TR 2024/3 - Income tax: deductibility of self-education expenses incurred by an individual

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Taxation Ruling

Income tax: deductibility of self-education expenses incurred by an individual

Relying on this Ruling

This publication 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.

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What this Ruling is about

1. This Ruling sets out the principles on the deductibility of self-education expenses under section 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997).

2. The Ruling also discusses the types of expenditure that can be deductible as a self-education expense, as well as those that cannot.

3. For the purpose of this Ruling, self-education includes:

- courses undertaken at an educational institution (whether leading to a formal qualification or not)
- courses provided by a professional or industry organisation
- attendance at work-related conferences or seminars
- self-paced learning and study tours (whether within Australia or overseas).

4. This Ruling should be read in conjunction with Taxation Ruling TR 2020/1 *Income tax: employees: deductions for work expenses under section 8-1 of the Income Tax Assessment Act 1997,* which provides the foundation of general deductibility principles for work expenses[1] under section 8-1.

5. All legislative references in this Ruling are to the ITAA 1997, unless otherwise indicated.

6. This Ruling does not address:

- paragraph 8-1(1)(b), which deals with outgoings necessarily incurred by a business. Paragraph 8-1(1)(a) applies to individuals when claiming self-education expenses regardless of whether they are employed, contracted, or carrying on a business
- substantiation[2] and record-keeping[3] requirements
- former section 82A of the *Income Tax Assessment Act 1936* (ITAA 1936), which operated to limit the amount of expenses otherwise deductible.[4] This section was repealed on 28 November 2022 with effect from 1 July 2022. Refer to Taxation Ruling TR 98/9 *Income tax: deductibility of self-education expenses incurred by an employee or a person in business* (now withdrawn)

[1] As defined in subsection 900-30(1).
[2] Division 28 (car expenses) and Division 900 (substantiation rules) for individuals incurring self-education expenses in gaining or producing their assessable income.
[3] Section 262A of the *Income Tax Assessment Act 1936* for individuals necessarily incurring self-education expenses in carrying on a business for the purpose of gaining or producing their assessable income.
[4] Section 82A operated to limit the amount of expenses otherwise allowable as a deduction under section 8-1 if the expenses fell within the definition of 'expenses of self-education'. Only the excess of the self-education expenses over $250 were allowed as a deduction under section 8-1. However, 'expenses of self-education' that couldn't be claimed under section 8-1, could still be used to offset the $250 reduction.

for the Commissioner's view on how section 82A applied prior to being repealed.

7. While the older cases cited in this Ruling consider deductibility under subsection 51(1) of the ITAA 1936, the decisions in these cases and the discussion in this Ruling apply equally to section 8-1. All references to subsection 51(1) of the ITAA 1936 should therefore be taken as including a reference to section 8-1, and vice versa.

8. The examples in this Ruling are for illustrative purposes only. You should not assume that your situation will have the same outcome as the example, even if you have similar facts or undertake the same study as shown in the example. Differences in occupation and industry requirements, your specific income-earning activities, and the relevance of the expense to the income-earning activities may produce different outcomes.

Previous rulings

9. This Ruling updates TR 98/9 and paragraphs 11(d), 13(c), 43 and 44 of Taxation Ruling TR 92/8 *Income tax: deductibility of self-education expenses* (now withdrawn), which were reproduced in a note at the end of TR 98/9.

10. TR 98/9 and the relevant paragraphs from TR 92/8 were withdrawn with effect from the date this Ruling was issued as a draft for public comment, being 27 September 2023.

Ruling

Deductibility under section 8-1

11. Self-education expenses are deductible under section 8-1 to the extent that they:

- are incurred[5] in gaining or producing your assessable income, and
- are not[6]
  - capital[7], private or domestic in nature
  - incurred in gaining or producing exempt or non-assessable non-exempt income[8]
  - prevented from being deductible by a specific provision in the tax law.

12. A deduction is not available for self-education expenses incurred to the extent they are reimbursed.[9]

[5] See Taxation Ruling TR 97/7 *Income tax: section 8-1 – meaning of 'incurred' – timing of deductions.*
[6] Subsection 8-1(2).
[7] If not deductible under section 8-1, a capital outgoing may nevertheless be recognised under another provision (such as a deduction for the decline in value of a depreciating asset under section 40-25).
[8] This Ruling does not address expenses incurred in gaining or producing exempt or non-assessable non-exempt (NANE) income. Exempt income is income you don't pay tax on, such as certain scholarships, grants and awards. Some exempt income is included in your tax return for use in other tax calculations. NANE income is income you do not pay tax on and is not included in your tax return. You cannot claim any deductions against your exempt income or your NANE income, including deductions for self-education expenses.
[9] For expenses incurred by an employee, see section 51AH of the ITAA 1936. See also Taxation Ruling TR 92/15 *Income tax and fringe benefits tax: the difference between an allowance and a reimbursement.*

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In gaining or producing assessable income

13. To be deductible under section 8-1, expenditure must be able to be characterised as having been incurred in gaining or producing assessable income.[10]

14. It is well established that the words 'in gaining or producing assessable income' are to be understood to mean '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.[11]

15. This means there must be a relationship, or close connection, between the expenditure and what it is that you do to produce your assessable income[12], or if none is produced, would be expected to produce your assessable income.[13]

16. It is not enough to show only that there is some perceived connection, general link or causal connection between the expenditure and the production of your income.[14] The expenditure must have a close connection to the performance of the duties and activities through which you earn your income.

17. The question of what produces your assessable income should not be approached narrowly. It requires consideration of the tasks to be performed and the duties to be observed[15] (referred to as your income-earning activities).

18. The reason or motive for undertaking the self-education is not determinative of whether the expense is incurred in gaining or producing your assessable income[16]:

> In many, if not most, cases the objective relationship between an expenditure and that which is productive of income will provide a sufficient answer to the inquiry posed by [section 8-1].

19. Having the support or encouragement of your employer to undertake the self-education also is not, by itself, determinative of whether the expense is deductible.[17]

20. Furthermore, the fact that you incur an expense on a voluntary basis (that is, not at the direction of your employer) does not necessarily preclude a deduction.[18]

21. A partial deduction may be appropriate where only part of your expense is for self-education connected with your income-earning activities or where only part of the self-education is relevant to your current income-earning activities.[19]

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[10] *Fletcher v Commissioner of Taxation (Cth)* [1991] HCA 42 (*Fletcher*).
[11] *Commissioner of Taxation v Payne* [2001] HCA 3 (*Payne*) at [9].
[12] *Commissioner of Taxation v Day* [2008] HCA 53 (*Day*) at [21].
[13] *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15 (*Ronpibon*); (1949) 78 CLR 47 at [57]. Here the majority referred to 'the occasion of the loss or outgoing'.
[14] *Payne* at [13]; *Ting and Commissioner of Taxation* [2015] AATA 166 (*Ting*) at [33].
[15] *Day* at [33].
[16] *Day* at [39], citing *Fletcher*.
[17] *Commissioner of Taxation (Cth) v Hatchett* [1971] HCA 47 *(Hatchett)*; 125 CLR 494 at [499]. 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. This will often assist in determining whether a voluntary expenditure was incurred in gaining or producing income.
[18] As was the case in *Commissioner of Taxation (Cth) v Finn* [1961] HCA 61 *(Finn)* and *Commissioner of Taxation (Cth) v Faichney* [1972] HCA 67.
[19] As was the case in *Naglost and Commissioner of Taxation* [2001] AATA 1051 and *Ting*. See paragraphs 76 to 90 of this Ruling for more on apportionment.

