TR 94/21 - Income tax: employee work-related deductions for teachers

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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 teachers

other Rulings on this topic

IT 26; IT 85; IT 112; IT 208; IT 2199; IT 2230; IT 2370; IT 2406; IT 2452; IT 2460; IT 2481; IT 2543; IT 2549; IT 2566; IT 2614; IT 2641; IT 2673: IT 2685; MT 2026; MT 2027; TR 92/8; TR 92/15; TR 93/30; TR 94/22; TD 92/142; TD 92/154;TD 92/157; TD 92/163; TD 93/101; TD 93/108; TD 93/109; TD 93/111; TD 93/113; TD 93/114; TD 93/145; TD 93/159; TD 93/244

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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 teachers. The Ruling covers the expenses of lecturers, tutors, early childhood, primary, secondary, special education, technical and further education (TAFE) and relief teachers. Expenses that are unique to lecturers at higher education institutions and teachers on exchange programs are not addressed in this Ruling.

2. This Ruling discusses whether deductions are allowable under subsection 51(1), sections 51AE, 54 and 55 of the *Income Tax Assessment Act 1936* (ITAA).

3. The Ruling also gives guidance on substantiation for work-related expenses claims.

4. Deductions for teacher's work-related expenses are listed below in alphabetical order. For further explanation, refer to the paragraph references in brackets in the explanations section.

Date of effect

5. 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).

6. 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.

Ruling

Allowances and reimbursements

7. The receipt of an allowance does not normally entitle teachers to deductions for expenses incurred in relation to the allowance.

8. A claim can only be made against an allowance if the expenditure is incurred; it is allowable as a deduction, and the requirements of the substantiation provisions are satisfied.

9. If the expenses incurred are allowable, and the substantiation requirements are satisfied, the amount allowable is not limited by the amount of allowance received.

10. 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 105 to 116).

11. Allowances commonly received by teachers and their tax treatment are listed below in alphabetical order.

Kilometric allowance: This allowance is included in assessable income. A deduction is allowable for motor vehicle expenses based on one of the methods to calculate car expenses (paragraph 59).

Meals allowance: This allowance is included in assessable income. A deduction is only allowable where the teacher is away from home overnight (paragraph 60).

12. Work-related expenses commonly incurred by teachers and their tax treatment are listed below in alphabetical order.

Child care expenses: A deduction for child care expenses is not allowable (paragraphs 61 to 63).

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 64 to 93).

Computers and software: A depreciation expense on computers and related software used for work-related purposes is allowable as a deduction. However, if the related software is purchased separately from the computer, the portion of the cost that relates to work-related purposes is deductible in full in the year of purchase (paragraphs 94 to 96).

Conferences and seminars: Expenses incurred to attend conferences, seminars and training courses to maintain or increase the knowledge, ability or skills in the teaching profession are allowable deductions provided there is a relevant nexus with the duties performed by a teacher (paragraphs 97 - 104)

Depreciation of equipment: A deduction for depreciation is allowable only to the extent of the income-producing use of the equipment (paragraphs 105 to 116).

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 117 to 121).

Excursion, school trips and camps: The costs incurred when accompanying students on excursions, educational and sporting trips and camps are allowable as deductions only if the these trips have an educational benefit and are related to the curriculum or extra-curricular activities of the school (paragraphs 122 to 142).

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 (paragraph 143).

First aid courses: The expenses associated with first aid courses are an allowable deduction (paragraph 144).

Fitness expenses: Expenses incurred in keeping fit are not deductible (paragraph 145).

Glasses and contact lenses: The cost of purchasing prescription glasses or contact lenses is not deductible as the expense relates to a personal medical condition (paragraph 146).

Home office expenses (Paragraphs 147 to 165)

Private Study: Deductions for the running expenses of a private study are allowable where work is performed at home (paragraphs 152 to 161).

Place of business: Deductions for running and occupancy expenses are allowable where an area of the home has the character of a place of business (paragraphs 162 to 165).

Meals: Deductions for the cost of meals consumed during the day are not allowable as the consumption of food and beverages is a private expense. Meals costs will be allowable where an allowance has been paid say for meals purchased during overtime (paragraphs 166 to 171).

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. The fact that the travel is outside normal school hours or involves a second or subsequent trip does not change this principle (paragraph 172 to 180).

Incidental tasks on the way from home to the regular place of employment: Expenses incurred in travelling between home and the regular place of employment are private and not deductible. This principle is not altered by the performance of incidental tasks en route (paragraph 181).

Travel to and from regular place of employment but transporting bulky equipment or transporting students: Where the travel can be attributed to the transportation of bulky equipment or students rather than to travel from home to work, then the costs are allowable (paragraphs 182 to 188).

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 191 to 193).

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 teacher's regular place of employment to other schools or venues (other than the teacher'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 (paragraphs 194 to 198).

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 (paragraphs 199 to 202).

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 (paragraphs 203 to 209).

Travel between home and a place of employment while 'on call': Even though a relief teacher will travel from home to different schools, this does not alter the character of that travel i.e., it remains private and is not deductible (paragraphs 210 to 216).

Travel to a place of education: The cost of travel between home and the place of education and back home again for self education purposes is deductible. The cost of travel between work and the place of education and back to work again is deductible. If the teacher travels from home to the place of education and then on to work, only the first leg of the trip is deductible. If the teacher travels from work to the place of education and then home, only the first leg of the trip is deductible (paragraph 217).

