



TR 94/18 - Income tax: employee work-related deductions for truck drivers

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 This document has changed over time. This is a consolidated version of the ruling which was published on *23 June 1994*



Taxation Ruling

Income tax: employee work-related deductions for truck drivers

other Rulings on this topic

IT 85; IT 208; IT 327;
IT 1217; IT 2062; IT 2198;
IT 2230; IT 2326; IT 2327; IT
2368; IT 2370; IT 2416; IT
2452; IT 2460; IT 2469; IT
2543; IT 2549; IT 2579; IT
2595; IT 2595; IT 2599; IT
2601; IT 2644; IT 2685; IT
2686; TD 92/142; TD 92/154;
TD 92/157; TD 92/163; TD
93/68; TD 93/108; TD 93/115;
TD 93/174; TD 93/244;
TR 92/8; TR 92/15;
TR 92/20; TR 94/23;
TR 94/22; MT 2026;
MT 2027; MT 2038

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*This Ruling, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the **Taxation Administration Act 1953**, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Ruling is a public ruling and how it is binding on the Commissioner.*

What this Ruling is about

1. This Ruling deals with deductions for work-related expenses generally claimed by truck drivers.
2. The Ruling discusses whether deductions are allowable under subsection 51(1) sections 51AE, 54 or 55 of the *Income Tax Assessment Act 1936*.
3. The Ruling also gives guidance on substantiation for work-related expenses claims.
4. Deductions for truck drivers' work-related expenses are listed below in alphabetical order.
5. For further explanation, refer to the paragraph references in brackets in the explanations section.

Ruling

Allowances and reimbursements

6. The receipt of an allowance does not normally entitle a truck driver to deductions for expenses incurred in relation to the allowance.
7. A claim can only be made against an allowance if expenditure is incurred, it is allowable as a deduction and the requirements of the substantiation provisions are satisfied.
8. If the expenses incurred are allowable, and the substantiation requirements are satisfied, the amount allowable is not limited by the amount of allowance received.

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9. If an employee receives a reimbursement, the amount is not included in assessable income, and a deduction is not allowable (see Taxation Ruling TR 92/15). However, if motor vehicle expenses are reimbursed on a cents per kilometre basis then the amount is included in assessable income and a deduction is allowable. If the reimbursement is for the cost of a depreciable item, a depreciation expense is allowable (see Taxation Determination TD 93/145 and paragraphs 90 to 96).

10. The following allowances commonly received by truck drivers are assessable as income and no deduction is allowable against these allowances:-

Camping out	Handling of diapers
Carrying money	HIAB cranes etc.
Carrying salt	In charge of plant
Collecting butchers bones, fat, etc.	Leading hands
Collecting moneys	Long/wide loads
Delivery/placement of concrete	Obnoxious materials
Driving agitator trucks	Rear-end steering
Extra horses	Removal and delivery of furniture etc.
First-aid	Weekend/Holiday expense
Garaging	Working in forests

Overtime meal allowance Deductions are allowable against reasonable overtime meal allowances paid under an Industrial Award (paragraphs 126 to 129).

Travelling allowance Deductions are allowable against eligible travelling allowances (paragraph 171).

11. Work-related expenses commonly incurred by truck drivers and their tax treatment are listed below in alphabetical order.

Answering machines, beepers, mobile phones, pagers : Deductions for the purchase cost or rental cost of these items are allowable deductions. An apportionment must be made between work-related and private use (paragraph 60 to 63).

Child care: A deduction for child care expenses is not allowable (paragraph 64 to 66).

Clothing, uniforms and footwear: Expenditure on the purchase and maintenance of clothing is allowable where it is:

- (a) protective

- (b) occupation specific;
- (c) compulsory and meets the requirements of IT 2641;
- (d) non compulsory and registered with the TCFDA or approved in writing by the Australian Taxation Office; or
- (e) conventional but satisfies the deductibility tests as explained in TR 94/22) (paragraphs 67 to 89).

Driver's licence: Expenses incurred in acquiring or renewing a driver's licence are not allowable. Where a premium is paid on top of the cost of a standard licence, this premium is deductible (paragraphs 97 to 100).

Depreciation of equipment: A deduction for depreciation is allowable only to the extent of the income producing use of the equipment (paragraphs 90 to 96).

Equipment:

CB radios Deductions for the cost of CB radios are allowable (paragraphs 101 to 102).

Fridges Deductions for the cost, or depreciation, of fridges are allowable (paragraphs 103 to 104).

Sleeping bags Deductions for the cost, or depreciation, of sleeping bags are allowable (paragraphs 105 to 106).

Fines: Fines imposed under any law of the Commonwealth, a State a Territory or a foreign country or by a court are not allowable deductions (paragraphs 107 to 108).

Glasses/contact lenses: The cost of purchasing prescription glasses or contact lenses is not deductible as the expenses relates to a personal medical condition (paragraph 109).

Meals: No deduction is normally allowable for the cost of meals. (paragraph 110). Meal expenses are considered to be private. Where an allowance has been paid for meals, a deduction may be claimed (paragraph 111). Where meal costs are incurred by truck drivers who are required to sleep away from home, costs of meals are allowable as travel expenses (paragraphs 168 to 178).

Motor vehicle expenses

Travel from home to work The cost of travel from home to the normal place of employment is generally considered to be a private expense and is not deductible (paragraphs 119 to 121).

Incidental tasks on the way from home to work Expenses incurred in travelling between home and the regular place of employment are private and not deductible. The principle is not altered by the performance of incidental tasks en route (paragraph 122).

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Travel to and from regular place of employment but transporting bulky equipment : Where the travel can be attributed to the transportation of bulky equipment rather than to travel from home to work, then the costs are allowable (paragraph 123).

Travel between two separate places of work where there are two separate employers involved: The cost of travelling directly between two places of employment is generally deductible (paragraph 124).

Travel from the regular place of employment to an alternative location while still on duty and back to the regular place of employment or directly home: The cost of travel from a regular place of employment to other venues (other than the truck driver's home) is deductible. The cost of travel from the alternative venue back to the regular place of employment or directly home is also deductible. This travel is undertaken in the course of gaining assessable income and is allowable as a deduction (paragraph 124).

Travel from home to an alternative place of employment for work-related purposes and then to the normal place of employment or directly home: The cost of travel from home to an alternative place of employment and then to the normal place of employment or directly home is deductible as the travel is to/from an alternative destination which is not itself a regular place of employment (paragraph 124).

Travel between two places of employment or venues: The cost of travelling directly between two places of employment or a place of employment and a place of business is generally deductible under subsection 51(1) provided that the person does not live at either of the places and the travel is undertaken for the purpose of engaging in income-producing activities (paragraph 124).

Travel between home and a place of employment while 'on call': The cost of travel between home and a place of employment while 'on-call' is allowable (paragraph 124).

Travel to a place of education: The cost of travel between home and the place of education and back home again is deductible. The cost of travel between work and the place of education and back to work again is deductible. If the truck driver travels from home to the place of education and then on to work, only the first leg of the trip is deductible. If the truck driver travels from work to the place of education and then home, only the first leg of the trip is deductible (paragraphs 124 to 125).

