Arts Degree. It was held that the Certificate expenses were allowable as they related to the actual gaining of income. Possession of the Certificate entitled the taxpayer to earn more money in the future and entitled him to be paid more for doing the same work without any change in grade.

154. The university fees were not deductible. There was no connection between these expenses and the activities by which the taxpayer gained his income as a primary school teacher. Even though, his employer contributed towards payment of the fees and it was accepted that the course was likely to make the taxpayer a better teacher in a general sense, this was not sufficient to make the fees deductible.

155. In *FC of T v. Studdert* 91 ATC 5006; (1991) 22 ATR 762, the taxpayer, a Qantas flight engineer, sought a deduction for expenses incurred on flying lessons leading to a private pilot's licence. The Administrative Appeals Tribunal (AAT) at first instance was prepared to accept that it was part of the taxpayer's duties to understand the overall workings of aircraft flight. The AAT allowed the expenditure on the basis that the lessons improved his proficiency in those duties.

156. The Federal Court upheld the AAT's decision allowing the deduction. His Honour, Hill J, relying on the decision in *Finn*, held that the cost of the flying lessons were deductible as they improved the taxpayer's proficiency as a flight engineer. This was sufficient on its own, without reference to the effect of the lessons on the taxpayer's opportunities for promotion in his current occupation.

157. A deduction is not allowable for self-education expenses if the study, viewed objectively, is designed to enable a taxpayer to get employment, to obtain new employment or to open a new field of income-producing activity. In this case, self-education expenses are incurred at a point too soon to be regarded as incurred in gaining or producing assessable income. This is supported by the decision of the High Court in *FC of T v. Maddalena* 71 ATC 4161; (1971) 2 ATR 541.

158. The intention or purpose of a taxpayer in incurring the self-education expenses can be an element in determining deductibility. If the main purpose of a study tour or attendance at a conference or seminar is related to the gaining or producing of income and the

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private purpose is merely incidental, apportionment of the expenses is not appropriate.

159. If the self-education is undertaken equally for income-producing purposes and for private purposes, it is appropriate to equally apportion the self-education expenses between the purposes. If the income-producing purpose is merely incidental to the main private purpose, only those expenses directly attributable to the income-producing purpose are allowable.

160. Whether or not the particular self-education expense has the necessary connection with the production of assessable income depends upon the relevant facts and circumstances of each particular case. Where a teacher is planning an overseas study tour, he or she is encouraged to apply for a private ruling on the deductibility of the expenses prior to undertaking the trip.

161. Subject to the general tests under subsection 51(1) being met, the following types of expenses related to self-education are allowable under the subsection:

- (i) Course or tuition fees of attending an educational institution or of attending work-related conferences or seminars. These fees include student union fees.
- (ii) The cost of textbooks, of professional and trade journals, of technical instruments and equipment and of clerical activities (eg. word-processing and photocopying).
- (iii) Fares, accommodation and meal expenses incurred on overseas study tours, on work-related conferences or seminars attended away from a taxpayer's home or attending an educational institution away from the taxpayer's home.
- (iv) Interest incurred on moneys borrowed to pay for the expenses listed above in subparagraphs (i) - (iii).
- (v) Deductions for running expenses of a private study used in connection with self-education. See paragraphs 65 to 73 of this Ruling.

162. The following expenses related to self-education are not allowable under subsection 51(1).

- (i) A higher education contribution payment (subsection 51(6)).
- (ii) Meals purchased by a taxpayer, while attending a course at an educational institution in the course of normal travel to and from home.

163. Motor vehicle expenses in relation to self-education are allowable in the following circumstances:

- the taxpayer travels directly from work to the educational institution and directly back to work again: the cost of all the travel forms part of the cost of self-education.
- the taxpayer travels directly from home to the educational institution and directly back to home again: the cost of all the travel forms part of the cost of self-education.
- the taxpayer travels from home to the educational institution and then to work: the cost of travel from home to the educational institution forms part of the cost of self-education. However, the cost of travel from the educational institution to work is not deductible.
- the taxpayer travels from work to the educational institution and then to home: the cost of travel from work to the educational institution forms part of the cost of self-education. However, the cost of travel from the educational institution to home is not deductible.