Newspapers: Generally, the cost of newspapers is not deductible. However, where the main reason for the purchase is for use in the course of employment and that use can be clearly demonstrated, then the work-related portion of the cost is allowable (paragraphs 219 to 222).

Parking fees and tolls: Deductions for the cost of parking fees (but not fines) and toll fees may be deductible in some circumstances (paragraph 223 to 225).

Professional library: Depreciation on a professional library is allowable as a deduction provided the content of the reference books is directly relevant to the duties performed (paragraphs 226 to 230).

Removal and relocation expenses: Deductions for expenses incurred to take up a transfer in existing employment or to take up an appointment with a new employer are not allowable (paragraphs 231 to 238).

Self-education expenses: Expenses incurred for self-education are deductible if there is a direct connection between the course of self-education and your 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 239 to 264).

Social functions: Expenditure incurred in attending staff dinners, school formals or similar functions is not deductible if the cost of the ticket provides for food, drink or recreation. The cost of providing

morning/afternoon teas or light refreshments is also not allowable as a deduction (paragraphs 265 to 271).

Student expenses: A deduction is not allowable for expenditure on items supplied to students for their own individual needs; gifts purchased for students and to meet students' personal costs (paragraphs 272 to 274).

Teaching aids: Deductions for the cost of teaching aids are allowable to the extent they are used for work-related purposes (paragraphs 275 to 277).

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 teacher's employment and are not general in nature (paragraphs 278 to 280).

Telephone expenses

Telephone installation: Installation costs are not deductible as they are a capital expenditure (paragraphs 281 to 282).

Telephone rental: Generally, the use of a phone and hence the rental costs would have a private or domestic character and not be allowable deductions. Teachers 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 (paragraphs 283 to 285).

Cost of telephone calls: The cost of calls made by a teacher in the course of carrying out his or her duties are generally deductible (paragraph 286).

Telephone silent number: The cost of obtaining a silent number listing is not deductible as it is private in nature (paragraphs 287 to 288).

Union fees and professional association fees: Union fees, subscriptions to professional associations and teacher registration fees are deductible. Payments to staff social clubs or associations where the purpose of the club is predominantly social are not allowable as they are private expenditure (paragraphs 289 to 290).

Watches: The costs of purchasing and repairing ordinary wrist watches, including waterproof watches, are considered to be of a private nature and no deductions are allowable. Deductions for the cost of purchase, repairs and batteries of dedicated stop watches are allowable (paragraphs 291 to 295).

Explanations

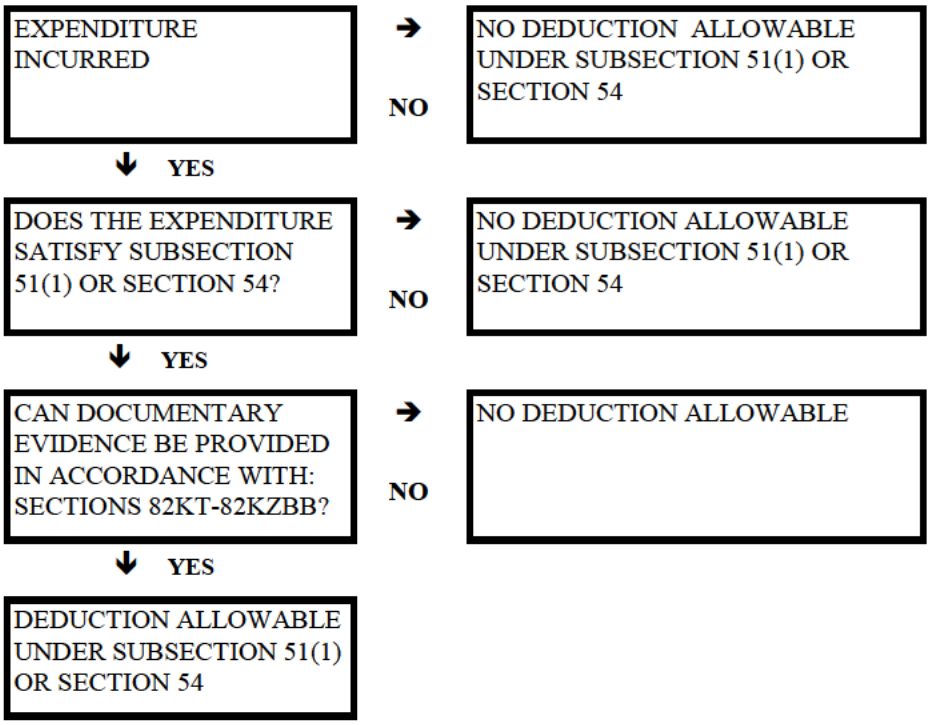
Deductibility of work-related expenditure

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

14. 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 outgoings of capital, or of a capital, private or domestic nature, or are incurred in relation to the gaining or producing of exempt income.



15. 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

16. The expense must actually be incurred by a teacher to be allowable. A deduction is not allowable for expenses not incurred or for expenses that are reimbursed. In addition, a deduction is not allowable for items provided free of charge.

Expense meets deductibility tests

17. 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 II, were unable to continue part of their normal operations in Malaya. They claimed the entirety of their 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.'

18. There needs to be a perceived connection between the expense and the income earning activity (*Hatchett v. FC of T* 71 ATC 4184; (1971) 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.

19. 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.'

20. 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.

21. In *FC of T v. Cooper* 91 ATC 4396; (1991) 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.)

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

23. 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; (1991) 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.

