# *TR 2020/1 - Income tax: employees: deductions for work expenses under section 8-1 of the Income Tax Assessment Act 1997*



There is a Compendium for this document: **TR 2020/1EC** .

This Ruling sets out general principles on deductibility of work-related expenses and provides a signpost to other advice products. It is necessarily general in nature and does not address specific work-related expense issues arising due to COVID-19. The ATO has published specific guidance on some COVID-19 related work deduction issues on ato.gov.au, and is preparing further practical advice on additional questions that have been asked.

This document has changed over time. This is a consolidated version of the ruling which was published on *1 September 2021*

# Taxation Ruling

## Income tax: employees: deductions for work expenses under section 8-1 of the *Income Tax Assessment Act 1997*

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**Relying on this Ruling**

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

Further, if we think that this Ruling disadvantages you, we may apply the law in a way that is more favourable to you.

*[**Note:** This is a consolidated version of this document. Refer to the Legal Database* (www.ato.gov.au/Law) *to check its currency and to view the details of all changes.]*

# Summary – what this Ruling is about

1. This Ruling sets out when an employee can deduct a work expense[1] under section 8-1 of the *Income Tax Assessment Act 1997*.[2] For the purposes of this Ruling, 'work expense' means 'a loss or outgoing you incur in producing your salary or wages'.[3]

2. A work expense can only be deducted if it qualifies as a deduction under a tax law outside Division 900 and the employee can substantiate it under Division 900 by getting written evidence.

3. Although work expenses are potentially deductible under a number of sections of the Act, section 8-1 is the provision under which they most commonly qualify as a deduction. Consequently, this Ruling focuses on the general principles for deductibility under that provision.

4. The decline in value (depreciation) of an asset used to produce salary or wages is also treated as a work expense for the purposes of this Ruling.[4] Although deductible under section 40-25, a

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[1] In ATO guidance products and other material, 'work expenses' are sometimes referred to as 'work-related expenses' or 'WRE'. All of these terms are intended to have the same meaning.
[2] All legislative references in this Ruling are to the *Income Tax Assessment Act 1997* unless otherwise indicated.
[3] The concepts of 'employee' and 'salary or wages' also cover recipients of other payments for which there is a pay as you go withholding obligation under provisions referred to in subsection 900-12(3). For example, company directors, office holders, religious practitioners, politicians.
[4] Subsection 900-30(7).

condition for the deduction is use of the depreciating asset 'for the purpose of producing assessable income'.[5] Accordingly, section 8-1 principles outlined in this Ruling are also relevant for this type of work expense.

### Purpose and context of the Ruling

5. This Ruling is intended to provide the foundation of general deductibility principles for employee work expenses. Based on this foundation, practical guidance on common work expense types, including occupation-specific expenses, is provided on ato.gov.au and in the *Employees guide for work expenses*. These sources of guidance will be kept current through periodic updating.

6. Appendix 1 of this Ruling provides a list of work expense categories and issues with links to relevant rulings, determinations and other material published by the ATO. This Ruling therefore provides both foundation guidance on general deductibility principles and direction to the more specific guidance products that are of most relevance to particular issues or expense types. The links in Appendix 1 will be updated as further rulings and guidance products are created.

## Ruling

7. An employee can only deduct a work expense under section 8-1 to the extent that:

- it is incurred in gaining or producing assessable income (positive test)[6]

and also meets the 'negative tests' that:

- the expense is not a loss or outgoing of capital[7]
- the expense is not private or domestic in nature
- the expense is not incurred in relation to gaining or producing exempt or non-assessable non-exempt income[8], and
- another provision of the tax law does not prevent deduction of the expense.

[5] Subsection 40-25(7).
[6] Paragraph 8-1(1)(a).
[7] If not deductible under section 8-1, a capital outgoing may nevertheless be recognised under another provision (such as the deduction for decline in value of a depreciating asset under section 40-25).
[8] Subsection 8-1(2).

If the deduction tests under section 8-1 are met, the work expense can be deducted if the substantiation requirements of Division 900 are satisfied.

### Elements of the positive test

8. Paragraphs 9 to 40 of this Ruling consider the following elements of the section 8-1 positive test, that:

- the expense must be **incurred**
- it must be incurred **in gaining or producing assessable income** which
  - involves consideration of all the **facts and circumstances** of the expense and its connection to income-earning activities
  - means **in the course of** gaining or producing assessable income, and
  - requires a proper understanding of the **relevance of employer requirements**, and
- an amount is only deductible **to the extent** incurred in gaining or producing assessable income.

#### *The expense must have been 'incurred'*

9. Under section 8-1, employees can only deduct expenses they have incurred. The term 'incurred' is not a defined term in the law, nor have the courts determined an exhaustive definition. It is well-established, however, that an expense is not incurred if it is only anticipated or expected to arise in the future on the happening of an event.[9] A work expense is incurred when an amount is actually paid or when a definitive obligation to pay the amount arises. See Taxation Ruling TR 97/7 *Income tax: section 8-1 – meaning of 'incurred' – timing of deductions* for more detailed guidance on the meaning of 'incurred' and the timing of deductions under section 8-1.