Newspapers: Generally the cost of newspapers is not deductible (paragraphs 126 to 128).

Overtime Meal Allowance : Deductions against an overtime meal allowance are allowable (paragraphs 129 to 132)

Parking fees and tolls: Deductions for the cost of parking fees (but not fines) and tolls are allowable (paragraphs 133 to 135).

Self-education: Expenses incurred for self education are deductible if there is a direct connection between the course of self-education and income earning activities. Where self education expenses are allowable but also fall within the definition of 'expenses of self-education', the first \$250 is not deductible (paragraphs 136 to 151).

Stationery: Expenses incurred in the purchase of street directories, log books, diaries, etc. used for work-related purposes are allowable (paragraphs 152 to 154).

Technical or professional publications: A deduction is allowable for the purchase or subscription cost of journals, periodicals and magazines which have a content specifically related to a truck driver's work and are not general in nature (paragraphs 155 to 157).

Telephone expenses

Cost of calls: The cost of work-related calls is an allowable deduction (paragraphs 162 to 163).

Installation costs: Installation cost of a telephone is a capital expense and no deduction is allowable (paragraphs 158 to 159).

Rental costs: Generally rental costs are not allowable as a deduction. However, a proportion of telephone rental is allowable where a truck driver can demonstrate that he or she is 'on call', or required to telephone his or her employer on a regular basis (paragraphs 160 to 161).

Silent telephone numbers: Deduction for the cost of obtaining a silent telephone number is not allowable (paragraphs 164 to 165).

Tools: Deductions for depreciation of the cost of tools are allowable (paragraphs 166 to 167).

Travel expenses: Where a truck driver is required, because of his or her work, to sleep away from home, travel expenses (accommodation, meals, incidentals) are allowable as deductions (paragraph 169 to 179).

Truck repairs: Deductions for the cost of repairs to trucks are allowable (paragraph 180).

Truck washing: Deductions for costs incurred in washing trucks are allowable. (paragraphs 181 to 183).

Union/professional association fees: Deductions for union or professional association fees are allowable (paragraph 184).

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Working dogs: Deductions for the depreciation of the cost of working dogs, and deductions for their maintenance, are allowable to livestock carriers (paragraph 186).

Date of effect

12. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

13. If a taxpayer has a more favourable private ruling (whether legally or administratively binding), this Ruling applies to that taxpayer to the extent of the inconsistency only from and including the 1994-1995 year of income.

14. From the effective date of this Ruling, IT 2579 is withdrawn.

Explanations

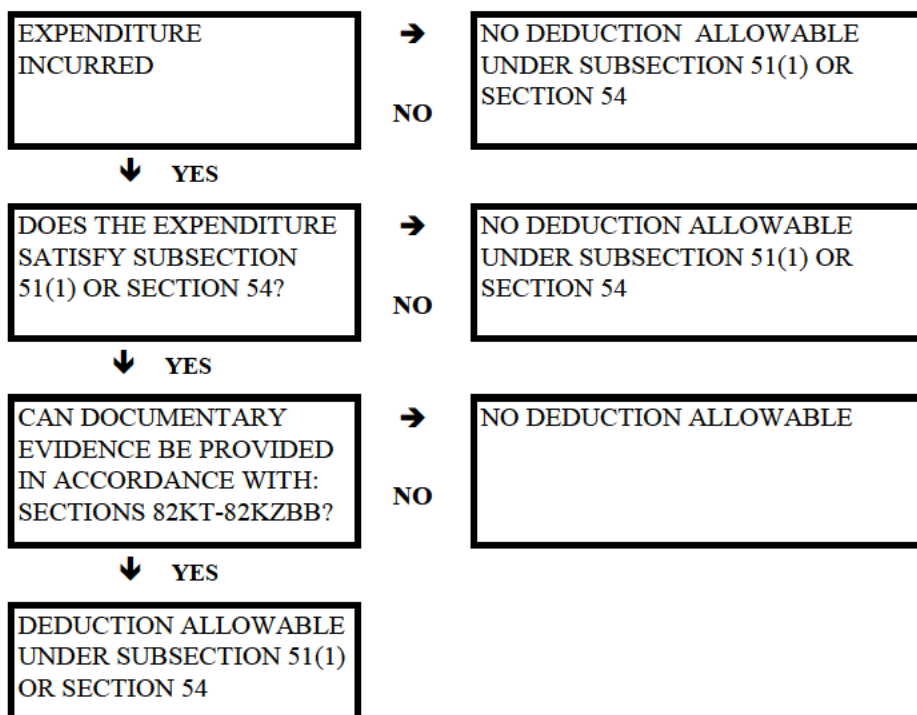
Deductibility of work-related expenditure

15. Whether or not a deduction is allowable for the types of work-related expenses set out in this Ruling, is determined by looking at subsection 51(1), sections 54, 55 and 82KT - 82KZBB.

16. Under subsection 51(1), a deduction is available for all losses and outgoings to the extent to which they are:

- incurred in gaining or producing assessable income; or
- incurred in carrying on a business for the purpose of gaining or producing assessable income

except to the extent to which they are losses or outgoing of capital, or of a capital, private or domestic nature, or are incurred in relation to the gaining or producing of assessable income.



17. In short, for expenditure on an item to be a tax deduction, the expense must:

- actually be incurred, and
- meet deductibility tests, and
- satisfy the substantiation rules under sections 82KT to 82KZBB of the ITAA.

Expense actually incurred

18. The expense must actually be incurred by the taxpayer to be allowable. A deduction cannot be claimed for expenses not incurred by a truck driver, or expenses reimbursed by the employer. In addition, a deduction cannot be claimed for items provided free of charge. For example, it costs Stephen \$50 to put fuel in his employer's truck. This expense is then reimbursed out of petty cash. Stephen cannot claim a deduction for this expense.

Expense meets deductibility tests

19. The expense must be relevant and incidental to the earning of the income (*Ronpibon Tin NL v. FC of T* (1949) 78 CLR 47; 4 AITR 236). In this case the taxpayer companies were mining companies which, as a result of World War 2, were unable to continue part of their normal operations in Malaya. They claimed the entirety of their

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management and administration expenses. A portion of the deduction was allowed and on the question of deductibility in general it was said that (CLR at 56; ATR at 435):

'For expenditure to form an allowable deduction as an outgoing incurred in gaining or producing the assessable income it must be incidental and relevant to that end.'

20. There needs to be a perceived connection between the expense and the income earning activity (*Hatchett v. FC of T* 71 ATC 4184; 2 ATR 557). In this case a primary school teacher was denied the costs of studying at university. Although it was argued that this expense would increase the chance of a promotion and in turn, result in earning more income, it was held not to be allowable as there must be a 'perceived connection' between the outgoing and the income gained.