24. A deduction will be denied under the exclusion clauses of subsection 51(1) where it is incurred for an item that is either:

- private or domestic in nature
- capital or capital in nature
- incurred in earning tax exempt income

25. 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*, 1968 TBRD 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

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

$300 limit for substantiation

27. 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.

28. 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)].

29. 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 TD92/163).

What Records Must be kept

30. 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.

31. 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

32. 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

33. 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

34. 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

35. 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 36 and 37 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

36. 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)].

37. 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)].

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

Undocumentable expenses

39. 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)].

40. 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

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

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

42. 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)].

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

Definition of Car Expenses

44. 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)].

45. Car expenses do not include:

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

Elections

46. 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.

47. 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.

48. 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)].

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

Log books

50. 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)].

51. 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)].

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

Retention periods for documents

53. 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.

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

55. 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

56. 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

57. 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.

58. 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)]

Allowances and reimbursements

Kilometric allowance

59. This allowance is paid to teachers who use their motor vehicle for school business purposes and for professional development activities. The amount of the allowance is included in assessable income. The cost of motor vehicle expenses, calculated using one of the methods in paragraph 41 , is deductible under subsection 51(1).

Meals allowance

60. This allowance is paid to a teacher who provides or purchases his/her own meals when he/she is absent from the headquarters or base for work-related purposes. The amount of the allowance is included in assessable income. A deduction is allowable under subsection 51(1) only where the teacher is away from home overnight or is working overtime.

Child care expenses

61. A deduction for child care expenses is not allowable under subsection 51(1), even if it is a prerequisite for a teacher 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 teacher to undertake studies relevant to his or her employment.

62. 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.

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

Clothing, uniforms and footwear

64. 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

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

66. 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.

67. When teaching particular subjects, teachers may require protective clothing. This includes:

- laboratory coats, dust jackets, protective gloves and gumboots worn for safety reasons by teachers of science and agriculture;
- leather aprons, overalls, steel capped boots and safety goggles worn by Industrial Arts or Manual Arts teachers;
- art smocks worn by teachers when teaching arts and craft; and
- aprons worn by teachers when conducting cooking classes.

68. 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*.

69. The purchase cost of normal sunglasses worn by teachers while on playground duty or while supervising sporting activities 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.

70. 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.

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

72. Some clothing and footwear may be worn to prevent injury at work or to protect other conventional clothing. Where the apparel is conventional, its use or purpose does not change its character. It remains conventional and a deduction is not allowed. This principle is confirmed in *Case T103*, 86 ATC 1182, and Taxation Determination TD 92/157.

73. **Example**: A science teacher wears ordinary leather lace-up shoes in the laboratory. These shoes may offer some protection but they are private in nature and not allowable as a deduction.

Occupation Specific Clothing

74. 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)).

75. 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.

76. 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.

Compulsory uniform or wardrobe

77. 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.

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

79. 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).

80. In *Case U95* 87 ATC 575 (ATR ref), 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).

81. 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

82. 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.

83. **Example**: A teacher is the coach of a school hockey team which attends the secondary schools state titles. The teacher purchases a tracksuit monogrammed with the word 'coach' and the school logo. It is not compulsory for the teacher to wear the clothing, but the teacher is encouraged to do so. This clothing is not occupation-specific as it does not distinctively identify the taxpayer as a teacher. The purchase and maintenance costs of the tracksuit are only allowable as a deduction if the design is entered on the Register of Approved Occupational Clothing kept by the TCFDA or if the design of the clothing is approved by the ATO under IT 2641.

Conventional Clothing

84. The views of the Tax Office on the deductibility of costs of purchasing and maintaining conventional clothing are set out in TR 94/22. It is our view that in most cases, expenditure on conventional clothing will not be deductible.

85. If conventional clothing is damaged in an accident at school, this does not change the character of the clothing. The cost of purchase and maintenance of such clothing retains its private nature and is not an allowable deduction.

86. **Example**: A teacher is attending to a sick child which results in the teacher's clothing being soiled. As the clothing is conventional, the cost of cleaning it remains private and not deductible. This principle also applies if the teacher replaces the clothing.

87. Expenditure on sports clothes (e.g. tracksuits, T-shirts, aerobics clothing, swimming costumes, shorts, socks and running/aerobic shoes) is expenditure on conventional clothing and is not an allowable deduction. See Taxation Determination TD 93/109.

88. On occasions it may be necessary to outlay expenditure on clothing not normally worn in the teacher's everyday duties. The fact that the clothing was specifically obtained for that occasion does not change its conventional nature. In *Case N74*, 81 ATC 389; (1981) 25 CTBR(NS) *Case 28*, a geography teacher who went on a study tour to China and Thailand was disallowed her claim for expenditure on special clothing for cold conditions. See Taxation Determinations TD 93/101 and TD 93/111.

89. **Example**: A teacher hires a dinner suit to attend the Senior Formal. He is not allowed a deduction for the cost of hire as the expenditure on clothing is not sufficiently connected to the activities by which he derives his assessable income.

90. An item of clothing in house, team or school colours is not occupation specific clothing or a uniform by virtue of its colours. Its character does not change from being conventional clothing because it is in team colours. The purchase and maintenance costs are not allowable as a deduction, unless the clothing is registered or approved as a non-compulsory uniform (see also *Case H2*, 76 ATC 7; (1976) 20 CTBR(NS) *Case 56*).

91. In some instances, a teacher is required to wear full academic dress when attending speech nights or graduation ceremonies of the school. The attendance at such functions is part of the duties of a teacher. The purchase or hire costs are deductible under subsection 51(1).