*Example 1 – not deductible – not incurred*

10. *Corey's parents buy him a 12-month technical magazine subscription for Christmas which is connected to his work. Corey cannot claim a deduction for the subscription price because he did not incur the expense. If Corey had subscribed himself, he would have incurred the expense when he paid or became obliged to pay the subscription amount.*

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[9] *Commissioner of Taxation (Cth) v James Flood Pty Ltd* [1953] HCA 65; *New Zealand Flax Investments Limited v Federal Commissioner of Taxation* [1938] HCA 60.

11. Employees are not entitled to deduct incurred expenses if they are reimbursed by their employer.[10]

*Example 2 – not deductible – reimbursed*

12. *Alex takes a company car to attend a work-related meeting. He spends $28 to park the car at the location of the meeting. When he returns to his office, he provides the car parking receipt to his employer and his employer pays him the $28 he has spent. As this is a reimbursement, Alex cannot claim a deduction for the car parking expense. For the same reason, he would not declare the amount from his employer as income in his tax return.*

### *In gaining or producing assessable income*

13. The pivotal element of section 8-1 for work expenses is the requirement that expenses be incurred 'in gaining or producing assessable income'. The High Court majority in *Payne*[11] said it is well established that these words are to be understood as meaning incurred 'in the course of' gaining or producing assessable income, and do not convey the meaning of outgoings incurred 'in connection with' or 'for the purpose' of deriving assessable income.[12]

14. The majority further stated that the meaning of 'in the course of' gaining or producing income was amplified in *Ronpibon Tin NL* where it was held that[13]:

> … to come within the initial part of [section 8-1] it is both sufficient and necessary that the occasion of the loss or outgoing should be found in whatever is productive of the assessable income, or if none be produced, would be expected to produce assessable income …

15. While the High Court authority indicates the nature of the connection that needs to be found between outgoings and assessable income, the sufficiency of the connection in a given case cannot simply be determined by reference to a precise formula. Section 8-1 is expressed in such terms that it is intended to cover any number of legal and factual situations. In many cases, only a proper consideration of all the relevant facts and circumstances will reveal whether the occasion of a particular outgoing is to be found in what produces assessable income.

*Importance of facts and circumstances*

16. For expenses incurred by employees, the fundamental question is whether an expense is incurred in the course of earning employment income. This involves considering the proper scope of the particular taxpayer's work activities to determine if the

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[10] Section 51AH of the *Income Tax Assessment Act 1936*.
[11] *Commissioner of Taxation v Payne* [2001] HCA 3.
[12] *Commissioner of Taxation v Day* [2008] HCA 53.
[13] *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15.

circumstances of the expense have a sufficiently close connection to earning the employment income.

17. This means that an expense deductible for a taxpayer in one job is not necessarily deductible for another taxpayer holding a similar job. Variations in employment duties may have a significant bearing on the extent of connection between an expense item and the earning of income, which could explain differences in deductibility outcomes.

18. However, some expense types almost always have a relevant connection to employment activities. For example, union membership or relevant professional association subscriptions relating to employment usually have a sufficiently close connection to earning income as an employee.

19. More difficult are cases where an expense ordinarily bears the characteristics of an everyday personal expense. Although generally not deductible, a deduction may be allowed if the particular employment context creates a close connection between the expenditure and the production of assessable income through work activities; that is to say, 'the occasion of the expenditure is to be found in the income-earning activity itself'.[14]

### *Example 3 – circumstances for and against a deduction*

20. *Michael, an arborist employed by a local council to maintain trees and gardens in a large city park, incurred expenses on a hat, sunscreen and sunglasses. Michael can claim a deduction for these expense items as they protect him from risks directly attributable to his work and, consequently, have a real and close connection to his income-earning activity. That is, the nature of Michael's employment obligations and duties is such that he will inevitably be exposed to the sun for prolonged periods in carrying out his work activities. Outdoor workers of this type necessarily incur sun protection expenses because of the nature of their occupation, irrespective of their personal circumstances.*

21. *By contrast, office employees would not be able to claim deductions for similar expense items because the circumstances of the expenditure would be the sun exposure risks of everyday living rather than anything occasioned by the nature of their work.*

### *'In the course of' gaining or producing your assessable income*

22. The requirement that expenses be incurred in the course of producing assessable income means that it is not enough to show only that there is some general link or causal connection between expenditure and the production of income. The expenditure must have a sufficiently close connection to performance of the

[14] *Commissioner of Taxation v Payne* [2001] HCA 3; *Commissioner of Taxation v Day* [2008] HCA 53.

employment duties and activities through which the employee earns income.

23. Accordingly, in some cases, expenditure would be regarded as too remote from the income-earning activities or incurred only as a prerequisite to earning income, and not incurred in the course of producing that income.

### *Example 4 – not deductible – not 'in the course of'*

24. *Mark, an employed building manager, uses public transport to travel to and from work each day. He also incurs expenses for the care of his two young children during the period of the day when he is at work. Mark's expenditure on fares and child care may be necessary prerequisites to allow him to attend his workplace and commence working, but the expenses are not incurred in the course of gaining or producing his assessable income. Accordingly, they are not deductible.*

25. Other examples of expenditure that would be too remote from the income-earning activity, or incurred at a point too soon to be characterised as incurred in the course of earning assessable income, would be expenses of looking for and securing new employment. This would also be the case for relocation expenses to work in a different city or state. Similarly, education expenses to obtain qualifications for new employment would not be incurred in the course of gaining or producing relevant assessable income.[15]

### *Relevance of employer requirements*

26. A common issue relating to the deductibility of employee expenses is the relevance of express or implied conditions of employment. In this regard, a question that frequently arises is whether an expense becomes deductible merely because an employer specifically requires the employee to incur the expense.