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22. Self-education expenses are incurred in gaining or producing your assessable income if either or both of the following apply:

- Your income-earning activities are based on the exercise of a skill or some specific knowledge and the self-education enables you to maintain or improve that skill or knowledge. (***Principle 1***)
- The self-education objectively leads to, or is likely to lead to, an increase in your income from your current income-earning activities in the future. (***Principle 2***)

23. Self-education expenses are not incurred in gaining or producing your assessable income if either of the following apply:

- The self-education will enable you to get employment, to obtain new employment or to open up a new income-earning activity (whether in business or in your current employment). This includes studies relating to a particular profession, occupation or field of employment in which you are not yet engaged. These expenses are incurred at a point too soon to be regarded as incurred in gaining or producing your assessable income.[20] (***Exclusion 1***)
- You are not undertaking income-earning activities to derive assessable income at the time you incurred the expenses. These expenses are not connected to any income-earning activity at the time they are incurred.[21] (***Exclusion 2***)

24. The principles and exclusions outlined in paragraphs 22 and 23 of this Ruling are not mutually exclusive and should not be considered in isolation.

25. Furthermore, the many cases dealing with self-education expenses and section 8-1 are no more than examples of the application of these general principles and exclusions to the facts of those cases. These cases provide an indication of the facts relevant in determining the deductibility of self-education expenses. The expressions used in these cases should be taken to describe an attribute of an expenditure in a particular case rather than being an exhaustive test ascertaining the limits of the operation of the general deduction provision. It is, therefore, always necessary to read the words of section 8-1 and apply them to the facts.[22]

Principle 1: Income-earning activities based on skill or specific knowledge

26. Where your income-earning activities are based on the exercise of a skill or having specific knowledge, self-education expenses incurred to maintain or improve that knowledge or your ability to exercise those skills are deductible.[23]

27. Whether the self-education enables you to maintain or improve a skill or specific knowledge is a question of fact to be determined by all the facts and circumstances of your particular case.

[20] *Federal Commissioner of Taxation v Maddelena* 2 ATR 541 (*Maddelena*) at [549] and *Ting* at [35].
[21] *Thomas and Commissioner of Taxation* [2015] AATA 687 (*Thomas*) at [33]. Note an expense is incurred when an amount is actually paid or when a definitive obligation to pay the amount arises – see TR 97/7. Fees for courses that have a census date are incurred on that date unless they have been paid prior to the census date.
[22] *Day* at [29].
[23] *Finn*, per Windeyer J.

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28. Courts and tribunals have found the following when considering whether self-education expenses were incurred to maintain or improve knowledge or skills:

- If the self-education is too general in terms of your current income-earning activities, the necessary connection between the self-education expense and the income-earning activity does not exist. This is often the outcome for the cost of self-improvement or personal development courses because the knowledge and skills obtained is too general.[24]
- Self-education that results in you being better equipped to perform your current income-earning activities is deductible where the self-education has the requisite connection to your income-earning activities at the time.[25]
- Obtaining a higher degree of qualification within your profession or industry is deductible where the self-education has the requisite connection to your income-earning activities at the time.[26]
- Expenditure on an overseas study tour or trip has been found to be deductible in limited circumstances where the study tour or trip had the requisite connection to the income-earning activities at the time. Notable factors to demonstrate such a connection are
  - devoting all of your time while overseas to the advancement of your knowledge relevant to your work[27]
  - the tour or trip is undertaken while you are employed in the relevant role[28]
  - the tour or trip was not recreational or general in nature[29], but rather showed a particular special circumstance to differentiate it from mere recreational satisfaction[30]

[24] *Case No NT85/4912 and Commissioner of Taxation* [1987] AATA 155 where a Taxation Office Inspector was denied a deduction for a course on communication, clear self-expression and work organisation. Contrast with *Case Z42* 92 ATC 381 (also known as *AAT Case 8419* of 1992*)* where a deduction was allowed for a journalist undertaking a speech course because their duties involved interviewing people for feature articles and making presentations to potential advertisers.

[25] In *Studdert v Federal Commissioner of Taxation* 22 ATR 3042, a flight engineer's light aircraft flying lessons were deductible because undertaking the lessons made the taxpayer better equipped to perform his skilled job as a flight engineer. Contrast with *Ting*, where expenditure on financial accounting and marketing subjects in a post-graduate degree were denied for a maths and science teacher as neither the specific subjects, nor the course as a whole, improved or maintained the taxpayer's skills and knowledge as a classroom teacher.

[26] In *Hatchett*, Menzies J. considered 2 different study courses undertaken by a teacher. The teacher's higher certificate was found to be deductible because it had the consequence that the teacher was entitled to a promotion and a higher salary without a change of status. However, a deduction was denied for the teacher's university studies in the Faculty of Arts, despite the fact that the employer encouraged the study and in fact reimbursed the teacher in part for their expenditure, because there was no connection between the self-education and the teacher's income-earning activities.

[27] *Finn* 106 CLR 60 at [65]. Expenses incurred for an overseas study tour devoted to the taxpayer's particular income-earning activities were allowed as a deduction for a senior government architect. Note that Dixon CJ recognised that the facts of the case were simple enough but probably not very usual.

[28] *Finn* 106 CLR 60 at [67].

[29] *Case No NT85/4381 and Commissioner of Taxation* [1987] AATA 175 (*Case NT85/4381*). An overseas trip visiting geological tourist attractions was denied as a deduction for a head of a school science department and science teacher specialising in geology as the expenses were found to be essentially recreational in character.

[30] In *TT86/122; TT86/286 and Commissioner of Taxation* [1987] AATA 72 at [30], it was considered that the travel essentially involved only 'recreational satisfactions in a field of endeavour which was also related in some ways to the field of activity in which [the taxpayer] carried out his principal income-earning activities'.