92. Expenditure by a teacher to purchase or hire full academic dress to attend his or her own graduation ceremony is not deductible under subsection 51(1). It is not incurred in the course of producing assessable income and it is private in nature.

Laundry expenses

93. Deductions for home laundry and dry cleaning costs will be allowable for maintaining clothing, the cost of which is allowable under subsection 51(1), see paragraph 64. For guidance on how to calculate home laundry expenses, refer to Taxation Ruling IT 2452.

Computers and software

94. Expenses incurred by teachers to purchase computers and related software for work-related purposes are allowable deductions under either subsection 51(1) or section 54.

95. By way of example, teachers may use computers to prepare lessons, set examinations and in relation to self-education. Paragraphs 239 to 264 of this ruling provides further information on the deductibility of self-education expenses.

96. As a computer would normally cost more than $300 and would have an effective life of more than three years, the portion of the cost that relates to work-related purposes is deductible as depreciation. Where software is sold as part of the computer system, the total cost of the system is depreciable. The rate of depreciation depends on the effective life of the item. If the related software is purchased separately from the computer, the portion of the cost that relates to use for work-related purposes is deductible in full in the year of purchase.

Conferences and seminars

97. Expenses incurred by teachers in maintaining or increasing their knowledge, ability or skills in their particular profession are allowable deductions under subsection 51(1).

98. In *FC of T v. Finn* (1961) 106 CLR 60; 12 ATD 348 an architect voluntarily studied architectural development overseas. The High Court held that

> '. . . a taxpayer who gains income by the exercise of his skill in some profession or calling and who incurs expenses in maintaining or increasing his learning, knowledge, experience and ability in that profession or calling necessarily incurs those expenses in carrying on his profession or calling . . .' (CLR at 70; ATD at 352).

99. Therefore, costs incurred in attending conferences, seminars and training courses are allowable as a deduction provided there is a relevant nexus with the duties performed by a teacher. The conferences, seminars and training courses may be held in Australia or overseas.

100. Deductions would include travel expenses (such as fares, accommodation, meals and incidentals), registration fees and other expenditure associated with the attendance at the conferences, seminars or training courses. Payments received by teachers as partial or full reimbursement of such expenses must be returned as assessable income.

101. **Example:** A teacher attends a seminar delivered by her employer at a venue located away from her regular school. She incurred seminar fees of $150. These expenses are allowable as a deduction.

102. If the dominant purpose in incurring the expenses is the attendance at the conference, seminar or training course then the existence of any private activity would be merely incidental and the expenses would be fully deductible.

103. If the attendance at the conference, seminar or training course is only incidental to a private activity (i.e., a holiday) then only the expenses directly attributable to the conference, seminar or training course are deductible. Expenses incurred on accommodation, meals and travel directly relating to the private activity are not allowable deductions under subsection 51(1).

104. See Taxation Ruling TR 92/8 on the deductibility of the cost of attending conferences. Paragraphs 239 - 264 of this Ruling provide information on the deductibility of self-education expenses.

Depreciation of equipment

105. 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.

106. 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. Also, 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.

107. 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.

108. Any equipment or articles purchased on or after 1 July 1991 is able to be depreciated at a rate of 100% if the cost is not more than $300, or if the effective life is less than three years (subsection 55(2)). 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 teacher so elects (subsection 55(8)).

109. **Example:** A TAFE teacher purchases a brief case for $250 which she uses only for work purposes to carry reference books, notes and student assignments. The amount of $250 is allowable as a deduction.

110. If the equipment or articles purchased on or after 1 July 1991 cost more than $300 or the effective life is three years or more, then a deduction for depreciation is allowable based on the rates in subsection 55(5). However, the article may be depreciated at a rate less than this rate if the teacher so elects (subsection 55(8)). The current depreciation rates are set out in Taxation Ruling IT 2685.

111. 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.

112. **Example**: A music teacher plays the guitar for his enjoyment. He also uses the guitar in his music lessons at school. The instrument is used partly for work and partly for private purposes. Thus, the depreciation expense should be appropriately apportioned between the private and work-related use.

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

114. 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 teacher less the amount of any depreciation expense that would have been allowed if the unit had been used, since purchase, to produce assessable income. If the item was not actually used for income-producing purposes during the year Refer to Taxation Determination TD 92/142.

115. **Example**: A bookshelf is purchased on 1 July 1991 for $400. It is not used for work-related purposes until 1 July 1993. It is depreciated at a rate of 13.5% using the diminishing value method.

116. To determine the opening written down value of the bookshelf for taxation purposes, it should be depreciated at the specified rate from the date of purchase to 30 June 1993. The depreciation in the 1992 and 1993 years is $54 and $47 respectively. The opening written down value of the bookshelf at 1 July 1993 is $299. In the 1994 tax year the bookshelf is used for work-related purposes and the depreciation expense that is deductible is $299 × 13.5% = $40.36, rounded to $41.

Driver's licence

117. 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.

118. In *Case R49*, 84 ATC 387; (1984) 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).

119. However, where a premium is paid on top of the cost of a standard licence, this premium is deductible.

120. **Example:** A teacher requires an endorsement to drive the school bus for excursions. The premium on top of the cost of the

standard licence is deductible. However, the cost of the lessons in obtaining the licence is not allowable as it is a capital expense.