21. The expense must have the essential character of an income producing expense (*Lunney v. FC of T*; *Haley v. FC of T* (1958) 100 CLR 478; 11 ATD 405, (*Lunney's case*)). The taxpayers in these cases claimed the costs of travelling to and from work. It was held that to be deductible under subsection 51(1) the expenditure must be relevant and incidental to gaining the income, and that this depends on the essential character of the expenditure. The Court said (CLR at 498; ATD at 412.):

'The question whether the fares which were paid by the taxpayers are deductible under s51(1) should not and, indeed, cannot be solved simply by a process of reasoning which asserts that because expenditure on fares from a taxpayer's residence to his place of business is necessary if assessable income is to be derived, such expenditure must be regarded as 'incidental and relevant' to the derivation of such income...

...Whether or not it should be so characterised depends upon considerations which are concerned more with the essential character of the expenditure itself.'

22. In *Lunney's case* it was held the expenditure incurred in travelling to and from work did not have the essential character of an income producing expense. Its character was private.

23. In *FC of T v. Cooper* 91 ATC 4396; 21 ATR 1616 (*Cooper's case*), Hill J said (ATC at 4414; ATR at 1616):

'...the fact that the employee is required, as a term of his employment, to incur particular expenditure does not convert expenditure that is not incurred in the course of the income producing operations into a deductible outgoing.'

(In *Cooper's* case a professional footballer was denied the cost of purchasing food and drink. His coach had instructed him to consume additional food, so he would not lose weight during the football season.)

24. However, the fact that an expense is voluntary does not automatically preclude an item from being deductible. See Taxation Ruling IT 2198 - *Allowable deductions: expenditure voluntarily incurred by employee taxpayers*.

25. A further important consideration may be the taxpayer's subjective purpose in incurring an expense. In the High Court decision of *Fletcher v. FC of T* 91 ATC 4950; 22 ATR 613 (*Fletcher's* case) it was held that subjective purpose may be taken into account, where an expense is voluntarily incurred and the connection between the production of the income and the expense is not objectively clear. *Fletcher's* case also emphasised that subsection 51(1) issues may turn on a characterisation of the expense.

26. Expenditure on items that are private or domestic in nature is expressly denied under the exclusionary clauses of subsection 51(1). Private or domestic expenditure is considered to include costs of living such as food, drink, shelter and clothing. In *Case T47* TBRD 1968 243; 14 CTBR (NS) 56 J.F. McCaffrey stated (TBRD at 243; CTBR at 307):

'In order to live normally in society, it is a prerequisite that individual members thereof be clothed, whether or not they go out to work. In general, the expenditure thereon is properly characterised as a personal or living expense...'

Expense satisfies the substantiation rules

27. The following paragraphs give guidance on general rules of substantiation.

\$300 limit for substantiation

28. If the total claim for work related expenses is less than \$300 then the substantiation provisions do not apply in accordance with subsection 82KZB(2) of the ITAA.

29. Expenses that are related to Overtime Meal Allowances and Award Travel Allowances and car expenses that are claimed using the Set Rate per km or 12% of cost method are not included in the \$300 limit [82KZB(2)].

30. Where the total of 'employment-related' expenses, travel and car expenses exceeds \$300, then the total of the claims must be substantiated, not just the excess (see TD 92/163).

What records must be kept

31. Receipts for expenses must be kept which have the following details:

- name of the person or business who supplied the goods or services;
- date on which the expense was incurred;
- amount in the currency in which the expense was incurred;
- nature of the goods and services supplied;
- date on which the document was made out.

32. In addition the document must be in the English language. If the expense was incurred outside Australia the document must be in a language of the country where the expense was incurred [82KU(1)].

Diaries

33. An entry in a diary or similar document:

- (i) is required in addition to receipts for activities undertaken while travelling where you either received a travelling allowance or you incurred travel expenses [82KZ(2)];
- (ii) may be used instead of receipts for expenses of \$10 or less up to a total of \$200 [82KU(6) and (7)]; or
- (iii) may be used instead of receipts for expenses which the Commissioner is satisfied are undocumentable expenses (such as tollway or parking meter expenses) [82KU(6), (7) and (8)].

What entries must be made in a diary

34. In relation to an eligible expense, a travel allowance or a travel expense the following entries must be made for each activity engaged in by the taxpayer:

- date the entry was made;
- place where the activity was undertaken;
- date and approximate time when the activity started;
- duration of the activity; and
- nature of the activity.

When must entries be made

35. The entries must be in the English language and must be made before, at the time of, or reasonably soon after the activity ended [82KZ(2)].

When do entries need to be signed

36. Diary entries in a **travel diary** do not need to be signed by the person making the entry. However **diary entries for expenses** mentioned in paragraphs 37 and 38 need to be signed at the time of making the entry [82KU(6)]. Where a number of entries are made on the same day only one signature at the time of the last entry is required.

Small amounts under \$10 per expense

37. Where a taxpayer incurs expenses under \$10 per item and the total expenses in a year of income is less than \$200 the taxpayer does not need to provide receipts [82KU(7)].

38. In relation to these expenses an entry must be made in a diary which records:

- the same details required for a receipt;
- the date of the entry; and
- the name of the person making the entry and their signature [82KU(6)].

39. Examples of such expenses would be take-away meals, writing materials or trade magazines.

Undocumentable expenses

40. A taxpayer does not need to provide receipts for expenses incurred where the Commissioner is satisfied that it would be unreasonable to expect the taxpayer to get a receipt [82KU(8)].

41. A signed diary entry recording the same details as a receipt, the name of the person making the entry and the date of the entry must be made at the time the expense was incurred or as soon as is reasonably practical to the time of incurring the expense.

Methods of claiming motor vehicle expenses***Quick reference guide***

42. The following table is a quick reference to the four available methods:

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Method	Available if	Requirements
Set rate per kilometre subsection 82KX	Up to 5000 business km. Not if leased for less than 12 months.	Reasonable estimate of business km travelled.
12% of cost subsection 82KW(3) and (4)	More than 5000 business km. Not if leased for less than 12 months.	Reasonable estimate that more than 5000 business km travelled. Documentary evidence of cost of car. Limited to 12% of \$48,415 (section 57AF).
1/3 of actual car expenses subsection 82KW(2)	More than 5000 business km. Not if leased for less than 12 months.	Reasonable estimate that more than 5000 business km travelled. Documentary evidence of car expenses or, for fuel and oil expenses, odometer records.
Log book method subsections 82KUA to KV	Any business km.	At first, keep log book for 12 continuous weeks. May need to repeat if more cars, changed use. Odometer records at start and end of log book period. Odometer records for start and end of subsequent years. Documentary evidence of car expenses or, for fuel and oil, odometer records.

Definition of Car

43. A car is a motor vehicle (including a four wheel drive vehicle), being:

- a motor car, station wagon, panel van, utility truck or a similar vehicle, or
- any other road vehicle designed to carry a load of less than 1 tonne or fewer than 9 passengers,

but does not include:

- a motor cycle or similar vehicle;
- a taxi taken on hire;
- a motor vehicle on short term hire [82KT(1)].