- the tour or trip was requested or supported by your employer.[31]

29. Expenses incurred on improving skills and specific knowledge are not of a capital nature – they do not amount to the acquisition of something of an enduring nature.[32]

Example 1 – self-education expenses deductible where they maintain or increase specific knowledge required in current position

30. *Barry, a trainee accountant, is studying commerce part time at university as a full fee-paying student. He is allowed a deduction for the costs associated with the course because the course enables Barry to maintain or increase the specific knowledge required in his current position and to carry out his duties more effectively.*

Example 2 – personal development course expenses deductible to extent not reimbursed

31. *Lorraine was recently promoted to a middle management position with her current employer. Her core duties are of a management nature and include the provision of written submissions, negotiation and liaison, facilitation and public speaking. When discussing a learning and development plan with her employer, they agree that Lorraine needs to develop further leadership and communication skills in order to be fully effective in carrying out her current income-earning activities.*

32. *Lorraine attends a personal development course. The course offers tuition in human psychology and motivation, change management, emotional intelligence, communication and assertiveness, conflict resolution and interpersonal skills and values, integrity and self-responsibility.*

33. *Lorraine's attendance at the course is approved and partially subsidised by her employer.*

34. *Lorraine can claim a deduction for the expenses to attend the personal development course. The course assists her to maintain or improve some of the skills required in her employment and improve her performance of her current duties.*

35. *In addition, Lorraine's employer identified Lorraine's skills gap and encouraged her participation in the course by agreeing to subsidise the cost of attendance. Lorraine cannot claim a deduction for the amount subsidised by her employer.*

Example 3 – driving course fee deductible

36. *Tex, an apprentice mechanic, road tests vehicles before and after repairs which are performed at his employer's premises. Road testing is an essential part of Tex's normal duties. Tex would like to start road testing heavy vehicles so he attends a heavy vehicle driver training course at his own cost and obtains a heavy vehicle licence. The course enables Tex to perform his duties with a higher level of skill and may also give Tex increased opportunity for pay rises and promotion.*

[31] In *Finn* 106 CLR 60 at [67–68] where the fact that the taxpayer, in undertaking the overseas trip 'was in fact complying with the desires, and so far as going to South America was concerned, with the actual request of [his employer].' Contrast with *Case NT85/4381,* where an additional factor in denying the deduction was that the taxpayer was not requested to undertake the trip.

[32] *Finn* and *Hatchett.*

37. *Tex can claim a deduction for the cost of attending the heavy vehicle course as it will result in improved efficiency in performing Tex's existing duties. There is a clear relationship between the cost of the course and Tex's income-earning activity.*

Example 4 – expenses of stress management course not deductible

38. *Brianna, a company director, is having difficulty coping with work due to stress brought about by difficulties with her family situation. She decides to attend a 4-week course in stress management to help her deal with the situation. Brianna attends the course after hours and pays for it herself.*

39. *The cost of the course is not allowable as a deduction to Brianna because the course is not designed to maintain or increase the skills or specific knowledge required in her current position. The expenses relate to a private matter so they are also private in nature.*

Example 5 – overseas trip expenses not deductible

40. *Kerr, a senior lecturer in history, holds a tenured appointment with his employer, a college of advanced education. He takes an overseas tour of China with his wife to obtain up-to-date information in his field of academic interest. They travel over the Christmas break when they both have recreation leave available. Kerr considers this will increase his prospects for advancement and avert the possibility of retrenchment. Kerr observes and takes note of anything he considers to be of historical interest. Kerr's duties do not require him to engage in research, however he incorporates some of the 600 photos he takes and some of the learnings from the tour into courses he teaches.*

41. *The cost of the overseas trip is not deductible as it is essentially of a private and recreational nature. The trip is relevant in some ways to the field of income-earning activity carried out by Kerr but this is incidental to the overall private and recreational nature of the trip. The overseas trip is not incurred to maintain or improve his skills or knowledge required to carry out his current duties.*

Principle 2: Leads to, or is likely to lead to, an increase in your income

42. Where the self-education objectively leads to, or is likely to lead to, an increase in your income from your current income-earning activities, the self-education expenses are deductible.

43. Examination is required to determine what it is that is productive of your assessable income[33] and whether the self-education leads to, or is likely to lead to, an increase in your income from your current income-earning activities. This is a question of fact to be determined by all the facts and circumstances of your particular case.

44. The following factors have been identified by courts and tribunals as relevant when considering whether the self-education leads to, or is likely to lead to, an increase in your income from your current income-earning activities:

- The increase in income from your current income-earning activities is clearly and proximately linked with the self-education.[34]

[33] *Ronpibon* and *Day.*
[34] *Finn* 106 CLR 60 at [67], *Federal Commissioner of Taxation v Smith* (1978) 19 ALR 493 *(Smith)* at [499].

- There is a real opportunity for your promotion resulting from the self-education.[35]
- The self-education leads to or is likely to lead to your promotion to a higher pay grade in your current income-earning activities.[36]
- The self-education leads to or is likely to lead to a bonus or move to a higher pay grade on completion of your self-education, where you remain in your current role doing the same or very similar activities. [37]
- The self-education is something that leads to or is likely to lead to a promotion to a position which is not materially different from your current position.[38]
- So far as overall motive or purpose is material in your circumstances, your advancement of employment grade and salary, must form a real and substantial element in the combination of your motives for undertaking the self-education.[39]

45. No one factor on its own will necessarily determine whether the self-education leads to, or is likely to lead to, an increase in your income from your current income-earning activities.

Example 6 – apprenticeship expenses considered self-education

46. *Callum is an apprentice landscaper doing on-the-job training at a landscaping company specialising in new residential gardens while attending TAFE one day a week for the formal component of the apprenticeship. Once he receives his qualification, his employer will pay him a higher amount based on the industry award rate.*

47. *Callum can claim a deduction for expenses he incurs to undertake his TAFE course as it is incurred in gaining or producing his income. His expenses include books and transport costs to attend TAFE once a week.*

48. *Callum cannot claim a deduction for travelling from home to his on-the-job training as it is his regular place of work and this is a private and domestic expense.*[40]

Example 7 – self-education expenses deductible when they lead to a guaranteed promotion

49. *Kieran, a computer salesman and assistant manager, takes 6 months leave without pay to undertake a business administration course. He and his employer have both agreed that, upon successful completion of the course, he will be promoted to the manager*

[35] *Case NT85/4381* at [36], where an additional factor in denying the deduction was that the taxpayer had reached the top pay scale and was unable to achieve any further promotion.
[36] *Finn* at [67] and *Smith* at [499].
[37] *Hatchett* at [498]. Similar reasoning was used to allow self-education expenses in *Smith* and in *Federal Commissioner of Taxation v Lacelles-Smith* 78 ATC 4162; 8 ATR 524.
[38] *Ting* at [35]. Where the position is materially different from your current position, the expenses are incurred in getting, not doing work, which precedes the relevant income-earning activity and comes at a point too soon to properly be regarded as incurred in gaining or producing assessable income. See paragraphs 53 to 66 of this Ruling.
[39] In *Finn,* the advancement in grade or salary was a real motive in undertaking the overseas study tour. This was one of four conclusions drawn by Dixon CJ which informed his view that the expenditure was incurred in gaining or producing the taxpayer's assessable income.
[40] See Taxation Ruling TR 2021/1 *Income tax: when are deductions allowed for employees' transport expenses?*

position with his current employer in the same sales area that he is currently in as Assistant Manager. While the manager position has some additional responsibility, the 2 positions are not materially different.