121. Taxation Determination TD 93/108 provides further information about the expenses.

Excursions, school trips and camps

122. The costs incurred by a teacher when accompanying students on excursions, educational and sporting trips and camps are allowable as deductions under subsection 51(1) only if the these trips are undertaken by a teacher in the course of gaining assessable income and they are not private, domestic or capital in nature.

123. Some factors that would be considered in determining the relevance of these trips to a teacher's employment would include the purpose of the trip, the activities undertaken and the duties of the teacher while on the trip. The purpose of the trip and the activities undertaken should have an educational benefit and be related to the curriculum or syllabus of the school.

124. It would also be expected that the teacher participates in the task of supervising students. Where the trip does not have a direct connection to the syllabus of the school, a teacher's supervisory role would not be sufficient to make the teacher's expenses deductible.

125. The deductibility of the expenses incurred in undertaking an excursion, school trip or camp will depend on the specific circumstances of each case. The conclusion in all the examples provided are based on the specific given facts.

126. **Example**: A teacher accompanies a class of primary school students on a day excursion to visit Parliament House, the Museum and Art Gallery as part of the social studies curriculum.

127. **Example**: A teacher accompanies a group of students enrolled in biology on a camp to a national park. The purpose of the trip is to study the ecology of a rain forest.

128. In both these examples, the expenses incurred by the teacher would be allowable as a deduction because the purpose of the trip and the activities undertaken have a direct relevance to the curriculum.

129. In *Case R42*, 84 ATC 357; (1984) 27 CTBR(NS) *Case 97*, a lecturer at a college of advanced education was allowed a deduction after he was able to demonstrate that his expenses in accompanying a group of trainee students on a trip to Fiji were incurred in the course of his duties. He demonstrated that the excursion formed part of the official college program; was compulsory for all students and that staff

involved in teacher-education courses were expected, as part of their employment, to participate in various out-of-college activities.

130. Although, the trips may be approved by the school and the opportunity to go on these trips provide social and cultural benefits to the students and teacher, these factors alone do not suffice to make the expenses in relation to the trip deductible.

131. **Example**: A school teacher accompanies a group of students on a holiday trip to the snowfields to go skiing in the school vacation. This trip does not form part of the curriculum for any subject at the school and while it may be of some social benefit to the students, this is not sufficient to make the expenses incurred by the teacher allowable.

132. **Example:** A school in Australia has a sister school in an overseas country. Every second year a teacher accompanies a group of students on a trip to visit the sister school. Attendance on the trip is open to any student of the school. Whilst on the trip, 6 of the 10 days are spent at the sister school engaging in social, classroom and sporting activities. The remaining days are spent touring the country.

133. The trip is open to all students and is not part of the curriculum of any particular course at the school. While the students may have engaged in classroom or sporting activities, these do not form part of the curriculum of a subject studied by the students undertaking the trip. Even though the trip may provide social and cultural benefits to the students, the expenses incurred by the teacher in relation to the trip are not deductible.

134. Whilst relevance to the school curriculum is an important factor in determining the character of such trips, a deduction is not necessarily denied in the absence of this factor. In some instances, the reason for the trip and the activities undertaken will not be curriculum-related but may be an integral part of the extra-curricula activities of the school. Where a teacher is involved in such activities and accompanies students as a representative of the school, the expenses incurred by the teacher would be allowable. Examples of such activities would be attendance at school-related sporting events, tours conducted by the school band and attendance at competitions by student representatives of the school.

135. **Example**: A teacher is the coach of a school sports team. He accompanies this team on a trip to another town to participate in interschool competition. The team is representing the school and he is attending as the coach. Any costs incurred in attending such a tour are allowable.

136. **Example**: A teacher is the manager/adviser of the school debating team. The team has won the right to compete in a

competition in New Zealand. The teacher is also attending as an adjudicator and the costs incurred are allowable.

137. In cases where the trip is undertaken by a teacher in gaining or producing assessable income, the expenses allowable as a deduction may include accommodation and meals while on the trip, airfares, bus and train fares, motor vehicle expenses, public transport costs, entrance fees, guide books/information books, film/developing costs, photo albums used in the class room and teaching aids. Where the excursion is for the day only, the cost of meals is not allowable as a deduction.

138. Expenses incurred by a teacher prior to the excursion, trip or camp to arrange or plan the event are allowable. These include, for example, postage and telephone expenses to obtain information or reserve accommodation. The deductibility of expenses incurred to inspect the venue prior to taking the students depends on the purpose and reasons for undertaking such an inspection.

139. **Example:** A teacher plans a school excursion to a sugar mill in the local area. A prior inspection of the venue is necessary to ensure that it meets safety requirements. The expenses associated with the prior visit are deductible.

140. **Example:** A primary school teacher visits an animal sanctuary with her family on the weekend. After the visit, she decides that it would be of educational benefit to her students and suitable for a class excursion. The expenses of this visit are not allowable under subsection 51(1) as the primary purpose of the visit was private.

141. Expenses incurred which are not allowable would include expenditure on clothing purchased specifically for the excursion, trip or camp. For example outdoor/indoor and thermal clothing (see paragraph 87).

142. Where the trip has both private and work-related purposes, the expenses should be apportioned accordingly. For example, if the teacher undertakes sightseeing or recreational activities, the expenses incurred on these activities are private and not deductible under subsection 51(1).

Fines

143. 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).

First aid courses

144. If it is necessary for teachers to undertake first aid training to assist in emergency situations, the expenses of such training are an allowable deduction under subsection 51(1). However, if the cost of the course is reimbursed or paid for by the employer then a deduction is not allowable.