27. In these circumstances, the employer's requirements do not determine the question of deductibility. This question is always to be answered by reference to the statutory test which involves an objective determination of the connection between the expense and the employee's income-earning activities.

28. For example, an expense that is private in nature or only a prerequisite to the earning of income does not become deductible only because of an employer's requirements.[16]

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[15] *Commissioner of Taxation (Cth) v Maddalena* (1971) ALJR 426; 2 ATR 541; 71 ATC 4161.

[16] *Mansfield, Jill Honor v Commissioner of Taxation* [1995] FCA 1008.

*Example 5 – not deductible despite employer's requirements*

29. *Kayne is employed as a waiter in a wine bar and is required by his employer to wear a white collared shirt, black trousers and black shoes. Notwithstanding his employer's specific instructions, Kayne's clothing remains conventional, maintains its private nature, and is not expenditure incurred in earning his employment income.*

30. Other common examples are requirements that employees possess an ordinary driver's licence or present themselves in a well-groomed manner. Standards set by employers in this regard would not change the essentially private character of expenses in obtaining a driver's licence or maintaining a particular level of personal appearance.

31. Although an employer's requirements do not determine deductibility, they are not irrelevant and, in particular, will generally assist in ascertaining the proper scope of an employee's income-earning activities to determine whether an expense has been incurred in the course of earning assessable income. [17] Furthermore, the fact that an employee incurs an expense on a voluntary basis (that is, not at the direction of their employer) does not necessarily preclude a deduction under section 8-1.[18]

*Example 6 – deductible without employer's requirement*

32. *Salome works as the practice manager for a suburban doctor's surgery. To help develop her skills in her current role she undertakes a Diploma of Practice Management. Her employer does not directly encourage her to do the course and does not offer any financial incentive or time off. Despite not having her employer's direct support, Salome can claim a deduction for the cost of undertaking the course as it will assist her in carrying out her current employment duties by improving the specific knowledge and skills she requires to do her job.*

33. By contrast, the encouragement of an employer will not make expenses of self-education deductible if they are not incurred in the course of producing assessable income but, rather, are associated with obtaining new qualifications to commence a new income-earning activity.

*Example 7 – not deductible despite employer's encouragement*

34. *Dermott is employed as a receptionist at a dental practice. His employer encourages him to undertake a Certificate III in Dental Assisting, offering study leave and a guaranteed job with increased*

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[17] Refer to paragraph 48 of this Ruling which indicates that an employment requirement to travel away from home for work purposes may give otherwise private outgoings, incurred in the course of the work travel, an income producing character.

[18] *Commissioner of Taxation (Cth) v Finn* [1961] HCA 61; *Commissioner of Taxation (Cth) v Faichney* [1972] HCA 67.

*salary as a dental assistant if he completes the course. Dermott cannot claim a deduction for the course fees despite his employer encouraging the study. The course does not assist him in carrying out his existing employment duties or improve the knowledge or skills he needs as a receptionist to earn his current income. As the study relates to a potential new job as a dental assistant, the expenses of that study are a prerequisite to earning income from a new role and not incurred in the course of earning his income.*

35. Although the directions of an employer do not determine the question of deductibility, they may have relevance for determining the proper scope of an employee's duties and income-earning activities. This may assist in determining whether a voluntary expenditure was incurred in the course of producing assessable income.

*Example 8 – not deductible – outside scope of duties*

36. *Barry drives a courier van provided by his employer. In the event that the vehicle breaks down, Barry's employer has provided him with a road service phone number and instructed him not to attempt to carry out any repairs himself. Barry cannot claim a deduction or depreciation for auto repair tools he may have purchased. He has been employed only to drive the van and the repair activities cannot be done in connection with his employment. As the expenses do not relate to his employment, they do not have the necessary connection with the earning of assessable income and are not deductible.*

### *'To the extent' incurred in gaining or producing your assessable income*

37. The use of the phrase 'to the extent' in section 8-1 means that expenses may be deductible only in part if incurred in gaining or producing assessable income as well as for some other use, object or purpose.[19]

38. In these circumstances, it is appropriate to apportion expenses between their income-producing, and other, elements. In cases where there is no obvious method of apportionment, it is to be done on a 'fair and reasonable' basis.[20] What is fair and reasonable depends on the particular facts and circumstances relating to the expense.

39. A common approach for employee expenses is time-based apportionment between work-related and private use of an expense item.

[19] *Kidston Goldmines Ltd v Commissioner of Taxation* [1991] FCA 351.
[20] *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15.