50. *Kieran is allowed a deduction for the costs of the course because it will lead to an increase in income from his current employment. Although Kieran has taken leave without pay to undertake the course, he remains employed and upon successful completion of the course he will be promoted by his current employer.*

Example 8 – self-education expenses not deductible when they lead to increase in income but position is materially different

51. *Seema is employed by an information technology company as a systems architect and she is currently completing a course that will allow her to work in human resources. As Seema is a valued employee, her employer promises her a job in the human resources department on completion of the course. The position in human resources will result in an increase in pay for Seema.*

52. *Even though the course that Seema is undertaking will result in increased income from her current employer, the increased income is not from her current income-earning activities. The duties of the position in human resources are materially different from Seema's duties in her position as a systems architect. The course is not specifically relevant to her current income-earning activities. Although the promised position will result in an increase in pay, there is not a sufficient connection between Seema's current income-earning activities and the course she is undertaking. Therefore, Seema cannot claim a deduction for the costs of the course.*

Exclusion 1: New employment or new income-earning activity

53. You cannot deduct self-education expenses if the education is undertaken or designed to enable you to:

- get employment
- obtain new employment[41], or
- open up a new income-earning activity, whether in business or in your current employment.[42]

54. Such expenses are incurred at a point too soon to be regarded as incurred in gaining or producing assessable income.

55. What is considered new employment, or a new income-earning activity is a question of fact to be determined by all the facts and circumstances of your particular case.

[41] *Maddelena* at [549].
[42] *NT91/37 and Commissioner of Taxation* [1991] AATA 290.

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56. The following have been identified by courts and tribunals as circumstances in which self-education expenses are incurred at a point too soon:

- The self-education is undertaken with an intention to obtain new employment based on evidence of arrangements (such as employment discussions) with a prospective employer.[43]
- The self-education is designed to enable you to open up a new income-earning activity, whether in business or in your current employment.[44]
- The self-education is towards an initial qualification which would not increase your ability to perform your current income-earning activities.[45]

Example 9 – self-education at a point too soon, expenses not deductible

57. *Sarah wants to be a fashion photographer. After finishing her final year of school, Sarah enrols in a full-time fashion photography course at a technical college. She does not receive any government assistance but does some casual sales work on weekends at a high-end fashion store.*

58. *Sarah cannot claim the costs associated with the course because the skills and knowledge required for her casual work are not improved by the photography course. Her study costs are incurred at a point too soon to be regarded as incurred in gaining or producing income from her future employment in the fashion photography industry.*

Example 10 – self-education expenses to get new employment not deductible

59. *Stuart wants to be the manager of a hotel. He enrols in a hotel management course, one semester of which involves an industry placement to gain work experience. Stuart is placed with a major hotel where he gains experience in all facets of hotel management, including catering, housekeeping and bar work. He claims a deduction for the cost of the course against income earned during the placement.*

60. *The cost of the course is not deductible because the study is part of his initial qualification, designed to get Stuart new employment as a hotel manager, and not to derive income from any current income-earning activities. It is incurred at a point too soon to be regarded as incurred in gaining or producing assessable income.*

Example 11 – self-education expenses to get new employment not deductible

61. *Shannon, who is undertaking a 4-year university degree in mining engineering, takes a job as a casual employee with a mining company during the end of year holiday*

[43] *Commissioner of Taxation of the Commonwealth of Australia v Roberts, M.I.* [1992] FCA 896. A mine manager was denied deductions for self-education where he:
- applied for a course whilst employed
- incurred the expenses and undertook the course (overseas) after being voluntarily retrenched, and
- was subsequently re-employed as a mine manager with a different employer (at a significantly increased salary) with whom he had had employment discussions prior to retrenchment.

[44] *NT91/37 and Commissioner of Taxation* [1991] AATA 290.

[45] *Assefa and Commissioner of Taxation* [2009] AATA 2. A care provider was not able to claim deductions for a nursing degree undertaken whilst working at an aged care facility and a retirement housing facility as the expense was not incurred in gaining or producing her assessable income. Rather, she was studying towards an initial qualification as a registered nurse.

period after her second year of study. It is the company's policy to take only students who are pursuing relevant studies.

62. *Shannon is not entitled to a deduction for the self-education expenses relating to the course because the study is designed to get future employment in the field. They are incurred at a point too soon to be regarded as incurred in gaining or producing assessable income.*

Example 12 – self-education expenses not excluded from deduction as course of study does not open up new income-earning activity within current employment

63. *Mitchell is an accountant employed by an accounting firm which offers a generalised range of accounting services, including superannuation advisory services, to its clients. At his annual appraisal, Mitchell and his employer agree that he will undertake a superannuation course so that he can better advise his clients on self-managed superannuation fund matters.*

64. *The expenses related to the study are deductible as the study does not open up a new income-earning activity within Mitchell's current employment. Rather, it allows him to service his existing clients with a higher level of skill and there is a clear relationship between the cost of the course and Mitchell's current income-earning activities.*

Example 13 – self-education expenses to get new income-earning activity not deductible

65. *Joseph is currently employed as a personal care and nursing assistant at an aged care home. Joseph's duties include assisting patients with their personal care, mobility and communication needs, providing daily care to patients under the guidance of a registered nurse and observing and reporting any changes in condition or complaints about care to a registered nurse. He would like to become a registered nurse and undertakes a Bachelor of Nursing course while he is working as a personal care and nursing assistant.*

66. *As the study is Joseph's initial qualification designed to enable him to enter a new income-earning activity as a registered nurse, self-education expenses in relation to the course are not deductible because they are not related to his current income-earning activities as a care provider.*

Example 14 – self-education expenses to get new income-earning activity not deductible

67. *Desiree is a general medical practitioner in partnership with 2 other general practitioners in a large regional town. She undertakes further study in dermatology in order to set herself up independently as a specialist dermatologist.*

68. *The expenses related to the study are not deductible as the study is designed to open up a new income-earning activity as a specialist dermatologist.*

Status: **legally binding**

Example 15 – self-education expenses to get new income-earning activity not deductible; self-education expenses later incurred with connection to income-earning activities deductible

69. *Tommy is a part-time nursing student. He supports himself by driving taxis. Having completed sufficient modules to be able to work as an enrolled nurse, Tommy applies for a part-time job as an enrolled nurse and is successful.*

70. *Tommy cannot claim the nursing study expenses he incurs while earning income as a taxi driver. This includes course fees he pays before he starts working as a nurse, even if the fees cover modules that he has not yet completed.*

71. *However, now he is working as an enrolled nurse on a part-time basis, Tommy can claim the self-education expenses he incurs after he commenced working as an enrolled nurse.*

Exclusion 2: Not currently undertaking income-earning activities to derive assessable income

72. To be deductible, the expenses must be relevant to your income-earning activities at the time you incur the expense. A deduction is not available if, at the time you incur the expense, you are not undertaking income-earning activities to derive assessable income, either by employment, carrying on a business or by other means.[46]

73. If you cease your income-earning activities part-way through completing your deductible self-education, only the expenses incurred while you were undertaking your income-earning activities are deductible. This is because the connection with the self-education is lost once you cease your income-earning activities.[47] For example, if you are made redundant and the self-education is paid in instalments or per subject, only those incurred at the time you were employed are deductible – you cannot claim a deduction for the entire course even where you commenced it prior to being unemployed.[48]

Example 16 – fees for education not deductible after being made redundant

74. *Jimmy is employed at a bottle shop where he is an assistant manager. To improve his skills and knowledge in the management aspect of his role, Jimmy applies and is accepted to do a Master of Business Administration (MBA) at the local university. Jimmy's manager supports the study and there is a sufficient connection to his current employment. Jimmy pays the fees for the first 4 subjects but then is made redundant. He continues with the MBA and pays for and undertakes the remaining 8 subjects in the MBA after being made redundant.*

75. *Jimmy can claim a deduction for the expenses he incurs to do the first 4 subjects of the MBA as these were incurred when he was employed in a management role at the bottle shop and had a sufficient connection with his employment at the time. Jimmy cannot claim any of the MBA expenses he incurs after becoming redundant as the connection with his income-earning activities has ceased.*

76. *If Jimmy commences new employment while he is still finishing the MBA, he may be entitled to deduct the expenses he incurs to complete the MBA if there is a sufficient*

[46] *Commissioner of Taxation of the Commonwealth of Australia v Roberts, M.I.* [1992] FCA 896.
[47] *Thomas* at [33].
[48] *Thomas* at [26].

connection between the MBA subjects and his new income-earning activities. That is, the expense must be incurred in gaining or producing Jimmy's new employment income.