44. Expenses of operating trucks and commercial vehicles are not usually covered by the substantiation provisions.

Definition of car expenses

45. Car expenses include:

- operating costs;
- repairs;
- depreciation;
- interest on money borrowed to buy the car;
- other borrowing costs;
- lease costs including preparation, registration and stamping of the lease or of assignment or surrender of the lease; and
- costs (other than principal or interest) of discharging a mortgage given as security for repayment of money borrowed to buy the car [82KT(1)].

46. Car expenses do not include:

- expenses incurred in respect of travel outside Australia; or
- a taxi fare or similar expense [82KT(1)].

Elections

47. A taxpayer can elect one of the four methods for substantiating motor vehicle expenses. That election should be made before the date of lodgment of the return to which the election relates.

The Commissioner will allow further time for this election to be made [82KY(1)]. A taxpayer can change the method for substantiating motor vehicle expenses from year to year.

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48. The election should be held with the calculations of the car expenses by the taxpayer and must be produced when requested by the Tax Office. In the case of an electronically lodged return the election should be held with the paper return.

49. Where no election is made the claim for car expenses will be the greater of:-

- one third of actual expenses; or
- 12% of cost of the car; or
- set rate per kilometre where the car has travelled less than 5000 kilometres for business purposes [82KY(2)].

50. The substantiation requirements of each of these methods must still be met for the claim to be allowed.

Log books

51. A daily log book must have the following particulars:

- date of the journey;
- odometer readings at the beginning and end of the journey;
- number of kilometres travelled;
- purpose of the journey;
- name of the driver;
- date on which the journey was made; and
- name of the person making the journey (see MT 2026).

The entry must be signed by the person making the entry [82KT(1)].

52. Where a number of journeys are made in the one day, it is acceptable for the last entry of the day to be signed. Where the car makes several consecutive business journeys during the day, those consecutive trips can be treated as one for log book purposes [82KT(2)].

53. For a more detailed explanation of the Log Book Method see IT 2549 and MT 2026.

Retention Periods for Documents

54. For car or travel expenses which are incurred in the course of producing assessable income which is not salary or wages the retention period is from when the expense was incurred or record was commenced to 7 years after the return of income was lodged.

55. For salary and wage earners the record retention period is 3 years 6 months after the date of the lodgment of the return of income in which the claim is made.

56. If an objection, request for amendment, review or appeal arising out of an objection decision has not been finalised at the end of the retention period, the retention period extends until the matter is determined or disposed of [82KT(1) and 82KZA].

When do records need to be produced

57. Subsection 82KZA(2) requires the Commissioner to serve a notice in writing on a taxpayer which gives a specified period of not less than 28 days to produce documentary evidence relating to expenses to the Tax Office.

What form of records must be produced

58. When a notice has been served, the taxpayer must produce the documentary evidence related to the expenses including:

- receipts;
- odometer records;
- log books;
- travel diaries; and
- expense diaries.

59. In addition the taxpayer must produce a schedule in the English language and in a form approved by the Commissioner:

- a cross-reference to the documentary evidence of the expense;
- in relation to the cross-reference, a summary of the particulars set out in the documentary evidence together with, in a case where the expense was incurred in a foreign currency, particulars of the amount of the expense in Australian currency [82KZA(3)]

Answering machines, beepers, mobile phones, pagers

60. These items are used by truck drivers so they may contact, or be contacted by, their employers on a regular basis for work-related purposes. These items are considered to be necessary for such contacts to be made quickly and effectively.

61. The purchase cost of mobile phones, beepers, paging units and answering machines are allowable deductions under subsection 54(1). If such an item is purchased on or after 1 July 1991 for \$300 or less or has an effective life of less than three years, the portion of the cost that

relates to use for work-related purposes is deductible in full in the year of purchase. If the item cost more than \$300 and has an effective life of more than three years, the portion of the cost that relates to use for work-related purposes is deductible as depreciation. The rate of depreciation depends on the effective life of the item. These items ordinarily have an effective life of 7 years.

62. Rental expenses are allowable deductions under subsection 51(1).

63. Where the answering machine, beeper, mobile phone or pager is not used 100% for work-related purposes then a proportionate deduction only will be allowable. The proportion can be calculated using the following formula:

$$\frac{\text{Business calls (incoming and outgoing)}}{\text{Total calls (incoming and outgoing)}}$$

Child care

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

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

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

Clothing, uniforms and footwear

67. Deductions for clothing are allowable in the following circumstances where:

- (a) the clothing is **protective** in nature;
- (b) the clothing is **occupation specific** and not conventional in nature; or
- (c) the clothing is a **compulsory uniform** and satisfies the requirements of Taxation Ruling IT 2641;
- (d) the clothing is a **non compulsory uniform** or wardrobe that has been either:

- (i) entered on the Register of Approved Occupational Clothing of the Textile, Clothing, Footwear Development Authority (TCFDA); or
 - (ii) approved in writing by the Australian Taxation Office (ATO) under the transitional arrangements contained in section 51AL (all such approvals cease to have effect from 1 July 1995);
- (e) the clothing is conventional and the taxpayer is able to show that expenditure on the clothing has the essential character of an outgoing incurred in gaining or producing assessable income, there is an nexus between the outgoing and the assessable income so that the outgoing is incidental and relevant to the gaining of assessable income, and that the expenditure is not of a private nature (see Taxation Ruling TR 94/22 covering the decision in *FC of T v. Edwards* 94 ATC 4255; 28 ATR 87).

It is our view that in most cases expenditure on conventional clothing will not be deductible. If the taxpayer is able to show in his or her case that a sufficient connection does exist between expenditure on conventional clothing and the gaining of assessable income, it may be necessary to apportion the claim for deduction. A reasonable estimate of the work use relative to private use of clothing should be applied.

Protective clothing

68 Protective clothing must satisfy the deductibility tests in subsection 51(1) and must not be private or domestic in nature.

69. Protective clothing as defined in subsection 51AL(26) is any garment that is of a kind which is for use wholly or principally to protect:

- (a) the wearer or another person from, or from risk of:
 - (i) death; or
 - (ii) the contraction, aggravation, acceleration or recurrence of a disease; or
- (b) the wearer from, or from risk of:
 - (i) injury (including the aggravation, acceleration or recurrence of an injury); or
 - (ii) loss or destruction of, or damage to:
 - (A) other clothing worn by the wearer; or
 - (B) an artificial limb or other artificial substitute, or a medical, surgical or other similar aid or appliance, used by the wearer.

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70. Truck drivers may be provided with clothing by their employer for the protection of their conventional clothing, e.g., overalls. Truck drivers may also choose to purchase additional items of protective clothing and the purchase of this clothing, is an allowable deduction under subsection 51(1).

71. Taxation Determination TD 92/157 discusses the purchase of heavy duty clothing such as jeans, drill trousers and drill shirts. Expenditure on these items is considered a private expense and not deductible under subsection 51(1).

72. Expenditure on conventional shoes eg. running shoes, sports shoes, and casual shoes is private and is not an allowable deduction under subsection 51(1). Expenditure on protective footwear such as steel-capped boots is allowable.

