

TD 94/17 - Income tax: where a taxi driver travels between his/her principal place of residence and the collection point of a taxi, are the costs of travel deductible under subsection 51(1) of the Income Tax Assessment Act 1936 ?

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This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination 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 Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: where a taxi driver travels between his/her principal place of residence and the collection point of a taxi, are the costs of travel deductible under subsection 51(1) of the *Income Tax Assessment Act 1936*?

1. No. The private nature of travel to and from a place of employment is generally well established at law, except in specific circumstances. [See *Lunney v. FC of T*; *Hayley v. FC of T* 100 C.L.R. 478]
2. In this instance, the underlying purpose of the travel is to transport the taxi driver to the point where income derivation may occur. As such, the expense is incurred preparatory to, and in anticipation of, the earning of assessable income rather than having been incurred in deriving that income. Accordingly it is not an allowable deduction under subsection 51(1). [See *FC of T v Genys* 87 ATC 4875; (1987) 19 ATR 356]

Example:

Bill Jones travels from his home to a place where he collects a taxi cab and commences driving a taxi shift. The meeting takes place at 4 o'clock in the morning and no public transport is available.

Notwithstanding the lack of transport and erratic hours of employment [Case U156, 87 ATC 908], the travel retains its private character and arises as a consequence of Bill living in one place and commencing work in another, hence any expense incurred in that travel is not deductible.

FOI INDEX DETAIL: Reference No. I 1217053

Previously issued as Draft TD 94/D1

Related Determinations:

Related Rulings:

Subject Ref: taxis; travel; travel between home and work

Legislative Ref: ITAA 51(1)

Case Ref: Lunney v FC of T & Hayley v FC of T 100 C.L.R. 478

FC of T v Genys 87 ATC 4875; (1987) 19 ATR 356

Case U156 87 ATC 908

ATO Ref: UMG 0091

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