Specifically not deductible

77. If you receive government assistance in the form of rebatable benefits[49] (for example, Youth Allowance, Austudy and ABSTUDY payments[50]) related to self-education, you cannot claim a deduction for the self-education expenses against that government assistance.

Example 17 – self-education expenses not deductible for ABSTUDY recipient

78. *Cathy starts a full-time Bachelor of Medicine course. Cathy applies for and receives ABSTUDY payments to support herself while studying. The ABSTUDY payments are Cathy's only source of income.*

79. *ABSTUDY is a taxable government assistance program and is eligible for the beneficiary tax offset.*

80. *Cathy cannot claim a deduction for her self-education expenses to undertake the Bachelor of Medicine because the ABSTUDY payments are her sole income and ABSTUDY is a rebatable benefit.*

Apportionment

81. The use of the phrase 'to the extent' in section 8-1 means that there are circumstances where 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.[51] In these circumstances, it is appropriate to apportion expenses incurred between income-earning and other uses.

82. It is the objective relationship between your expense and your income-earning activities which usually determines whether the expense is incurred in gaining or producing assessable income.[52] In most cases the reason for the expense will be apparent and it will not be necessary to enquire further.[53] However, for expenses voluntarily incurred, which self-education expenses often are, your subjective purpose or motive for incurring the expense may be a relevant factor in determining what the expense is for.[54]

[49] Rebatable benefit is defined in subsection 160AAA(1) of the ITAA 1936.
[50] From 1 July 2012, per section 26-19. This section was inserted after the High Court decision in *Commissioner of Taxation v Anstis* [2010] HCA 40 viewed Youth Allowance payments as ordinary income in the hands of the recipient and allowed a deduction for self-education expenses because undertaking a course of education was a condition of being entitled to the Youth Allowance payments.
[51] *Kidston Goldmines Ltd v Commissioner of Taxation* [1991] FCA 351; 22 ATR 168 at [175].
[52] *Magna Alloys & Research Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia* [1980] FCA 180; (1980) 49 FLR 183 at [225].
[53] *Day* at [39].
[54] *Magna Alloys & Research Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia* [1980] FCA 180; (1980) 49 FLR 183 at [221–222] and *Fletcher*, in which the purposes of the taxpayers and their advisors were relevant to determining what the expenditure was for. What expenditure is for is a question of fact. It forms part of the relevant evidence in considering the objective relationship between your expense and your income-earning activities.

83. For self-education expenses, you apportion the expenses as follows[55]:

- Where the self-education expense has distinct and severable parts, and some are for an income-producing purpose and others are for some other purpose, you apportion the expense according to its particular purpose.
- Where the self-education expense is a single outlay that serves both an income-earning purpose and some other purpose, you apportion the expense on a fair and reasonable basis. What is fair and reasonable depends on your particular facts and circumstances.[56]

84. Without limiting the application of paragraph 83 of this Ruling, where a course, when considered in its entirety, is not deductible under section 8-1 but particular subjects, classes or modules within the course are sufficiently connected to your income-earning activities, you apportion the expenses by claiming a deduction only for the expenses relating to those particular subjects, classes or modules that are deductible.[57]

85. If there is an incidental purpose, you apportion the expenses as follows:

- If the purpose of self-education is the gaining or producing of assessable income, the existence of an incidental private purpose does not affect the characterisation of the self-education expense as wholly incurred in gaining assessable income.
- If you are on a holiday or attending an event for private purposes and the self-education was merely incidental to the private purpose, only those expenses directly attributable to the self-education (provided they are incurred in gaining or producing your assessable income) are allowable.

Example 18 – incidental private purpose

86. *Glenn, a qualified architect, attends an 8-day work-related conference in Dubai on trends in modern architecture. A sight-seeing tour and a game of golf is held on the final afternoon of the conference. As the main purpose of attending the conference is the gaining or producing of assessable income, the total cost of the conference (airfares, accommodation and meals) is deductible.*

87. *The private pursuits, such as the sight-seeing tour and the game of golf, are purely incidental to the main purpose and do not affect the characterisation of the conference expenses as wholly incurred in gaining assessable income.*

Example 19 – course when on a holiday, private purpose not incidental

88. *Jenny, a doctor, was holidaying in Cairns when she became aware of a work-related seminar on the current treatment of cancer patients. The cost of the half-day seminar was $200.*

89. *Jenny is able to claim a deduction for the cost of the seminar because it is directly attributable to an income-earning purpose. However, no part of her airfare to Cairns or her holiday accommodation is an allowable deduction.*

[55] *Ronpibon* at [59] and *Fletcher* at [16]. Note that 'purpose' in this sense is an objective purpose, determined by the relationship between the expense and income-earning activity.
[56] *Ronpibon* at [59–60].
[57] *Ting.*

Example 20 – course and holiday, income producing and other purpose

90. *Francesco, a paediatrician, has 2 equal purposes when he decides to attend a 5-day international conference on paediatrics in Singapore, to be followed by a 7-day holiday in Thailand. The conference package is $3,500 ($1,500 return airfare, $500 for the cost of the conference and $1,500 for accommodation and meals at the conference venue). Francesco paid another $3,000 for accommodation, meals and car hire for the 7-day holiday in Thailand.*

91. *Francesco is allowed a deduction of $2,000 for the conference cost and the accommodation and meals expenses at the conference. Only half of the return airfare ($750) is allowed, as the expense was incurred for 2 equal purposes, one income-earning and the other private. The other expenditure of $3,000 relating to the holiday in Thailand is private in nature and not deductible.*

Example 21 – cost of individual subjects deductible even where whole of course not deductible

92. *James is an employee civil engineer. His duties include designing water and sewerage systems, determining the materials to be used for the systems, carrying out environmental impact studies and project management of the projects he works on. James decides to enrol in a MBA at a university to broaden his career opportunities, including possibly commencing his own firm in the future. The cost of each subject is identifiable from documentation he receives from the University.*

93. *The MBA course does not have a sufficient connection with James' current employment activities as a civil engineer, so James is not entitled to a deduction for the course fees. However, if James studies a subject on project management as part of his MBA qualification, that particular subject would have a sufficient connection to his current income-earning activities of managing projects. Therefore, James would be entitled to claim the cost of the project management subject as a deduction.*