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

74. The purchase cost of normal sunglasses bought by truck drivers is not an allowable deduction under subsection 51(1) as it is private in nature. This is supported in *Case N84*, 81 ATC 451; (1981) 25 CTBR(NS) *Case 43*, where a news cameraman was denied a deduction for the cost of sunglasses used in his work due to the essential private nature of the sunglasses.

75. This is in contrast to the decision in *Case 10/94*, 94 ATC 168; *AAT Case 9254* (1994) 27 ATR (date of decision; 18 January 1994) where a police motorcycle patrolman was allowed a deduction for a pair of wrap-around sunglasses. In this case, the additional safety features of the wrap-around sunglasses protected the taxpayer from foreign particles. They were purchased for their protective function and were used as protective eye wear by the police officer in the course of performing his duties.

76. Taxation Ruling IT 2477 and Taxation Determination TD 93/244 provide information on the tax treatment of sunglasses.

Occupation specific clothing

77. Occupation specific clothing in relation to an employee, means clothing that, disregarding any features of the clothing that

distinctively identifies the employee as a person associated, directly or indirectly, with:

- the employer of the employee; or
- a group consisting of:
 - (i) the employer of the employee; and
 - (ii) one or more associates of the employer (within the meaning of section 26AAB);

distinctively identifies the employee as a member of a particular profession, trade, vocation, occupation or calling (subsection 51AL(26)).

78. Occupation specific clothing must be distinctive and unique, in the sense that by its nature or physical condition it is readily identified as belonging to a particular profession, trade, vocation, occupation or calling. The clothing must be non-conventional in nature to fall within this category. That is, it is not clothing which can be described as ordinary clothing of a type usually worn by men and women regardless of their occupation. Examples of clothing which is considered to be occupation specific are nurses' traditional uniforms, chefs' checked pants and a religious cleric's ceremonial robes.

79. Clothing which could belong to a number of occupations would not fall within the definition of occupation specific clothing. An example of this is a white jacket or coat worn with white trousers. While a white jacket or coat worn with white trousers may indicate that the wearer belongs to the health profession, it is not sufficiently distinctive in design or appearance to readily identify the specific or particular occupation of the wearer. That is, the wearer could be a pharmacist, dentist, laboratory technician, or a number of other occupations.

80. It is not envisaged that truck drivers would wear clothing which is considered to be occupation specific.

Compulsory uniform or wardrobe

81. A 'corporate' uniform or wardrobe (as detailed in Taxation Ruling IT 2641) is a collection of inter-related items of clothing and accessories which are unique and distinctive to a particular organisation.

82. Taxation Ruling IT 2641, paragraph 10, lists the factors to be considered in determining whether clothing constitutes a 'corporate' wardrobe or uniform.

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83. In *Case R55* 84 ATC 411; 27 CTBR(NS) *Case 109*, K P Brady (Chairman), J E Stewart and D J Trowse in a joint statement of reasons came to the following conclusions:

'Conventional clothing of a particular colour or style does not necessarily, because of those factors alone, assume the character of a uniform. Likewise, ordinary clothing is not converted into a uniform by the simple process of asserting that it fills that role or by the wearing of a name plate, etc. attached to clothing' (ATC at 416; CTBR at 874).

84. In *Case U95* 87 ATC 575, a shop assistant employed by a retail merchant was to dress according to the standard detailed in the staff handbook. The prescribed dress standards were as follows:

'Selling Staff: Female Staff - To wear a plain black tailored dress, suit or skirt, plain black or white blouse, either long or short sleeved. No cap sleeved, or sleeveless dresses or blouses to be worn.' (ATC at 577).

85. The deduction for clothing was denied, because there was 'nothing distinctive or unique about the combination of clothing which would identify the wearer' as an employee of the organisation, or even a shop assistant from another department store. Further, 'the colour combination of the clothing would be included in the range of acceptable street dress unassociated with business or employment, as well as a combination of colours sometimes worn by female or food waiting staff'.

Non-compulsory uniform or wardrobe

86. A deduction is allowable for the purchase and maintenance costs of clothing if that clothing meets the criteria of a non-compulsory uniform or wardrobe under subsection 51AL. This section provides that expenditure on non-compulsory uniforms or wardrobes will only be allowable under 51(1) if the design of the clothing has been entered on the Register of Approved Occupational Clothing kept by the Textiles, Clothing and Footwear Development Authority (TCFDA) or if the design of the clothing is approved in writing by the Tax Office under IT 2641. Transitional arrangements enabling the Tax Office to approve designs of non-compulsory uniforms and wardrobes will expire on 30 June 1995.

87. Where truck drivers are provided with uniforms bearing the company logo by their employers, and it is not compulsory to wear the uniform, no deduction is allowable unless the uniform is approved or registered.

Laundry and maintenance

88. When expenditure on clothing is allowable under subsection 51(1), a deduction for the expenses incurred in the cleaning and maintenance of this clothing is allowed.

89. Further information can be found in Taxation Ruling IT 2452.

Depreciation of equipment

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

91. A deduction for depreciation is allowable under subsection 54(1) on plant and articles used during the year for the purpose of producing assessable income. In addition, a depreciation deduction is allowable on plant and articles which are not actually used during the year for income-producing purposes but are installed ready for use for that purpose and held in reserve.

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

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

94. Where the property is used partly in the course of employment and partly for other purposes, then the depreciation expense should be apportioned based on an estimate of the percentage of income-producing use (section 61). This principle would apply to equipment such as musical instruments, video recorders, tape recorders, camping gear and sporting equipment.

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

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

Driver's licence

97. The expenses incurred in acquiring or renewing a driver's licence are not allowable under subsection 51(1). The cost associated with obtaining a driver's licence is a capital expense. The cost of renewing such a licence is a private expense.

98. In *Case R49* 84 ATC 387; 27 CTBR(NS) *Case 104*, it was held that even though travel was an essential element of the work to be performed by the taxpayer, a driver's licence was still an expense private in nature and therefore not deductible under subsection 51(1).

99. Taxation Determination TD 93/108 confirms that no deductions are allowable for the cost of renewing a driver's licence even if the driver's licence is a condition of employment.

100. A truck driver needs an endorsed licence to perform his duties. In some States, these types of endorsements do not add to the cost of the licence. However where a premium is paid on top of the cost of a standard licence, this premium is deductible.

Equipment

CB radios

101. CB. radios are used for contact between truck drivers to determine road conditions, etc. and/or for contact with the employer. Costs incurred in the purchase and operation of a CB radio are allowable deductions.

102. The cost of the CB Radio is a capital expense and a deduction for depreciation is allowable under section 54. The methods of calculating the annual depreciation percentage for capital assets are detailed in section 55. Immediate deductions are available for items with an effective life of less than 3 years or costing \$300 or less.

Fridges

103. Truck drivers may purchase fridges to keep food and drink cool. Fridges purchased for this purpose are capital items and a deduction for depreciation is allowable under section 54.

104. The methods of calculating the annual depreciation percentage for capital assets are detailed in section 55. Immediate deductions are available for items with an effective life of less than 3 years or costing \$300 or less.