164. Where self-education expenses are allowable under subsection 51(1) as discussed in paragraph 162 of this Ruling, but also fall within the definition of 'expenses of self-education' in section 82A, only the excess of the expenses over \$250 is deductible, i.e., the first \$250 is not deductible.

165. 'Expenses of self-education' are defined under section 82A as all expenses (other than higher education contributions (HECS), Open Learning charges and debt repayments under the tertiary student financial supplement scheme) necessarily incurred by a taxpayer in connection with a course of education provided by a school, college, university or other place of education and undertaken by the taxpayer to gain qualifications for use in the carrying on of a profession, business, trade or in the course of any employment.

166. Where the expenses are allowable under subsection 51(1) and they are not 'expenses of self-education' as defined, the full amount will be deductible.

167. **Example:** A teacher holds a Diploma of Education. She decides to undertake studies to advance her career prospects by completing a Bachelor of Education course with the view to becoming a subject master. She incurs \$950 to complete the course.

168. The expenses associated with her study are allowable under subsection 51(1) because the obtaining of the Education degree is likely to lead to an increase in her income from teaching in the future.

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The expenses also fall within the definition of 'expenses of self-education' under section 82A.

169. The first \$250 of the expenditure is disallowed as a deduction under section 82A and she is only entitled to a deduction of \$700 as self-education expenses.

170. **Example:** A teacher attends a conference delivered by a professional association at a centre away from his regular school. The conference is designed to keep him abreast of developments in his teaching field.

171. The cost of the conference is \$400 and this includes the conference fees and the motor vehicle expenses incurred to travel from home to the centre and the return trip home.

172. The expenses associated with the conference are allowable under subsection 51(1) and they are not 'expenses of self-education' as the course is not at a place of education as defined in section 82A. The amount of \$400 is deductible in full.

## Sickness and accident insurance

173. Premiums paid by teachers under a sickness and accident insurance policy may be deductible, depending on the benefits obtained during the period of incapacity.

174. If the benefits received during the period of incapacity are periodic payments (i.e., weekly, monthly etc), then a deduction is allowable for the premiums paid. The periodic payments are considered to be income in nature.

175. If the benefit received during the period of incapacity is a lump sum payment, then generally no deduction is allowable for the premiums paid as the lump sum is considered to be capital in nature.

176. If the benefits received during the period of incapacity are a combination of both periodic payments and a lump sum payment, then a deduction is allowable for that portion of the premiums applicable to the periodic payments.

177. This decision is confirmed in *Case J45*, 77 ATC 417; (1977) 21 CTBR(NS) *Case 67* and *FC of T v. Smith* 81 ATC 4114; (1981) 11 ATR 539. Taxation Rulings IT 208, IT 2230, IT 2370 and IT 2460 provide further information on the deductibility of sickness and accident premiums.

178. Premiums paid for health and life insurance policies are not deductible under subsection 51(1) as the payments from these policies are of a private or capital nature.

**Social functions**

179. Expenditure incurred in attending staff dinners, school formals or similar functions qualifies as an entertainment expense under section 51AE and therefore is not allowable as a deduction under subsection 51(1).

180. A deduction is not allowable for the cost of providing entertainment by way of food, drink or recreation (whether to the taxpayer himself, or another person). This is irrespective of whether the attendance at these functions is in connection with the duties of any office or employment (subsections 51AE(3) and (4)).

181. In *Case Y11*, 91 ATC 184; (1991) 22 ATR 3063, a senior officer in the Australian Defence Force involved in negotiations to buy defence equipment was disallowed a deduction for expenditure incurred in attending a range of lunches, cocktail parties, dinners and other forms of social contact relevant to the performance of his duties. Direct business was done on many of those occasions. It was held that section 51AE(4) operated to deny the claim. It did not matter that the expenditure was directly relevant to business transactions.