Example 22 – cost of personal development course partially deductible

94. *Brian is a senior manager and is in a leadership role in his employer's organisation. Brian's duties include the provision of policy advice on various topics in his field of expertise through the preparation of reports and the giving of presentations. Brian enrols in and completes a personal development course. The course is made up of 20 course modules, each with equal value as credit towards completion of the course. The fee for each module is the same. The course concentrates on personal self-development and is not, as a whole, directly related to his current role; however, there are 3 modules on counselling and interviewing techniques, group facilitation and presentation skills, and written communication skills that directly relate to Brian's income-earning activities.*

95. *Brian can claim a deduction for the cost of the 3 modules that directly relate to his income-earning activities. The remaining modules do not improve the knowledge or specific skills required for Brian's current income-earning activities, so Brian cannot claim a deduction for the cost of these modules (as they are a private expense).*

Status: **legally binding**

Types of self-education expenses

96. The following discusses the types of expenditure that can be deductible as a self-education expense, as well as that that cannot.

Course fees

97. Self-education expenses incurred to attend a work-related conference, seminar or a place of education, subject to paragraphs 98 to 101 of this Ruling, are deductible. This includes fees such as student union fees, student services and amenities fees charged by the place of education. These are incurred in undertaking the study and are not private or domestic in nature.

98. Course fees to attend a university or approved higher education provider are deductible only where you are enrolled in a full fee-paying place (where the government does not pay any part of your fees).

99. You cannot claim a deduction for course fees in respect of a Commonwealth supported place (CSP). A CSP is a type of enrolment where the total cost of your study is split into 2 parts:

- Subsidised amount – the Australian Government pays a subsidy directly to your education provider. This is not a loan and you do not pay it back. You cannot claim a deduction for the subsidised amount.
- Student contribution amount[58] – you pay the amount remaining, being the student contribution amount which you must pay by the census date either upfront or using a HECS-HELP loan, if you are eligible. HECS-HELP loans are repaid through the tax system once your income is above a certain threshold. You cannot claim a deduction for the student contribution amount you pay (either upfront or by way of a HECS-HELP loan).[59]

100. If you use borrowed money to pay for course fees, this will not affect the deductibility of those fees or when you can claim a deduction. However, you cannot claim a deduction for repaying the principal amount borrowed.

101. For example, a full fee-paying student using a FEE-HELP loan or a personal loan can claim a deduction for their course fees (where they are deductible) at the time they pay those fees using the borrowed money. They cannot claim a deduction for repaying the loan, either as part of their income tax assessment or as voluntary repayments.[60]

Example 23 – course fees deductible

102. *Jaison is enrolled in a full fee-paying place in a course of study at an Australian university. The course is relevant to his current field of employment and will improve his existing skills and knowledge. Jaison received a loan under the terms of FEE-HELP to pay his tuition fees.*

[58] Student contribution amount is defined in section 93-5 of the *Higher Education Support Act 2003* (HESA 2003).

[59] Paragraph 26-20(1)(ca).

[60] You cannot claim a deduction for repaying any loan you used to pay course fees. This includes government loans, regardless of whether you are a full fee-paying student or enrolled in a CSP, for example, Higher Education Loan Program (HELP) debt, including a FEE-HELP debt (paragraph 26-20(1)(cb)); VET FEE-HELP debt (paragraph 26-20(1)(cba)); STARTUP-HELP debt (paragraph 26-20(1)(cc)); Australian Apprenticeship Support Loans (paragraph 26-20(1)(cd)); Overseas debtors repayment levy (paragraph 26-20(1)(ce)); Student Financial Supplement Scheme (SFSS) (paragraph 26-20(1)(d)).

103. *Jaison can claim a deduction for the tuition fees when the expenditure is incurred as the study is directly related to his income-earning activities and is likely to lead to an increase in income from those activities. Obtaining a FEE-HELP loan for all of part of the tuition fees does not preclude him from obtaining a deduction, as he is a full fee-paying student and his enrolment is not a CSP.*[61]

104. *Jaison cannot claim a deduction for payments (either as part of his income tax assessment or as voluntary repayments) to reduce his FEE-HELP debt.*[62]

Example 24 – course fees not deductible

105. *Freya is enrolled in a CSP to study viticulture at an Australian university. The course is relevant to her current field of employment and will improve her existing skills and knowledge. Freya received a loan under the terms of HECS-HELP to pay her student contribution amount.*

106. *Freya cannot claim a deduction for the course fees as she is a Commonwealth supported student in a CSP.*

107. *Freya cannot claim a deduction for payments (either as part of her income tax assessment or as voluntary repayments) to reduce her HECS-HELP debt.*

Example 25 – cancelled enrolment fees deductible

108. *Jiesi enrolled as a full fee-paying student to study a subject that had a relevant connection to her income-earning activities. Jiesi paid the course fees but later discontinued the subject before she had completed it. As she withdrew after the census date, Jiesi was not refunded any of the course fees.*

109. *Jiesi can claim a deduction for the course fees. The fact that Jiesi withdrew and did not complete the subject does not alter the fact that when the expenditure was incurred, there was a relevant connection between the expense and Jiesi's income-earning activities. The same outcome would occur if Jiesi had continued the course and failed.*

Interest

110. Interest incurred on borrowed monies where the funds are used to pay for deductible self-education expenses, such as course fees or books, is deductible.

111. It is necessary to have regard to the connection between the interest expense and the income-earning activity in each year in which the interest is claimed. There may be situations where funds borrowed were initially applied to an income-earning purpose, but a change in circumstances means there is no longer a connection between the interest expense and the earning of assessable income. For example, this may occur if you subsequently change your income-earning activity or cease employment altogether.

112. Repayments of the principal amount borrowed are not deductible.

[61] Section 26-20 does not prevent a deduction for course fees where the taxpayer has obtained a loan under FEE-HELP.

[62] Paragraph 26-20(1)(cb) specifically prevents a deduction from payments made to reduce a debt to the Commonwealth under Chapter 4 of the HESA 2003. Chapter 4 of the HESA 2003 governs debts raised as a result of loans made under Chapter 3 of the HESA 2003, which includes FEE-HELP loans.

Status: **legally binding**

113. Indexation of a loan, such as a HELP loan, is not interest. You cannot claim a deduction for indexation applied to your loan.