Sleeping bags

105. Truck drivers may purchase sleeping bags to enable them to sleep in their trucks while travelling away from home for work-related purposes. These items are capital in nature and a deduction for depreciation is allowable under section 54.

106. The methods of calculating the annual depreciation percentage for capital assets are detailed in section 55. Immediate deductions are available for items with an effective life of less than 3 years or costing \$300 or less.

Fines

107. Fines imposed under any law of the Commonwealth, a State, a Territory or a foreign country or by a court are not allowable deductions. Subsection 51(4) expressly excludes these payments from deductibility under subsection 51(1).

108. Truck drivers may incur fines for parking, speeding and overloading of trucks. These costs are not deductible.

Glasses/contact lenses

109. The cost of purchasing glasses or contact lenses is not deductible under subsection 51(1) as the expense relates to a personal medical condition and is therefore private in nature.

Meals

110. Deductions for the cost of food or meals consumed while on duty are generally not allowable as deductions. These costs fail to meet the tests of deductibility described in paragraphs 19 to 26, and are considered to be private in nature (see paragraph 26).

111. Costs for meals will be allowed where an allowance has been paid for meals (see paragraphs 126 to 129). Costs will also be allowed where the employee truck driver is travelling away from home for work-related purposes, is required to sleep away from home and thus incurs travel expenses (see paragraphs 169 to 179).

112. The Full Federal Court considered the deductibility of food in *FC of T v. Cooper* 91 ATC 4396. In that case, a professional footballer had been instructed to consume large quantities of food

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during the off-season to ensure his weight was maintained. By majority the Full Federal Court found that the cost of additional food to add to the weight of the taxpayer was not allowable. Hill J (at ATC 4414; ATR 1636) said:

'The income producing activities to be considered in the present case are training for and playing football. It is for these activities that a professional footballer is paid. The income producing activities do include the taking of food, albeit that unless that food is eaten, the player would be unable to play. Expenditure on food, even here as "additional" food does not form part of expenditure related to the income-producing activities of playing football or training.'

Hill J went on to say (ATC 4415; ATR 1638):

'Food and drink are ordinarily private matters, and the essential character of expenditure on food will ordinarily be private rather than having the character of a working or business expense. However, the occasion of the outgoing may operate to give to expenditure on food and drink the essential character of a working expense in cases such as those illustrated of work-related entertainment or expenditure incurred while away from home.'

113. It is our view that expenditure on meals consumed by truck drivers in the normal course of a working day will not have sufficient connection with income-producing activities of truck drivers and is in any case a private expense.

114. We do not accept that the cost of meals can be apportioned between what the cost of a home-made meal would be and the cost of a meal purchased during an ordinary working day.

115 In *Case U148* 87 ATC 868; AAT Case 105 (1987) 18 ATR 3744 the AAT allowed a truck driver deductions for meals bought 'on the road'. The circumstances by which the deduction was allowed were set out in Taxation Ruling IT 2579.

116. In a later AAT decision, *Case Y8 91* ATC 166; AAT Case 6587 (1991) 22 ATR 3037) Dr Gerber (Deputy President) said of the decision in *Case U 148* (at ATC 168):

'To the extent that Senior Member Roach allowed the expenditure on meals taken "on the road" on the basis that they were "not unreasonable", I must regretfully part company with him. "Reasonableness" has not yet, as far as I am aware, been used as a litmus test to determine "the extent to which (expenditures) are incurred in gaining or producing assessable income" or were of a private or domestic nature. Catching a bus to work is not "unreasonable", but it does not make the bus fare

an allowable deduction (*Lunney v FC of T* (1957-58) 100 CLR 478). It is also "reasonable" for working mothers to engage babysitters. However the sitter's fees thus incurred are not deductible (*Lodge v FC of T* 72 ATC 4174).'

117. A truck driver by the very nature of his or her employment is required to be 'on the road' for the major part of his or her working day to perform his or her duties. It cannot be said that such activity is not 'ordinary'.

118. We now consider, based on more recent cases (*FC of T v. Cooper* 91 ATC 4396 and *Case Y8* 91 ATC 166; AAT Case 6587 (1991) 22 ATR 3037), that the decision in *Case U148* is incorrect. From the effective date of this Ruling, Taxation Ruling IT 2579 will be withdrawn.

Motor vehicle expenses

Travel from home to work

119. The cost of travel by a truck driver from home to his or her normal place of employment is generally considered to be a private expense and is not deductible under subsection 51(1). This principle was established in *Lunney v. FC of T*, *Hayley v. FC of T* 100 CLR 478, 7 AITR 166.

120. In each of these cases, travel expenses incurred in travel between home and work were claimed on the basis that the expenditure was incurred in producing income. A joint judgment on both cases by Williams, Kitto and Taylor JJ stated the following;

'The question whether the fares which were paid by the appellants are deductible under section 51 should not and, indeed, cannot be solved simply by a process of reasoning which asserts that because expenditure on fares from a taxpayer's residence to his place of employment or place of business is necessary if assessable income is to be derived, such expenditure must be regarded as "incidental and relevant" to the derivation of income.But to say that the expenditure on fares is a prerequisite to the earning of a taxpayer's income is not to say that such income is incurred in or in the course of gaining or producing assessable his income.' (at 498-499).

121. The fact that the travel is outside normal working hours or involves a second or subsequent trip does not change this principle. For more information see paragraph 6 of Taxation Ruling IT 2543.

Incidental tasks on the way from home to work

122. Collecting mail, supplies, truck parts and comparable incidental tasks while travelling between the truck driver's home and his or her regular depot does not, of itself, transform private travel into work-related travel. Similarly where a truck driver travels from home to collect a truck prior to starting work, such travel is a private expense. The cost of this travel is not deductible under subsection 51(1). This is confirmed in Paragraph 34 of Taxation Ruling MT 2027.

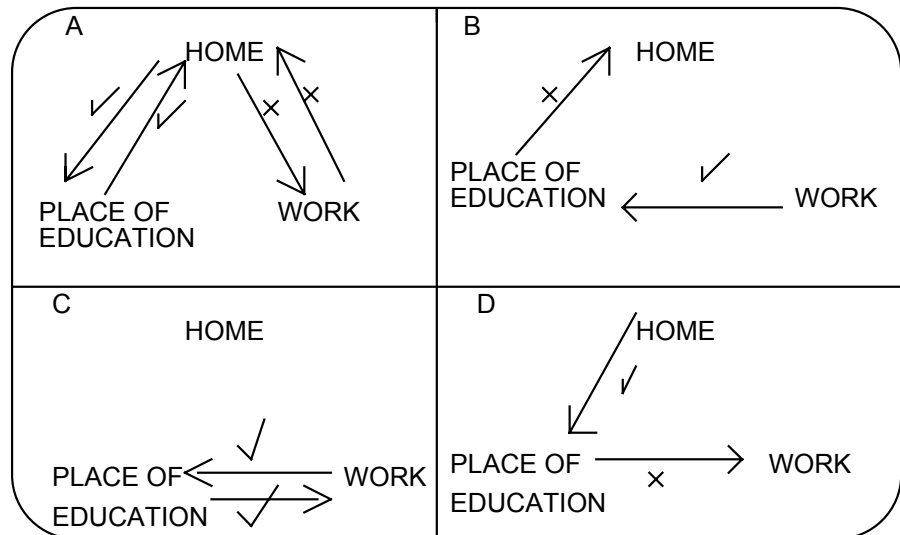
Travel to and from regular depot but transporting bulky equipment