*Example 9 – apportioning expenses*

40. *Toby is employed as a real estate agent and he uses his personal mobile phone for work. He owns his own handset and is on a mobile plan which costs $40 per month. Toby keeps suitable records*[21] *which show that 80% of the time he spends on calls is for work purposes. When claiming a deduction, he could use the time basis to reasonably apportion his mobile expenses between their work and private elements. As 80% of his usage relates to earning his employment income, 80% of the expenses are deductible. The remaining 20% are private in nature and not deductible.*[22]

### The negative tests

41. Even if an expense meets the positive test, a deduction cannot be claimed if it fails one of the negative tests. The negative tests are whether an expense is:

- capital or capital in nature
- a private or domestic expense
- incurred in gaining or producing exempt income.

#### *Capital or capital in nature*

42. Even if the positive test of section 8-1 is satisfied, an employee cannot claim a deduction for expenditure that is capital, or capital in nature.

43. Broadly, 'capital or capital in nature' refers to expense items that are not regular or recurrent but, rather, are one-off expenditures that can be expected to have an enduring or lasting benefit.[23] In the context of employee expenses, examples would be items such as a tradesperson's box of tools or a laptop computer used to perform employment tasks.

44. Although the costs of such items are not deductible, an employee may be able to claim a deduction for an amount representing their annual decline in value (or depreciation) under the capital allowance provisions of Division 40. As indicated in paragraph 4 of this Ruling, a condition for the deduction is use of the depreciating asset for the purpose of producing assessable income.[24]

45. Apportionment is required if the asset is used for both the purpose of producing assessable income and other purposes. A

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[21] The records kept are in accordance with paragraph 6 of Law Administration Practice Statement PS LA 2001/6 *Verification approaches for home office running expenses and electronic device expenses*.
[22] Refer to Part B of the *Employees guide for work expenses* for further information on apportionment.
[23] *Sun Newspapers Limited v Federal Commissioner of Taxation* [1938] HCA 73.
[24] Refer to Division 40 and the annual guide titled '*Guide to depreciating assets*' available on ato.gov.au, or through the ATO publications ordering service.

depreciation claim by an employee is also a work expense that must be substantiated to obtain a deduction.[25]

### *Private or domestic expenditure*

46. Even if the positive test of section 8-1 is satisfied, employees cannot claim deductions for outgoings that are private or domestic in nature. The terms 'private' and 'domestic' are not defined in the Act but have the ordinary meanings of 'personal' and 'relating to the home, household or household affairs' respectively.

47. Although the separate presence of a private test within section 8-1 implies that expenditure of this nature could otherwise qualify as a deduction under the positive test, it has been observed that it is a 'rare case where an outgoing incurred in gaining assessable income is also an outgoing of a private nature'.[26] Characterisation of an expense as private typically supports a conclusion that the expense does not have a sufficiently close connection to the earning of assessable income by the employee.

48. Everyday clothing, personal grooming items, and food and drink are usually private expense items, even if an employer encourages or gives instructions to incur the expenditure.[27] However, expenses that are typically of a private nature may be deductible when there is a sufficiently close and real connection to the employment activities that produce assessable income for the employee. An example is expenditure on food and drink incurred in the course of overnight travel away from home for work purposes.

49. The 'domestic' exclusion from deductibility is the basis on which home-occupancy expenses, such as rent, mortgage interest, rates and insurance have been held to be not deductible even when a portion of a residence has been set aside for use only as a home office.[28] The domestic character of these home-occupancy expenses can preclude a deduction notwithstanding the connection that might otherwise be established between the expenditure and the gaining of assessable income. However, there may be instances of home-occupancy expenses not having a domestic character, such as when a portion of a residence is properly characterised as a place of business. In such a case, a relevant portion of the expenses may be deductible.[29]

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[25] Subsection 900-30(7).
[26] *Commissioner of Taxation (Cth) v Hatchett* [1971] HCA 47.
[27] *Commissioner of Taxation v Cooper, R.J.* [1991] FCA 190.
[28] *Commissioner of Taxation (Cth) v Forsyth* [1981] HCA 15 and *Handley v Commissioner of Taxation (Cth)* [1981] HCA 16.
[29] Refer to Taxation Ruling TR 93/30 *Income tax: deductions for home office expenses*.

### *Gaining or producing exempt income*

50. Deductions cannot be claimed for expenses incurred in earning tax exempt income.[30] An example is the entitlement to pay and allowances as a member of the Army Reserve, which are exempt from income tax.[31] Any expenses incurred in earning these tax-exempt amounts are not deductible.

### Substantiation requirements

51. An expense item which satisfies the tests in section 8-1 can only be deducted as a work expense if the employee can substantiate it by getting written evidence.[32] Written evidence includes paper and electronic evidence.

52. Written evidence for goods or services purchased is a document (typically a receipt or invoice, whether it be paper or electronic) that shows the[33]:

- name or business name of the supplier
- amount of the expense
- nature of the goods or services purchased
- date the expense was incurred, and
- date the document was produced.

53. In circumstances where such a document has not been obtained, the Commissioner will accept another form of evidence, or multiple forms of evidence, which together show all of the elements in paragraph 52 of this Ruling.

*Example 10 – acceptable substantiation*

54. *William paid for his annual professional association fees but did not get a receipt. He did have the membership renewal form which showed the amount of the expense, the business name of the supplier and the amount of the expense. His bank records show he paid the professional organisation on the date the fees were due, which shows the date the expense was incurred and that it was for the amount set out on the membership renewal form. By contrast, if William only had his bank statement, it would not be acceptable for substantiation purposes because the statement does not have all of the elements required by the legislation for written evidence.*

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[30] Section 51-1 states that amounts of ordinary income and statutory income covered by relevant tables in Division 51 are exempt from income tax.
[31] Table item 1.4 of section 51-5.
[32] Paragraph 900-15(1)(b).
[33] Section 900-115 (note that section 900-120 contains slightly different written evidence requirements for depreciating asset expenses).