Example 26 – interest on loan deductible

114. *Christine, an employee solicitor, is undertaking a 3-year Master of Laws course as a full fee-paying student to enable her to carry out her current duties more efficiently. She borrows $10,000, repayable over 3 years, to pay tuition fees. She incurs $1,000 interest in each of the 3 years. Christine continues in her employment during the 3-year period.*

115. *Christine is allowed a deduction of $1,000 for interest in each year because there is a sufficient connection between the interest expense and her current income-earning activity.*

116. *If Christine ceases employment after the first year or changes her job to one that is in a different field of employment (such as a photographer), she can only claim the interest deduction in the first year. No deduction is allowed in subsequent years because there is no connection between the interest expense and earning of assessable income in those years.*

Example 27 – interest on loan not deductible

117. *After completing his secondary education, Alex studied commerce as a full-time student at a private university. He borrowed $30,000 at the commencement of the course, repayable over 5 years, and used the funds to pay his course tuition fees. Alex obtained employment with an accounting firm a short time after successfully completing the commerce course.*

118. *The interest incurred on the loan is not deductible because the borrowed money was not used to pay for deductible self-education expenses. Instead, the borrowed money was used to pay for self-education undertaken by Alex to get new employment. As such, the interest is not deductible while Alex is studying nor after Alex starts working at the accounting firm.*

Books, digital subscriptions and stationery

119. Self-education expenses incurred for professional and trade journals, digital subscriptions and stationery, including pens and photocopying are deductible.[63]

120. Reference books and textbooks that you use for self-education are generally deductible. Where the books, or sets of books, cost more than $300, you deduct an amount for decline in value[64] instead of claiming a deduction in the year of purchase.[65] See paragraphs 158 to 162 of this Ruling for more on decline in value.

Example 28 – cost of study supplies deductible

121. *Eion purchases 2 textbooks for $79 and $99, stationery supplies for $45 and a calculator for $180, all being required to complete his study. The study has the requisite*

[63] Section 8-1.
[64] Section 40-25.
[65] Subsection 40-80(2).

connection with his current employment and the cost is incurred in gaining or producing his assessable income.

122. *Eion can claim a deduction for the cost of the textbooks, stationery supplies and calculator in the year he purchases them (because each item is less than $300 and is not part of a set).*

Example 29 – cost of digital subscription partially deductible

123. *Beth pays for a monthly subscription to computer-assisted design software, which she uses for both completing her graphic design study and to design birthday invitations for family and friends in her spare time. The study has the requisite connection with her current employment and the cost is incurred in gaining or producing her assessable income.*

124. *As Beth uses the software for both study purposes and private purposes, she can only claim a deduction for the study-related portion of the cost of the computer-assisted design software subscription. Beth must apportion the cost of the subscription on a fair and reasonable basis, for example, based on the amount of time she uses the software for study as compared with the amount of time she uses it for private purposes, which is not deductible.*

Airfares

125. Airfares incurred to participate in self-education, provided you are not living at the location of the self-education activity, are deductible. Airfares are part of the cost of undertaking the self-education activities.

Example 30 – cost of airfares deductible

126. *Jabari is a civil engineer in Melbourne. Jabari wants to attend a one-week training course in Sydney on new technical specifications being introduced. Jabari's employer agrees that the course is very relevant to Jabari's work and pays for the course, which includes course notes, refreshments and lunch each day. Jabari pays for and is not reimbursed for airfares, accommodation, and meals not supplied as part of attendance at the course.*

127. *Jabari can claim a deduction for the amount he incurs on airfares.*

Accommodation and meals

128. If you are away from home overnight for self-education connected with your income-earning activities, the accommodation and meal expenses you incur are deductible.[66] They are part of the cost of participating in the self-education. The self-

[66] The principles for determining whether accommodation, food and drink expenses incurred while 'travelling on work' also apply to accommodation, food and drink expenses incurred when travelling for the purposes of deductible self-education. See 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*; *Commissioner of Taxation and Cooper, R.J.* [1991] FCA 190; *The Roads and Traffic Authority of NSW v Commissioner of Taxation* [1993] FCA 445; (1993) 116 ALR 482 at [501].

education expenditure is not of a private nature because its occasion is your travel away from home on income-earning activities.

129. If you are not away from home overnight for self-education connected with your income-earning activities, a deduction is not allowable for any living expenses you incur, such as meals or accommodation. This expenditure is a private or domestic living expense because it is incurred by you to maintain your usual residence or to consume food and drink as you go about your daily activities.[67]

130. Similarly, accommodation and meal expenses you incur in connection with self-education will be private and domestic living expenses where you are living at the location of the self-education activity. This will apply regardless of whether the self-education allows you to acquire and improve the skills and knowledge you require to carry out your income-earning activities or leads to, or is likely to lead to, an increase in income from your income-earning activities.

131. The following factors[68] indicate when your accommodation and meal expenses are private and domestic living expenses, and are not deductible:

- The length of the overall period you will be away from your usual residence is a relatively long one.
- The nature of the accommodation is such that it becomes your usual residence.
- You are, or can be, accompanied by family or friends or visited by family or friends.

132. No single factor is decisive and the weight given to each of these factors will vary depending on your individual circumstances.[69]

Example 31 – accommodation and meal expenses deductible

133. *Yan lives in regional North Queensland and is completing a course part-time online which is offered by a university in New South Wales. The course allows Yan to improve the skills and knowledge he requires to carry out his current income-earning activities.*

134. *Although the course is online, Yan is required to attend the university in person at the end of each semester to undertake his exams. When he is required to attend in person, Yan incurs expenditure on hotel accommodation near the university and on meals during the exam period.*

135. *Yan is not living at the location of the self-education activity because he ordinarily lives in North Queensland. To complete the exams, he travels away from home for a short period of time, stays in short-term accommodation, then returns to his home in North Queensland. The purpose of Yan's travel away from his home is to attend the place of education. Yan's accommodation and meal expenses are deductible when he undertakes this travel.*

[67] See paragraph 9 of TR 2021/4.
[68] See paragraph 42 of TR 2021/4.
[69] See TR 2021/4.

Example 32 – meals and incidental expenses not deductible

136. *Amber is required to travel from her home in Melbourne to attend a work-related conference in Sydney. Amber flies to Sydney in the morning, then returns to Melbourne on the same day that the conference concludes – there is no overnight stay away from home.*

137. *Amber cannot claim a deduction for meals and incidental expenses she incurs while attending the conference in Sydney. These are private or domestic expenses. Amber can claim the cost of the flights to and from Sydney as well as the course fee (but only to the extent that Amber is not reimbursed by her employer for these expenses).*

Example 33 – accommodation and meal expenses deductible

138. *Elizabeth ordinarily lives with her parents in a country town outside Brisbane. She takes 3 months leave from her job to undertake an education course at a training college in Brisbane. When she completes the course, her employer will increase her pay because undertaking the course has improved the skills and knowledge Elizabeth requires to carry out her income-earning activities. She enters an agreement to rent a room in a unit in Brisbane for 3 months with the 2 other students who rent it on a long-term basis. Elizabeth returns to her parental home every weekend and during holiday periods.*

139. *The relatively short period of her stay in Brisbane, the fact that she has not entered into a long-term lease and the frequency of her return visits to her parental home indicate that Elizabeth has not established a new home in Brisbane. Elizabeth can claim the cost of her accommodation and meals while attending the education course as a deduction.*

Example 34 – accommodation and meal expenses not deductible

140. *John decides to undertake a 2-year course of study at a university in a city 250 kilometres from the town where he lives. He takes unpaid leave from his job. His employer has agreed to promote him to a higher paid position once he has completed the course and returned to work. John shares a rented house with some other students during this 2-year period. He occasionally returns to his former town on weekends to visit family and friends.*