182. Even though, the attendance at school formals by a teacher may be considered part of the duties of employment, the cost of the tickets to attend these functions is not deductible, as it provides for food, drink or recreation. Also, the cost of attending functions such as staff dinners and farewell dinners is not incurred in the course of carrying out teaching duties and it is essentially a private expense. The expenditure is not allowable under subsection 51(1).

183. In *Frankom v. FC of T* 82 ATC 4599; (1982) 13 ATR 636, a magistrate was denied a deduction for the costs of attending a cocktail party hosted by the Bar Association and Law Society and dinners given by the Queensland Stipendiary Magistrates' Association. The taxpayer's duties as a magistrate did not necessitate his attendance at social functions. Hence, the expenditures were not incidental and relevant to the taxpayer gaining his salary and also were of a private nature.

184. The provision of morning or afternoon tea or light refreshments by a teacher to other staff members is not allowable as a deduction under subsection 51(1) as it is a private expense. Even if the provision of refreshment is part of 'team building', it is not sufficiently connected to the duties by which a teacher produces assessable income and remains a private expense.

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## Student expenses

185. From time to time teachers outlay their own money to purchase items required by students; purchase rewards and gifts for students and meet students' personal costs.

186. Examples of this type of expenditure would include: purchase of books and uniforms; purchase of Christmas gifts; purchase of food and drinks for special occasions (e.g., student birthdays) and replace money lost by students (e.g., money for bus fares, lunch and entrance to venues on school excursions).

187. While teachers may feel a moral, personal or social obligation to outlay these expenses, there is no connection between the expenditure incurred by the teacher and the gaining or producing of assessable income and it is also considered to be of a private nature. Therefore, this expenditure is not allowable as a deduction under subsection 51(1).

## Technical or professional publications

188. A deduction is allowable under subsection 51(1) for the purchase or subscription cost of journals, periodicals and magazines which have a content specifically related to a teacher's work and are not general in nature. For example, expenditure on magazines such as *Time*, *The Bulletin*, *National Geographic* and *Readers Digest* are not allowable as a deduction as they are general interest publications.

189. In *Case P124*, 82 ATC 629; (1982) 26 CTBR(NS) *Case 55*, an air traffic controller was not allowed a deduction for the purchase of aviation magazines. The members agreed that;

'His work did not require him to buy the papers and magazines...[and although] there might be some tenuous connection between the cost of aviation magazines and the maintenance of knowledge necessary for holding a flying licence...but it seems to be that the possible connection is altogether too remote' (ATC at 633-634; CTBR at 422).

190. This can be contrasted with *Case R70*, 84 ATC 493; (1984) 27 CTBR(NS) *Case 123*, in which an accountant employed with the Public Service was allowed a deduction for the cost of publications produced by a business and law publisher. The nexus between the expense and the accountant's occupation was established as the publications contained current technical information which related to her day-to-day work. She was, however, not allowed a deduction for the purchase cost of daily newspapers.

**Telephone expenses*****Cost of calls***

191. The cost of calls made by a teacher in the course of carrying out his or her duties are generally deductible under subsection 51(1).

***Rental costs***

192. Taxation Ruling IT 85 states that the Commissioner accepts that a proportion of telephone rental is allowable to employees who are required as part of their employment to be on-call, or who are required to telephone their employer on a regular basis for the purposes of their employment.

193. The duties of a teacher including supply and relief teachers do not require them to be on-call or to contact the school on a regular basis and therefore the rental costs are not deductible.

***Installation costs***

194. The cost incurred to install a telephone which is used for business purposes is a capital expense and not allowable under subsection 51(1); see Taxation Ruling IT 85.

**Union dues, subscriptions and teacher registration**

195. Periodical subscriptions to an association primarily engaged in protecting its members' interests, improving their working conditions and remuneration, or in disseminating information designed to keep members abreast of current developments in their field are deductible under subsection 51(1).

196. The expenditure allowed includes union dues, subscriptions to teacher associations and teacher registration fees.

197. Payments to staff social clubs or associations where the purpose of the club is predominantly social is not allowable under subsection 51(1) as they are private expenses.

**Date of effect**

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198. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of a 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).

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