### *Exceptions and relief from substantiation*

55. There are also specific exceptions and relief from substantiation provided in Division 900.

56. The exceptions are:

- If the total of work expenses is $300 or less (not including certain car[34], travel allowance expenses and meal allowance expenses), the amount spent can be claimed without getting written evidence, although records must be kept showing how the amount of the claim was calculated.[35]
- If the total of laundry expenses is $150 or less, the amount spent can be claimed without getting written evidence, although records must be kept showing how the claim was calculated.[36] Laundry expenses do not include dry cleaning expenses.[37] Refer to Taxation Ruling TR 98/5 *Income tax: calculating and claiming a deduction for laundry expenses* for more information on laundry expenses and the substantiation exception.
- If an allowance is received by an employee whose claim for travel expenses or overtime meal expenses is less than the amount considered reasonable by the Commissioner, the amount spent can be claimed without getting written evidence, although records must be kept showing how the amount of the claim was calculated and that it was incurred.[38] Refer to Taxation Ruling TR 2004/6 *Income tax: substantiation exception for reasonable travel and overtime meal allowance expenses* for more information on the Commissioner's reasonable amounts.

*Example 11 – expenses with different substantiation rules*

57. *During the year, Xannel incurs laundry expenses of $140 and $250 for work boots. As Xannel's total work expenses are more than $300, the written evidence exception doesn't apply. This means Xannel must substantiate his claim for work boots.*

58. *However, because of the laundry expense exception, he does not need written evidence of his laundry expenses, though he will need to show how he calculated his expenses*.

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[34] There are specific exceptions regarding car expenses depending upon whether you use the cents per kilometre method or the logbook method: see section 28-35 and subsection 900-70(3).
[35] Section 900-35.
[36] Section 900-40.
[37] Laundry expenses include washing, drying or ironing clothes – see subsection 900-40(4).
[38] Sections 900-50, 900-55 and 900-60.

59. In the following circumstances, the employee may prepare their own record or use an alternative form of evidence rather than get written evidence from the supplier[39]:

- if the employee makes small purchases of $10 or less and the total of small purchases is $200 or less over the year[40]
- if the Commissioner considers it is too hard to get written evidence[41], or
- if the nature and amount of a work expense is shown on a payment summary or income statement, then this can be used as evidence.[42]

60. In limited circumstances, the Commissioner may also grant relief from substantiation, for example, where there is sufficient evidence to indicate the expense was incurred[43], where there was a reasonable expectation that the expense would not need to be substantiated[44], or where documents have been lost or destroyed despite the taking of reasonable precautions.[45] Refer to Taxation Ruling TR 97/24 *Income tax: relief from the effects of failing to substantiate* for more information on the relief from the effects of failing to substantiate.

# Date of effect

61. This Ruling applies to years of income commencing both before and after its date of issue. However, this Ruling will 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 this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

**Commissioner of Taxation**
1 April 2020

[39] What the record needs to include is addressed in paragraph 52 of this Ruling.
[40] Section 900-125.
[41] Section 900-130.
[42] Section 900-135.
[43] Section 900-195.
[44] Section 900-200.
[45] Section 900-205.

# Appendix 1 – Further guidance

***This Appendix is provided to give further guidance in relation to the Commissioner's view. It does not form part of the binding public ruling.***

62. The principles outlined in this Ruling are supported by additional guidance which covers specific occupations and common situations. Specifically, the *Employees guide for work expenses* was co-developed with this Ruling to provide practical guidance on the most common scenarios, and to provide contextual information on related topics such as apportionment and substantiation.

63. In addition, we have published a wide variety of other material that deals with more specific issues or expense types. This material includes legally binding taxation rulings and taxation determinations as well as products that are not legally binding, including income tax rulings, miscellaneous taxation rulings, ATO interpretative decisions (ATO IDs) and law administration practice statements (LAPS).

64. ATO IDs promote consistent and efficient decision making. They set out the precedential ATO view that ATO staff must apply in resolving interpretative issues, unless it is considered that application of the precedent will result in an incorrect decision or unintended outcome, in which case the issue is escalated for further review. As such, ATO IDs do not provide advice to taxpayers and are not public rulings.

65. However, because ATO IDs are published for transparency reasons on the ATO Legal database, and provide a level of general guidance, this Appendix includes links to ATO IDs covering work expense issues.

66. LAPS are produced primarily to provide direction to ATO staff on approaches to take when performing duties involving the laws the ATO administers. LAPS are published on the ATO Legal database, but they are not law and they are not public rulings. They are not intended to provide interpretative advice, but technical issues may be discussed in LAPS in the course of providing direction to ATO staff. As with ATO IDs, this Appendix includes links to LAPS that are relevant to work expense issues.