141. *John cannot claim a deduction for the accommodation and meal expenses he incurs. The length of time that John resides in the city and the long-term nature of his accommodation arrangements indicate his accommodation and meal expenses are private and domestic living expenses.*

Example 35 – accommodation expenses deductible

142. *Madonna undertakes a 5-month study tour in Europe related to her current income-earning activity. Her husband and family remain at the family home in Melbourne. The study tour involves travel to 4 separate locations in Europe for periods of between 4 and 6 weeks each. At each location, Madonna stays in serviced apartments. There is no private time during the study tour for Madonna to take a break or travel elsewhere.*

143. *The length of time spent at each location and the overall period she is away, along with the short-term nature of the accommodation arrangements indicate that Madonna is travelling away from her home. Madonna can claim a deduction for her accommodation expenses.*

Example 36 – accommodation and meal expenses not deductible

144. *James, a university lecturer, travels overseas for 12 months to the United States of America (US) where he attends a university. He is accompanied by his wife, and the family home in Australia is rented out while he is away. While in the US, he lives with his wife in an apartment leased for the duration of their stay.*

145. *The facts indicate that James is living in the US.*[70] *The lengthy period of his stay, the nature of the accommodation arrangements and the fact that his wife accompanied him support this conclusion. The same outcome would apply if James was only in the US for 6 months in this example.*

Example 37 – accommodation and meal expenses deductible in part

146. *Don travels to London to undertake a 3-week course of study to maintain and improve knowledge relevant to his income-earning activities. He stays in hotel accommodation until the end of the 3-week period when he decides he should extend his stay and complete a more extensive 6-month course of relevant study. Don's employer agrees to grant him extended leave to complete the 6-month course. He rents an apartment and arranges for his family to join him in London.*

147. *Expenditure on accommodation and meals during the initial 3-week period is deductible as Don is away from home overnight for a short period of time and stays in short-term accommodation. However, Don may be considered to be living in London for the 6-month period he undertakes further study and his family joins him.*

Transport costs (motor vehicles and fares)

148. Transport expenses that you incur to get you to and from the place of education are also deductible as incidental costs of self-education. In these circumstances, a place of education includes a library for research.

149. Therefore, you can claim a deduction for expenses that are motor vehicle or other transport expenses for journeys between:

- your home and place of education and return, and
- your place of work and place of education and return.

150. These journeys are incidental costs of self-education because the travel is carried out with the sole pursuit of engaging in self-education activities.

151. However, where the overall travel involves travelling between your home and your regular place of work, but also incorporates travel to a place of education, it is only the travel that involves *getting to* a place of education that is deductible.[71]

[70] The question of whether a taxpayer is living at a location depends on all the facts. There is no one test to satisfy all circumstances. Also, a change in circumstances may affect deductibility of expenditure on accommodation and meals.

[71] *Case H18* 76 ATC 130 at [17], per JL Burke Ch where it is provided that train fares and car expenses (except the direct expense of getting from office to university) are to be classified as the cost of getting to and from work and accordingly, on the application of the decision in *Lunney v Commissioner of Taxation* [1958] HCA 5, no deduction is allowable in respect thereof.

Status: **legally binding**

152. As a result, where your journey matches the following sequence, you can only claim the first leg of each journey when you travel from:

- your home to a place of education and then to your place of work
- your place of work to a place of education and then to your home.

153. The transport expenses incurred in the first legs of each journey (in paragraph 152 of this Ruling) to get you to the place of education are costs incurred that are incidental to the self-education (in *getting to* the place of education).

154. The transport expenses incurred in the second legs of each journey (in paragraph 152 of this Ruling) involve *getting to* work (from home, albeit indirectly) and *getting to* home (from work, albeit indirectly) and are not deductible. Such expenditure is regarded as of the same nature as the cost to get to your regular place of work[72], and for the return journey home.[73] These costs are not incurred in gaining or producing your assessable income as they are a prerequisite to earning your assessable income and are private in nature.[74]

155. Where you carry out your employment duties at the place of education, the deductibility of the travel as outlined in paragraphs 149 and 152 of this Ruling would be determined by TR 2021/1. For example, where you are working at a university and also studying at the university, generally it will be considered home to work travel and not deductible unless the university is an alternative work location.

Example 38 – certain public transport fares deductible

156. *Lyle is employed as an assistant visual merchandiser in a retail store. To improve his skills and apply for a promotion to be a visual merchandiser specialist, Lyle enrols in a Diploma of Visual Merchandising. The course requires Lyle to attend the place of education for 3 hours one day per week. On the day he attends the place of education, Lyle takes the train from his home to the place of education in the morning (trip 1), the bus from the place of education to his place of work after lunch (trip 2), and the bus from his place of work to home at the end of the day (trip 3).*

157. *Lyle can claim a deduction for the cost of his train fare for the journey from his home to the place of education (trip 1). Lyle cannot claim a deduction for the cost of trips 2 or 3. These are private travel expenses in getting to work (trip 2, indirectly from his home) and in getting home from his work (trip 3).*

Decline in value (depreciation)

158. You can deduct an amount for the decline in value of a depreciating asset that you held during an income year and used, or had installed ready for use, for a taxable purpose.[75] A taxable purpose includes the purpose of producing assessable income.[76]

159. If the subject of the self-education enables you to maintain or improve skills or knowledge or is likely to lead to an increase in income from your current income-earning activity, you can deduct an amount for the decline in value of the depreciating asset you

[72] *Case H18* 76 ATC 130 at [134–5].
[73] *Case H18* 76 ATC 130 at [142, paragraph 20], per CF Fairleigh QC.
[74] *Lunney v Commissioner of Taxation* [1958] HCA 5, per Williams, Kitto and Taylor JJ.
[75] Section 40-25. See for example, *Guide to Depreciating Assets 2023*.
[76] See subsection 40-25(7).

use, or have installed ready for use, for self-education purposes. For example, you can deduct an amount for the decline in value of assets such as technical instruments and equipment, computers, calculators, professional libraries, filing cabinets and desks if the self-education satisfies the principles outlined in paragraph 22 of this Ruling.

160. An asset starts to decline in value when you first use or install it for any use, including a private purpose.

161. You must reduce your deduction by the extent to which you use the asset for other than a taxable purpose[77] or if you held it for only part of an income year. For example, if you use the asset 30% for private purposes and 70% for taxable purposes in an income year, you reduce your deduction by 30%.

162. The deduction you can claim for the decline in value of a depreciating asset used for self-education will be determined by the:

- cost of the asset
- effective life of the asset[78]
- method you use to calculate the decline in value.[79]

Date of effect

163. This Ruling applies to arrangements both before and after its date of issue. However, the Ruling will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

Commissioner of Taxation
21 February 2024

[77] Subsection 40-25(2).
[78] See for example, Taxation Ruling TR 2022/1 *Income Tax: effective life of depreciating assets (applicable from 1 July 2022)*.
[79] For example, 'prime cost' and 'diminishing value' methods.

Status: **not legally binding**

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Previous draft:

TR 2023/D1

Related Rulings/Determinations:

TR 2006/10; TR 92/15; TR 97/7; TR 2020/1; TR 2021/1; TR 2021/4; TR 2022/1

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