IT 113 - Computer consultant - travelling expenses between home and place of employment

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TAXATION RULING NO. IT 113

COMPUTER CONSULTANT - TRAVELLING EXPENSES BETWEEN HOME AND PLACE OF EMPLOYMENT

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1101175	COMPUTER CONSULTANT TRAVELLING EXPENSES	51(1)

OTHER RULING ON TOPIC IT 112 (paragraphs 10, 11, 21), 117

FACTS

Consideration was given to the decision of the Supreme Court (FC of T v Collings (6 ATR 476; 76 ATC 4254), concerning the taxation treatment of travelling expenses incurred by a computer consultant while on call.

2. The taxpayer was a computer consultant employed by a company which provided a computer service and whose office was situated some three miles from her residence. Her normal hours of attendance at her place of employment were from 8.30 am to 5.30 pm on week days. The taxpayer's employer sold time on its computers to various clients. During the year under appeal the taxpayer's employer introduced major alternations to the computer facilities which it provided to customers. During the year the taxpayer made two visits to the United States for training in relation to the new system. Because of this alteration to the computer facilities the taxpayer as required in the period January to June 1973 to provide on-call technical advice on a 24 hour basis.

3. During this six month's period if the taxpayer left her home outside working hours he was required to advise her headquarters of her whereabouts. If trouble arose at the headquarters with the operation of the computer and the duty staff were unable to rectify it they phoned her. If she was unable to have the problem solved over the phone she would have to travel by her car to headquarters to deal with it. In addition the taxpayer had the use of a portable terminal which she took to her home or other places where she might be outside normal office hours. By dialling the headquarter's computer on an ordinary phone line and placing the telephone receiver in the portable terminal she was able to work from the telephone coversationally to the computer.

4. On these facts his Honour concluded that he taxpayer was continuously on duty wherever she was. She was not "choosing to do pat of the work of her job in two separate places. Unless

she were to spend all her time in the office with the computer she must have more than one place of work. Hers was not the freedom of choice of a barrister who does some of his work at home. Her double work location was not only merely colourable but the two places of work were a necessary application arising from the special nature of her duties". From these conclusions his Honour was able to say that the motor vehicle expenses claimed by the taxpayer were incurred in sense required by s.51.

RULING

5. The decision is accepted. Rath J. has made it very clear that his decision was based on the special nature of the taxpayer's employment. The decision is not to be accepted as making any change in the general proposition that the cost of travel between home and the place of employment is not deductible. In particular the decision i not to be applied to taxpayers whose employment requires them to be on-call at their homes. Not only did his Honour distinguish the taxpayer's situation from that of the airline pilot on-call at their homes. Not only did his Honour distinguish the taxpayer's situation from that of the airline pilot on-call but he has clearly stated that he was not deciding whether the travelling expenses of on-call employees are generally deductible.

6. The principles set out in this ruling have been restated in sub-para 21(c) of IT 112.

COMMISSIONER OF TAXATION