67. The public rulings, ATO IDs and LAPS relating to work expenses have been grouped under the headings:

- Work-related travel and car expenses
- Work-related clothing, laundry and dry-cleaning expenses
- Work-related self-education expenses
- Other work related expenses
  - Work-related physical fitness expenses
  - Work-related home office expenses

  - Work-related insurance expenses
  - Work-related legal expenses
  - Grooming and cosmetics
  - Protective items
  - Memberships and subscriptions
- General deduction topics
- Private non-deductible expenses
- Substantiation

68. **Work-related travel and car expenses**

Taxation Ruling TR 2021/1 *Income tax: when are deductions allowed for employees' transport expenses?*

Taxation Ruling TR 2021/4 *Income tax and fringe benefits tax: employees:*

- *accommodation and food and drink expenses*
- *travel allowances, and*
- *living-away-from-home allowances*

Taxation Ruling TR 95/34 *Income tax: employees carrying out itinerant work – deductions, allowances and reimbursements for transport expenses*

Taxation Ruling IT 2543 *Income tax: transport allowances: deductibility of expenses incurred in travelling between home and work*

Miscellaneous Taxation Ruling MT 2027 *Fringe benefits tax: private use of cars: home to work travel*

Taxation Ruling IT 2199 *Income tax: allowable deductions: travelling expenses between place(s) of employment and/or place(s) of business*

Taxation Ruling IT 2481 *Income tax: travelling expenses of an employee moving to a new locality of employment*

Taxation Determination TD 96/42 *Income tax: is the cost of travel between a taxpayer's residence, being a property on which the taxpayer carries on a business of primary production and a place of employment or business, deductible?*

Taxation Determination TD 94/71 *Income tax: where a person provides 'consultancy services' as an employee of an interposed entity (such as a non-arm's length company, trust or partnership which has its base of practice at the employee's place of residence), are travel expenses incurred by the person in travelling between his or her place of residence and a place where the person performs the services deductible?*

Taxation Ruling IT 2566 *Income tax: deductibility of travelling expenses of employee, spouse and family incurred by employer in relocating the employee*

Taxation Ruling IT 2614 *Income tax and fringe benefits tax: employee expenses incurred on relocation of employment*

Law Administration Practice Statement PS LA 1999/2 *Calculating joint car expense deductions*

ATO Interpretative Decision ATO ID 2002/1005 *Travel expenses incurred in respect of work related items*

ATO Interpretative Decision ATO ID 2004/614 *Deduction: installing a portable global positioning system in a motor vehicle*

ATO Interpretative Decision ATO ID 2001/329 *Overseas travel expenses – airfares*

ATO Interpretative Decision ATO ID 2004/847 *Deductions: work related travel – privately accrued consumer loyalty points*

ATO Interpretative Decision ATO ID 2001/615 *Deductibility of travel insurance*

69. **Work-related clothing, laundry and dry–cleaning expenses**

Taxation Ruling TR 97/12 *Income tax and fringe benefits tax: work related expenses: deductibility of expenses on clothing, uniform and footwear*

Taxation Determination TD 1999/62 *Income tax: what are the criteria to be considered in deciding whether clothing items constitute a compulsory corporate uniform/wardrobe for the purposes of paragraph 30 of Taxation Ruling TR 97/12?*

Taxation Ruling TR 98/5 *Income tax: calculating and claiming a deduction for laundry expenses*

Taxation Ruling TR 2003/16 *Income tax: deductibility of protective items*

Taxation Ruling TR 96/16 *Income tax: work-related expenses: deductibility of expenses on compulsory uniform shoes, socks and stockings*

Taxation Ruling TR 94/22 *Income tax: implications of the Edwards case for the deductibility of expenditure on conventional clothing by employees*

Taxation Determination TD 93/111 *Income tax: is expenditure on dinner suits and other similar clothing worn by members of an orchestra deductible?*

70. **Work-related self-education expenses**

Taxation Ruling TR 98/9 *Income tax: deductibility of self-education expenses incurred by an employee or a person in business*

Taxation Determination TD 93/175 *Income tax: is expenditure incurred by an employee in applying for a promotion deductible under subsection 51(1) of the Income Tax Assessment Act 1936?*

ATO Interpretative Decision ATO ID 2005/26 Deductions: self education – course fees paid from FEE-HELP loan funds

ATO Interpretative Decision ATO ID 2005/27 Deductions: self education – payments made to reduce FEE-HELP debt

ATO Interpretative Decision ATO ID 2003/84 Self-education expenses – personal development course

ATO Interpretative Decision ATO ID 2003/614 *Deductions: self-education – personal development course*

ATO Interpretative Decision ATO ID 2012/65 *Deductions: student services and amenities fee*

ATO Interpretative Decision ATO ID 2002/517 *Self-education expenses: driver education course*

ATO Interpretative Decision ATO ID 2005/69 *Self education expenses: cancellation of enrolment of study*

ATO Interpretative Decision ATO ID 2002/902 *Deductibility of damages paid for breach of employment contract – repayment of self-education expense*

### Other work-related expenses

71. ***Work-related physical fitness expenses***

Taxation Determination TD 93/112 *Income tax: is a taxpayer who is required, as a condition of employment, to be within a specified weight to height ratio entitled to a deduction for a weight reduction program?*

Taxation Determination TD 93/114 *Income tax: is a police officer, who is required to maintain an adequate level of physical fitness in order to undertake police duties, entitled to claim a deduction for fitness related expenditure?*