Fitness expenses

145. The expenses of keeping fit such as gym fees and aerobic class fees are not deductible under subsection 51(1). It is not a requirement that teachers, including physical education teachers, maintain a high level of fitness. This type of expense does not have the essential character of being incurred in the course of gaining or producing assessable income; see Taxation Determination TD 93/114.

Glasses and contact lenses

146. The cost of purchasing prescription 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.

Home office expenses

147. Our policy on home office expenses has been consolidated in Taxation Ruling TR 93/30 and is summarised below.

148. Generally, expenses associated with a teacher's home are of a non-deductible, private or domestic nature. However, a portion of expenses associated with a teacher's home are allowable deductions where either:

(a) part of the home is used in connection with the teacher's income-producing activities but does not constitute a place of business, i.e., an area of the home is a private study; or

(b) part of the home is used for income-producing activities and has the character of a 'place of business'.

149. The Ruling distinguishes between two broad categories of deductible expenses.

- *Occupancy expenses* relating to ownership or use of a home. These include rent, mortgage interest, municipal and water rates and house insurance premiums.
- *Running expenses* relating to the use of facilities in the home. These include heating/cooling and lighting expenses, cleaning costs, depreciation, leasing charges and the cost of repairs of furniture and furnishings in the office.

150. Where teachers maintain an office or study at home where they can do income-producing work which is not convenient to carry out at their normal place of work, the occupancy expenses referable to their home office are not deductible. This is clearly established by the High Court decisions in *Handley v. FC of T* 81 ATC 4165; (1981) 11 ATR 644 and *Forsyth v. FC of T* 81 ATC 4157; (1981) 11 ATR 657.

151. However, where it is considered that an area of a home is a place of business, a portion of the expenses from both categories may be claimed as a deduction.

Private study

152. If a teacher maintains an office or study at home where income-producing work can be more conveniently carried out at home (e.g., lesson preparation, student assessment, marking essays and setting examinations), deductions for the running expenses incurred as a result of the income-producing activities are allowable.

Heating/cooling and lighting expenses

153. For the running expenses to be deductible, the area of a teacher's home set aside as a private study must be used *exclusively* for these activities (*FCT v. Faichney* (1972) 129 CLR 38; (1972) 3 ATR 435; 72 ATC 4245). For example, if a teacher corrects students' work in the lounge room where other family members are able to watch television, the expenditure for lighting and heating/cooling retains its private or domestic character and is not deductible. However, if the teacher uses the room at a time when others are not present or uses a separate room, he or she is entitled to a deduction. This applies even if the room is not set aside solely as a home office.

154. A deduction may be allowable where *additional* heating/cooling and lighting expenses are incurred as a result of employment activities performed at home. The formula for calculating the additional expense for an appliance is: **A** x **B** x **C**

A is the cost per unit of power used;

B is the average units used per hour; and

C is the total annual hours used for income-producing purposes.

155. An estimate based on a reasonable percentage of the household annual bill will be acceptable. In determining a 'reasonable percentage', consideration must be given to the fact that the number of appliances in a private study and the total units used by these appliances is generally small in comparison to the total units used by all other appliances in the home.

Depreciation of professional library

156. Paragraphs 225 to 229 of this Ruling provide information on the deductibility of depreciation of a professional library.

Equipment

157. Equipment including computers, printers, word processors and typewriters used in the course of a teacher's duties are generally depreciable under subsection 54(1). Where items used for income-producing purposes are also used for domestic or private purposes, the depreciation claim should be apportioned on the basis of an estimate of the percentage of income-producing use. Paragraphs 104 to 115 of this Ruling provide information on the deductibility of depreciation of this equipment.

158. **Example**: A lecturer uses his personal computer to prepare lectures and exams. The computer is also used by his children to complete their school work and to play computer games. He is only entitled to a deduction for depreciation based on the income-producing use of the computer.

159. The purchase cost of software is an allowable deduction in the year of purchase. Where the software is used partly for producing income and partly for private purposes, the cost must be apportioned. Taxation Ruling IT 26 provides further information on the deductibility of software expenses.

160. The cost of repairs to such equipment will generally be deductible under subsection 53(3) of the Act to the extent to which the equipment is used for income-producing purposes.

161. In addition, if money has been borrowed to finance the purchase of an item of equipment, for which depreciation is allowable, then the interest payments are deductible under subsection 51(1).
The deduction is to be apportioned on the basis of income-producing and private usage of the equipment.

Place of business

162. Whether an area of a home has the character of a place of business is a question of fact. Paragraphs 5, 11, 12 and 13 of

Taxation Ruling TR 93/30 provide information on whether or not an area set aside has the character of a 'place of business'.

163. The teacher may be entitled to deduct a portion of both the running and occupancy expenses. Paragraphs 152 to 154 of this Ruling provide an explanation for the calculation of the running expenses. The amount of occupancy expenses allowable is based on the ratio of the business area to the total floor area of the dwelling.

164. **Example**: A music teacher gives lessons in a room at her home which she uses exclusively for this purpose. The room is 10% of the home, based on floor area. She receives tuition fees for these music lessons. She is entitled to claim a portion of the running expenses and 10% of the occupancy expenses provided the room is characterised as a place of business.

165. Where the area set aside has the character of a 'place of business', then a capital gain may accrue or capital loss may be incurred on the disposal of the dwelling by the taxpayer. The amount of the capital gain or capital loss will depend on the extent to which, and the period for which, the dwelling was used for the purpose of gaining or producing assessable income (see Taxation Ruling IT 2673).