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

124. Deductions may be allowable when truck drivers are required to use their private motor vehicle and travel:

- (a) directly between two separate places of work where there are two separate employers involved
- (b) from the regular place of employment to an alternative location while still on duty and back to the regular place of employment or directly home
- (c) from home to an alternative place of employment for work-related purposes and then to the normal place of employment
- (d) between two places of employment or venues
- (e) between home and a place of employment while "on call"
- (f) to a place of education. For self-education purposes:
 - (i) the cost of travel between home and the place of education and back home again is deductible;
 - (ii) the cost of travel between work and the place of education and back to work again is deductible;
 - (iii) if the truck driver travels from home to the place of education and then on to work, only the first leg of the trip is deductible;
 - (iv) if the truck driver travels from work to the place of education and then home only the first leg of the trip is deductible.

125. Travel in relation to self-education

**Newspapers**

126. The cost of daily newspapers is generally not allowable as a deduction under subsection 51(1). It is a private expense. A taxpayer may be able to use some part of the information derived in the course of his or her duties. However, in most circumstances the benefit gained is remote and the proportion of expenditure on newspapers that relates directly to the duties undertaken is incidental to the private expenditure. This view is supported in *Case P30*, 82 ATC 139; 25 CTBR(NS) *Case 94* and *Case P114*, 82 ATC 586; (1982) 26 CTBR(NS) *Case 47*.

127. This decision is supported by the following cases: *Case K68* 78 ATC 667; 22 CTBR(NS) *Case 86*; *Case N67* 81 ATC 349; 25 CTBR(NS) *Case 18*; *Case P30* 82 ATC 139; 25 CTBR(NS) *Case 94*; *Case P114* 82 ATC 586; 26 CTBR(NS) *Case 47*; *Case P124* 82 ATC 629; 26 CTBR (NS) *Case 55*.

128. These cases can be contrasted with *Case R70* 84 ATC 493; 27 CTBR(NS) *Case 124* where a supervisor in the Commonwealth Auditor-General's Department was allowed deductions for the cost of specific issues of *The National Times* and *The Australian Financial Review* as there was a sufficient connection between the duties carried out by the taxpayer and the content of these specific publications. However deductions for the cost of the local newspaper, *The Canberra Times*, were disallowed as the expense was essentially private in nature.

Overtime meal allowance

129. An overtime meal allowance is paid under a law or industrial award for the purpose of enabling an employee to purchase food and drink at meal or rest breaks while working overtime.

130. The general rule is that no deduction is allowed for overtime meal expenses unless documentary evidence, such as a receipt, is obtained. However, an employee can claim expenses against an overtime meal allowance paid under an industrial award without the need for documentary evidence, provided the claim does not exceed the allowance received and the allowance is considered reasonable by the Commissioner (subsection 82KZ(4)).

131. An employee wishing to claim more than the allowance received must have documentary evidence to support the total claim, not only the excess (section 82KZA).

132. For the year ended 30 June 1994 an allowance up to an amount of \$15 per meal is considered reasonable by the Commissioner of Taxation. Taxation Rulings IT 2326, IT 2644, IT 2686 and Taxation Ruling TR 93/22 provide additional information on the subject of overtime meal allowances.

Parking fees and tolls

133. Parking fees (but not fines) and tolls are expenses which may form part of the travelling expenses incurred by truck drivers.

This decision is supported by *Case Y43 91* ATC 412; *Case 7273* (1991) 22 ATR 3402.

134. These expenses are generally considered to be private in nature when truck drivers are travelling between their normal place of residence and their regular place of employment and deductions are not allowable under subsection 51(1).

135. Deductions for parking fees (but not fines) and tolls are allowable if the expenses are incurred while travelling:

- (a) between two separate places of work,
- (b) to a place of education for self-education purposes,
- (c) in the normal course of duty and the travelling expenses are allowable deductions. Paragraphs 119 to 125 of this Ruling provide further information on the deductibility of motor vehicle expenses.

Self education

136. Truck drivers cannot claim the first \$250 spent on self education if the course was conducted by a school, college, university or other place of education, and is undertaken to gain qualifications.

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

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

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

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

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

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

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teacher in a general sense, this was not sufficient to make the fees deductible.

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

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

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

146. The intention or purpose of a taxpayer in incurring the self-education expenses can be an element in determining deductibility. If the main purpose of a study tour or attendance at a conference or seminar is related to the gaining or producing of income and the private purpose is merely incidental, apportionment of the expenses is not appropriate.

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

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

- (i) course or tuition fees of attending an educational institution or of attending work-related conferences or seminars.
These fees include student union fees.

- (ii) the cost of textbooks, of professional and trade journals, of technical instruments and equipment and of clerical activities (e.g. word-processing and photocopying).
- (iii) fares, accommodation and meal expenses incurred on overseas study tours, on work-related conferences or seminars attended away from a taxpayer's home or attending an educational institution away from the taxpayer's home.
- (iv) interest incurred on moneys borrowed to pay for the expenses listed above in subparagraphs (i) - (iii).
- (v) deductions for running expenses of a private study used in connection with self-education.

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

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

Limit on deductibility

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

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

Stationery

152. Expenses incurred in the purchase of street directories, log books, diaries and pens which are used for work-related purposes are allowable deductions under subsection 51(1).

153. Truck drivers are required to maintain a Drivers Log Book to comply with Motor Traffic Regulations. Expenses incurred in purchase of such log books are allowable.

154. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible

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if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by truck drivers on stationery, and other items used for work-related purposes and which are not reimbursed by the employer are allowable deductions under subsection 51(1).

Technical or professional publications

155. A deduction is allowable under subsection 51(1) for the purchase or subscription cost of journals, periodicals and magazines which have a content specifically related to a truck driver's work and are not general in nature.

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

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

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

Telephone expenses

Cost of calls

158. Truck drivers sometimes need to contact their employers to check working or delivery schedules. For these contacts to be made, the use of a telephone is necessary. Therefore, the expense incurred in making work-related calls is an allowable deduction under subsection 51(1).

159. Work-related calls can be identified from the itemised telephone account. Where such an account is not provided, a reasonable estimate of call costs, based on diary entries of calls made over a period of one month, together with relevant telephone accounts will be acceptable for substantiation. An appropriate basis for such

apportionment would be the ratio of incoming and outgoing work-related calls to private calls.

Telephone installation costs

160. Installation costs for telephones are not deductible under subsection 51(1) as they are considered to be a capital expense. (See Taxation Ruling IT 85).