72. ***Work-related home office expenses***

Taxation Ruling TR 93/30 *Income tax: deductions for home office expenses*

Law Administration Practice Statement PS LA 2001/6 *Verification approaches for home office running expenses and electronic device expenses*

73. ***Work-related insurance expenses***

Taxation Determination TD 93/22 *Income tax: is a professional sportsperson who is required to take out private health insurance entitled to a deduction for related contributions under subsection 51(1)?*

ATO Interpretative Decision ATO ID 2004/393 *Deductions: motor vehicle expenses – insurance policy excess*

ATO Interpretative Decision ATO ID 2001/615 *Deductibility of travel insurance*

74. ***Work-related legal expenses***

Taxation Determination TD 93/29 *Income tax: if an employee incurs legal expenses recovering wages paid by a dishonoured cheque, are these legal expenses an allowable deduction under section 8-1 of the Income Tax Assessment Act 1997?*

Taxation Ruling TR 2012/8 *Income tax and fringe benefits tax: assessability of amounts received to reimburse legal costs incurred in disputes concerning termination of employment* [44]

ATO Interpretative Decision ATO ID 2010/209 *Legal expenses incurred in pursuit of an assessable workers compensation payment for lost earnings*

ATO Interpretative Decision ATO ID 2010/131 *Legal Expenses: payment in lieu of notice under an employment contract*

ATO Interpretative Decision ATO ID 2002/692 *Legal Expenses – defending a driving charge*

ATO Interpretative Decision ATO ID 2002/666 *Legal Expenses – taking defamation action*

ATO Interpretative Decision ATO ID 2002/664 *Deductions & Expenses: Legal fees incurred in defending a claim of harassment and victimisation*

ATO Interpretative Decision ATO ID 2002/391 *Legal Expenses – recovery of unused annual leave and unused long service leave from ex-employer*

ATO Interpretative Decision ATO ID 2002/213 *Legal Expenses – Release from existing employment to take up new employment*

ATO Interpretative Decision ATO ID 2001/549 *Legal Expenses – Defamation Action*

ATO Interpretative Decision ATO ID 2001/27 *Deductions and expenses: Legal expenses in course of employment*

ATO Interpretative Decision ATO ID 2004/659 *Deductions: travel and incidental expenses – legal action to recover unpaid wages.*

75. ***Grooming and cosmetics***

Taxation Ruling TR 96/18 *Income tax: cosmetics and other personal grooming expenses*

76. ***Protective items***

Taxation Ruling TR 2003/16 *Income tax: deductibility of protective items*

Taxation Ruling IT 2477 *Income tax: deductibility of tinted eye glasses used by a visual display unit (VDU) operator*

77. ***Memberships and subscriptions***

Taxation Ruling TR 2000/7 *Income tax: subscriptions, joining fees, levies and contributions paid to associations by individuals*

Taxation Determination TD 1999/45 *Income tax: is the cost of life membership paid to a work-related or business association an allowable deduction and, if it is, is it allowable in full in the year it is paid?*

Taxation Determination TD 2000/17 *Income tax: is a prescribed fee paid by a person to the Industrial Registrar in lieu of an annual subscription to a trade union or employee association an allowable deduction under section 8-1 of the Income Tax Assessment Act 1997?*

78. **General deduction topics**

Taxation Ruling TR 97/7 *Income tax: section 8-1 – meaning of 'incurred' – timing of deductions*

Taxation Ruling IT 2198 *Income tax: allowable deductions: expenditure voluntarily incurred by employee taxpayers*

Taxation Ruling TR 2000/5 *Income tax and fringe benefits tax: costs incurred in preparing and administering employment agreements*

Taxation Ruling TR 1999/10 *Income tax and fringe benefits tax: Members of Parliament – allowances, reimbursements, donations and gifts, benefits, deductions and recoupments*

Taxation Ruling TR 1999/17 *Income tax: sportspeople – receipts and other benefits obtained from involvement in sport*

Taxation Determination TD 93/49 *Income tax: is an employee who receives an allowance to compensate for the inconvenience, isolation and discomfort encountered during the course of employment, automatically entitled to any deduction against the allowance?*

ATO Interpretative Decision ATO ID 2002/472 *Deductibility of wages paid by an employee to another person*

ATO Interpretative Decision ATO ID 2002/341 *Deductions – employee pays employer company's operating expenses*

ATO Interpretative Decision ATO ID 2002/1068 *Employee Driver – deductibility of contributions to a traffic fund*

ATO Interpretative Decision ATO ID 2010/187 *Deductions and expenses: contributions to meals – shearing Industry*

### 79. Private non-deductible expenses

Taxation Ruling TR 2002/7 *Income tax: deductibility of payments to strike funds*

Taxation Determination TD 93/108 *Income tax: are taxpayers entitled to a deduction for the cost of renewing a driver's licence?*

Taxation Determination TD 93/115 *Income tax: is the cost incurred in maintaining a 'silent' telephone number an allowable deduction?*

Taxation Determination TD 93/26 *Income tax: is the cost of a meal purchased after the completion of one job and prior to the commencement of another job an allowable deduction?*

ATO Interpretative Decision ATO ID 2002/319 *Beverage Analyst – purchase of wine for tasting*