Meals

166. Deductions for the cost of meals consumed while on duty are generally not allowable. These costs fail to meet the tests of deductibility described in paragraphs 17 to 25, and are considered to be private in nature.

167. Costs for meals will be allowed where an allowance such as an Overtime Meal Allowance has been paid .

168. The Full Federal Court considered the deductibility of food in *FC of T v. Cooper* 91 ATC 4396; (1990-91) ATR 1616. In that case, a professional footballer had been instructed to consume large quantities of food 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 expense. However, the occasion of the outgoing may operate to give 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.'

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

170. 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.

171. In *Case Y8* 91 ATC 166*; Case 6587* (1991) 22 ATR 3037, a police officer claimed deductions for expenditure incurred on meals while performing special duties away from his normal place of residence. The expense incurred on these meals was held to be private in nature and no deduction was allowable under subsection 51(1).

Motor vehicle expenses

Travel from home to work

172. The cost of travel by a teacher 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* (1958)100 CLR 478; 7 AITR 166.

173. 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 CLR 498-499).

174. The fact that the travel is outside normal school hours or involves a second or subsequent trip does not change this principle. For more information see paragraph 6 of Taxation Ruling IT 2543, Taxation Ruling IT 112 and Taxation Determination TD 93/113.

175. **Example**: A teacher is required to attend his school's parent-teacher night at 7.00 pm. He returns home from school in the afternoon at the end of the normal school day. After dinner, he drives back to the school to attend the meeting. He is not entitled to a deduction for his travelling costs in attending the meeting. This is because they relate to travel to and from his regular place of work. The fact that the travel is outside normal school hours or involves a second or subsequent trip does not change this position.

176. **Example:** A principal is phoned at his home outside school hours as the school has been vandalised. He travels between his home and school in response to this emergency. The cost of travel to and from the school is not deductible.

177. The educational, sporting, administrative and other facilities of a school may be physically situated in more than one location or the school may have multiple campuses. In both cases, the regular place of employment is the location where the teacher performs regular duties.

178. **Example:** The gymnasium and basketball courts of a school are in the same location as the school's classrooms and administration block. However, the football and soccer fields are situated several kilometres away. The physical education teacher performs his duties at both locations on a regular basis. The travel between home and either of these locations is travel to and from his regular place of employment. It is private and not deductible.

179. **Example:** A teacher works at a secondary school campus on Monday, Wednesday and Thursday of each week and at another campus of this multi-campus school, some kilometres away, on Tuesday and Friday of each week. As both campuses are considered to be the normal place of employment, the cost of travel from home to each campus is not deductible as the expenditure is of a private nature.

180. **Example**: A special education teacher is required to teach at her base school and two other schools. On three days of the week, she travels directly from home to the base school. Once she has performed her duties at the base school, she then travels to one or both of the other schools. On the remaining two days, she travels directly

to a school other than her base school. Each of the three schools is considered to be her normal place of employment. Travel to and from home to the base school and travel to and from home to one of the other schools is travel to and from home to her regular place of employment. The cost of this travel is of a private nature and not deductible. She is entitled to deduct the cost of travel between schools.

Incidental tasks on the way from the teacher's home to regular place of employment

181. Collecting mail, stationery supplies, educational resources and performing other comparable incidental tasks while travelling between the teacher's home and his or her regular place of employment does not, of itself, transform private travel into work-related travel. 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 place of employment but transporting bulky equipment or transporting students

182. A teacher 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 place of employment. 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.

183. **Example**: On a particular day, a drama teacher drives from home to her regular school with bulky props and costumes needed for the school play. She is entitled to a deduction for her travelling costs.

184. A teacher is not entitled to deduct travelling costs if, as a matter of convenience, work is performed at home and items such as papers, books and material (whether bulky or not) are transported between home and work for that purpose. In *Case Q1*, 83 ATC 1; (1983) 26 CTBR (NS) *Case 65*, the use of a car by a school principal in these circumstances was treated as private use as it was travel from home to the place of employment.

185. Travel attributable to the transport of students in the course of producing assessable income is also deductible. This is so, even if the travel begins at the teacher's home and ends at his or her regular place of employment. The cost of the total distance travelled (beginning at home and ending at school) is deductible.

186. **Example**: On Saturday afternoon, the school rugby union team plays a competition match at the sporting field located on the school's grounds. As part of his duties as a coach, the teacher collects several players on the trip from home to the sporting field. After the match, he then takes the players home and continues his journey home.

The teacher is entitled to a deduction for the cost of travel between his home and the sporting field. The cost is allowable in this circumstance because it is attributable to the transport of the players rather than to his travel to and from home.

187. However, a deduction is not allowable if the travel is not incurred in the course of producing assessable income.

188. **Example**: A teacher is employed at the same school where her children and the neighbour's children are students. As a matter of convenience, she transports the children to and from school.
The travel is attributed to her relationship to the children and not to the transport of the students in the course of producing assessable income. The cost of this travel is not deductible.

189. Deductions may be allowable when teachers are required to use their private motor vehicles and travel:

(a) 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 or directly home;

(d) between two places of employment or venues;

(e) between home and a place of employment while 'on call'; and

(f) to a place of education for the purposes of self-education.

190. Examples of these types of trips which normally occur for teachers are as follows:

Between two separate places of work where there are two separate employers involved

191. The cost of travelling directly between two places of employment is generally deductible under subsection 51(1).

192. **Example**: A teacher travels from his school to a technical college to give night lectures. The cost of this travel is allowable as a deduction.