161. In *Case M53* 80 ATC 357; 24 CTBR (NS) 73 it was held that (ATC at 359; CTBR at 236):

'...on payment of the connection fee, this taxpayer bought into existence an advantage for the enduring benefit of his newly established medical practice.'

Rental costs

162. Generally, the use of a phone and hence the rental costs would have a private or domestic character and not be allowable deductions. But consider *Case N5* 81 ATC 35; 24 CTBR (NS) 682 where the Board said that:

'...expenditure on maintaining the use of a telephone can, because of its very nature, be properly deductible under section 51, obviously so when installed and used in a place of business and not infrequently when installed in private premises so long as it is used in the production of assessable income.' (ATC at 37; CTBR at 684).

163. The situations where telephone rental will be deductible, especially in the employee context, are summarised at paragraph 3 of Taxation Ruling IT 85. It identifies that taxpayers who are either on call or required to contact their employer on a regular basis may be entitled to a deduction for some portion of the cost of telephone rental.

164. Where the phone, is not used 100% for work-related purposes then a proportionate deduction only will be allowable. The proportion can be calculated using the following formula:

$$\frac{\text{Business calls (incoming and outgoing)}}{\text{Total calls (incoming and outgoing)}}$$

Silent telephone number

165. The cost of obtaining a silent number listing is considered to be private in nature and no deduction is allowed under subsection 51(1).

166. Taxation Determination TD 93/115 provides further information on the tax treatment of the cost associated with obtaining a silent telephone number.

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Tools

167. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred, either at the direction of the employer or voluntarily, by truck drivers in purchasing tools used to carry out truck repairs, and which are not reimbursed by the employer, are allowable deductions under subsection 51(1).

168. Expenses incurred in purchasing these capital items are allowable deductions under section 54. If an item is purchased on or after 1 July 1991 for \$300 or less or has an effective life of less than three years, the portion of the cost that relates to use for work-related purposes is deductible in full in the year of purchase. If the item cost more than \$300 and has an effective life of more than three years, the portion of the cost that relates to use for work-related purposes is deductible as depreciation (see paragraphs 90 to 96).

Travel expenses

169. An employee truck driver required to sleep away from home may claim a deduction for work related travel expenses. These expenses could include the costs of meals, accommodation or incidentals. Such expenses are seen as having a sufficient connection with the truck driver's income earning activities.

170. No deduction is allowable for travel expenses unless documentary evidence of expenses is obtained. For example, if an employee truck driver chooses to stay in a motel on a work-related trip, the accommodation costs must be substantiated with documentary evidence such as a receipt. Where an employee is travelling away from home for more than 5 nights, a travel diary containing particulars of each activity undertaken on the relevant travel also needs to be kept.

171. Where an employee truck driver receives a travel allowance (for example, an overnight expense allowance) which the Commissioner considers reasonable, a deduction may be allowable for expenses incurred for accommodation, meals and incidentals in respect of the travel to which the allowance relates.

172. Taxation Rulings setting out the amounts which the Commissioner considers to be reasonable for the purposes of subsection 82KZ(4) are released periodically. See Taxation Rulings IT 2601, IT 2644, IT 2686 and TR 93/22.

173. Where a reasonable travel allowance is paid, travel expenses incurred which do not exceed the amount of the allowance may be claimed without the need for substantiation.

174. Claims which exceed a reasonable travel allowance must be substantiated in full. That is, where a deduction claim is greater than the amount of allowance received, the whole amount of the claim must be substantiated, not just the excess over the allowance amount. See *Case 1* 93 ATC 101.

175. Where an employee truck driver does not receive a travel allowance, any claim for travel expenses must be fully substantiated.

176. Under section 82KZ and section 82KZA, an income tax deduction is not allowable in respect of an 'eligible expense' in relation to a meal allowance, travel allowance, 'employment-related expense' or a travel expense unless documentary evidence of the expense has been obtained and retained by the taxpayer. Broadly speaking, documentary evidence of an expense is a receipt, invoice or similar document that sets out the particulars outlined in section 82KU.

177. In most instances receipts or similar documents can be obtained to verify the cost of meals. However, it is recognised that it is sometimes impracticable for truck drivers to obtain receipts for various small items of food and drink (being amounts not exceeding \$10).

178. Where a truck driver chooses not to obtain a receipt, a diary entry will satisfy the substantiation requirements. The maximum amount of work-related deductions which can be claimed using diary entries is \$200 (subsection 82KU(7)). However, where the Commissioner considers it to be unreasonable to expect the taxpayer to obtain a receipt, no limit is placed on the total amount which can be claimed using diary entries (subsection 82KU(8)). Diary entries must comply with the provisions of subsection 82KU(1).

179. As an alternative to keeping a separate diary, truck drivers may choose to record particulars of the amounts expended on the back of the relevant page of the Roads & Traffic Authority Drivers Log Book.

Details required would be:

- type of meal (e.g. dinner);
- the cost of the meal;
- the name of the vendor (e.g. Joe's Cafe; BP Service Station); and
- the location where the meal was purchased (e.g. town/suburb).

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Truck repairs

180. Costs incurred in the purchase of parts for repair of the employer's trucks, either at the direction of the employer or voluntarily, are allowable deductions. Where any reimbursement is received by an employee to cover these costs, this amount must be offset against any claims made.

Truck washing

181. Where a truck driver is required to wash his or her employer's truck, expenses incurred in the purchase of detergents, polish, etc., for this purpose will be allowed.

182. Where items of a capital nature are purchased, such as shampooing attachments for a hose, any deduction for depreciation must be apportioned between the work-related and private use to which the item is put.

183. For example, Bob purchases a shampooing attachment costing \$200 and uses it in the relevant tax year to wash his employer's truck each week and the family car every fourth week. As this item is subject to immediate write off in the year of purchase the deduction must be apportioned on the basis of one fifth of the cost being private. The allowable deduction would therefore be \$160.

Union or professional association fees

184. Union or professional association fees are fully deductible under subsection 51(1). Taxation Rulings IT 327, IT 2062 and IT 2416 provide further information on the deductibility of union and professional association fees.

Working dogs

185. Where a truck driver can provide evidence to support the necessity for a working dog, e.g. drivers who transport cattle and require dogs to herd cattle off and on the truck, the dog would be depreciable plant and subject to the depreciation provisions of section 54. Rates of depreciation are set out in Taxation Ruling IT 2685.

186. Associated veterinary fees and pet food expenses are allowable deductions under subsection 51(1).

Alternate views

187. During consultation on this Ruling, alternative views were expressed as follows:-

188. ***Driver's licence:*** that costs associated with upgrading an ordinary licence as well as renewal should be allowable as there is sufficient nexus between these costs and the performance of a truck driver's work. The ATO view is at paragraphs 97 to 100.

189. ***Meals:*** that deductions for meals as allowed in Taxation Ruling IT 2579 should stand. The ATO view is expressed at paragraphs 110 to 118.

190. ***Sunglasses/anti-glare glasses:*** that these items should be allowable deductions as they enhance a truck driver's ability to perform his duties. The ATO view is that these items provide protection from the natural environment as per Taxation Determination TD 93/244.

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