ATO Interpretative Decision ATO ID 2002/495 *Deductibility of meal expenses – live-in carer*

### 80. Substantiation

Taxation Ruling TR 97/24 *Income tax: relief from the effects of failing to substantiate*

Taxation Ruling TR 2004/6 *Income tax: substantiation exception for reasonable travel and overtime meal allowance expenses*

Taxation Ruling IT 2482 *Income tax: credit card receipts: documentary evidence required to substantiate certain expenses*

Taxation Determination TD 93/97 Income tax: *if a taxpayer claims a deduction for self education expenses under section 8-1 of the Income Tax Assessment Act 1997, is the amount of $250 spent, but disallowed as a deduction under section 82A of* the *Income Tax Assessment Act 1936*, *excluded from the substantiation provisions?*

Law Administration Practice Statement PS LA 2005/7 *Substantiating an individual's work- related expenses*

Law Administration Practice Statement PS LA 2011/25 *Reconstructing records and making reasonable estimates for taxpayers affected by a disaster*

# Appendix 2 – Detailed contents list

81. The following is a detailed contents list for this Ruling:

# References

*Previous draft:*

TR 2019/D4

*Related Rulings/Determinations:*

IT 2198; IT 2199; IT 2481; IT 2477; IT 2482; IT 2543; IT 2566; IT 2614; MT 2027; TD 93/22; TD 93/26; TD 93/29; TD 93/49; TD 93/97; TD 93/111; TD 93/112; TD 93/114; TD 93/115; TD 93/175; TD 94/71; TD 96/42; TD 1999/45; TD 1999/62; TD 2000/17; TR 93/30; TR 95/34; TR 96/16; TR 96/17; TR 96/18; TR 97/7; TR 97/12; TR 94/22; TR 97/24; TR 98/5; TR 98/9; TR 1999/10; TR 1999/17; TR 2000/5; TR 2000/7; TR 2002/7; TR 2003/16; TR 2004/6; TR 2006/10; TR 2012/8; TR 2021/1; TR 2021/4

*Related interpretative decisions:*

ATO ID 2001/27; ATO ID 2001/329; ATO ID 2001/549; ATO ID 2001/615; ATO ID 2002/213; ATO ID 2002/319; ATO ID 2002/341; ATO ID 2002/391; ATO ID 2002/472; ATO ID 2002/495; ATO ID 2002/517; ATO ID 2002/664; ATO ID 2002/666; ATO ID 2002/692; ATO ID 2002/902; ATO ID 2002/1005; ATO ID 2002/1068; ATO ID 2003/84; ATO ID 2003/614; ATO ID 2004/393; ATO ID 2004/614; ATO ID 2004/659; ATO ID 2004/847; ATO ID 2005/26; ATO ID 2005/27; ATO ID 2005/69; ATO ID 2010/131; ATO 2010/187; ATO ID 2010/209; ATO ID 2012/65

*Legislative references:*

- ITAA 1936 51AH
- ITAA 1997 8-1
- ITAA 1997 8–1(1)(a)
- ITAA 1997 8–1(2)
- ITAA 1997 Div 40
- ITAA 1997 40–25
- ITAA 1997 40–25(7)
- ITAA 1997 Div 51
- ITAA 1997 51–1
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- ITAA 1997 900–15(1)(b)
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- ITAA 1997 900–55
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- ITAA 1997 900–115
- ITAA 1997 900-120
- ITAA 1997 900–125
- ITAA 1997 900–130
- ITAA 1997 900–135
- ITAA 1997 900–195
- ITAA 1997 900–200
- ITAA 1997 900–205

*Cases relied on:*

- Commissioner of Taxation v Cooper, R.J. [1991] FCA 190; 29 FCR 177; 91 ATC 4396; 21 ATR 1616
- Commissioner of Taxation v Payne [2001] HCA 3; 202 CLR 93; 177 ALR 270
- Commissioner of Taxation (Cth) v Faichney [1972] HCA 67; (1972) 129 CLR 38; 72 ATC 4245; 3 ATR 435
- Commissioner of Taxation (Cth) v Finn [1961] HCA 61; (1961) 106 CLR 60
- Commissioner of Taxation (Cth) v Hatchett [1971] HCA 47; (1971) 125 CLR 494; 71 ATC 4184; 2 ATR 557
- Commissioner of Taxation (Cth) v James Flood Pty Ltd [1953] HCA 65; (1953) 88 CLR 492
- Kidston Goldmines Ltd v Commissioner of Taxation [1991] FCA 351; 30 FCR 77; 91 ATC 4538; 22 ATR 168
- Mansfield, Jill Honor v Commissioner of Taxation [1995] FCA 1008; 96 ATC 4001; 31 ATR 367
- New Zealand Flax Investments Limited v Federal Commissioner of Taxation [1938] HCA 60; (1938) 61 CLR 179
- Ronpibon Tin NL v Commissioner of Taxation

(Cth) [1949] HCA 15; (1949) 78 CLR 47; [1949] ALR 785
- Sun Newspaper Limited v Federal Commissioner of Taxation [1938] HCA 73; 61 CLR 337

*Other references:*
- PS LA 2005/7
- PS LA 2008/3
- Employees guide for work expenses
- Guide to depreciating assets

ATO references

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