193. Taxation Rulings IT 2199 and MT 2027 provide further information on the deductibility of travelling expenses between places of employment.

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

194. The cost of travel from a teacher's regular place of employment to other schools or venues (other than the teacher's home) is deductible under subsection 51(1). 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 performance of a teacher's duties. It is incurred in the course of gaining assessable income and is allowable as a deduction.

195. **Example**: A primary school teacher travels from the school where she teaches regularly to a tennis centre, where students are playing tennis during their sports afternoon. She then travels back to the school. The cost of this travel is an allowable deduction.

196. **Example**: A teacher travels from his regular school to a regional administrative centre for a meeting. After the meeting, he then travels directly home. The cost incurred in travelling from the regular school to the administrative centre and then directly home is allowable.

197. If a teacher lives on campus, there is no travel that can be attributed to travel from home to the regular place of employment. Accordingly, all travel related to school duties is travel from the regular place of employment to alternative schools or venues and is therefore deductible.

198. See Taxation Rulings IT 2199 and MT 2027.

Travel from home to an alternative place of employment for work-related purposes and then to the normal place of employment or directly home

199. The cost of travel from home to an alternative place of employment is deductible under subsection 51(1) as the travel is to an alternative destination which is not itself a regular place of employment. The cost of travel from the alternative place of employment to the normal place of employment or directly home is also allowable as a deduction. See paragraphs 32 to 35 of Taxation Ruling MT 2027.

200. **Example**: A teacher travels from home to a marking centre to mark exams and then travels to the regular school. The expense incurred in travelling from home to the marking centre and then to the regular school is allowable. However, the cost incurred from the regular place of employment to home is not deductible.

201. **Example**: A teacher attends the school dance to supervise students. The function is held in the town's community centre. As

this venue is an alternative place of employment, the cost of the travel to and from the centre is allowable.

202. **Example:** A music teacher travels between home and the parish church on the weekend for school choir practice. As the church is not located at her regular place of employment but an alternative place of employment, the cost of the travel is allowable as a deduction.

Travel between two places of employment or venues

203. 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.

204. **Example:** A teacher performs regular teaching duties at campuses on two separate locations. The cost of travel from one campus to another is deductible as the cost is incurred in travelling between two places of employment (see Taxation Ruling IT 2199).

205. The position is less clear where the person lives at one of the places of employment or business. In these circumstances, it is necessary to establish whether the income-producing activity carried on at the person's home qualifies the home as a place of employment or business. The fact that a room in the taxpayer's home is used in association with employment or business conducted elsewhere will not be sufficient to establish entitlement to a deduction for travel between two places of work.

206. Travel between a person's home, at which a part-time income-producing activity is carried on, and a place of full-time employment will not be deductible unless there is some aspect of the travel which is directly related to the part-time activity (*Case N44*, 81 ATC 216; (1981) 24 CTBR(NS) *Case 114*).

207. In this case, a qualified accountant, employed by a firm of accountants, conducted a limited private practice from his home. He set up a separate room in his home as an office. The taxpayer claimed a deduction for car expenses incurred in travelling between his residence/office and place of employment. The fact that the taxpayer's home was, incidentally, used in the production of income was insufficient to make the travel between his home and place of employment an outgoing incurred in the production of assessable income. The travel retained its essential character of travel between home and work and therefore, it was not deductible.

208. **Example**: A drama teacher who teaches drama at school undertakes private lessons in the evening at her home. The expenditure incurred in travelling from the school to her home is a

private expense rather than an expense incurred in gaining assessable income. It is not deductible.

209. Taxation Rulings IT 2199 and MT 2027 provide further information on the deductibility of travelling expenses between places of employment/business.

Travel between home and a place of employment while 'on call'

210. Supply and relief teachers are those teachers who are required to replace the regular classroom teacher at various schools at short notice. Generally, the teacher will be telephoned at home and asked to attend a particular school for the day. The cost of travelling between home and the various schools is not allowable as a deduction.

211. Even though a relief teacher will travel from home to the particular school in response to a telephone call, this does not alter the character of that travel i.e., it remains private. Home is not considered to be a place of work as the teacher's duties commence upon arrival at the school and not on receipt of the telephone call (*Case U112*, 87 ATC 672).

212. This decision is also supported by the Federal Court in *FC of T v. Genys* 87 ATC 4875; (1987) 19 ATR 356. This case involved a nursing sister employed at various hospitals through an agency, but who did not travel to more than one hospital each day. Her travel from home to hospital was not deductible. Northrop J said at ATC 4883; ATR 364:

> 'In conclusion, in my opinion, the mere fact that the taxpayer in this case does not have a regular place of employment in the sense of a permanent employment at one hospital is not sufficient to take her outside the general principles expressed in *Lunney*'.

213. Special circumstances apply where the teacher's employment is inherently of an itinerant nature such as that of the teacher in *FC of T v. Wiener* 78 ATC 4006; (1978) 8 ATR 335.

214. The teacher in that case was engaged in a pilot scheme involving the teaching of foreign languages. From Monday to Thursday, she taught at five different schools, spending about one hour a day at each school. The Court held that she was entitled to a deduction not only for the cost of the travel between schools but also for the cost of travel between home and the first school at the beginning of the day and between the last school and home at the end of the day.

215. This was because the taxpayer's employment was inherently itinerant and she was travelling in the performance of her duties from the moment of leaving home to the moment of returning there. The

travel was not a prerequisite to the earning of assessable income but incurred in gaining or producing the assessable income.

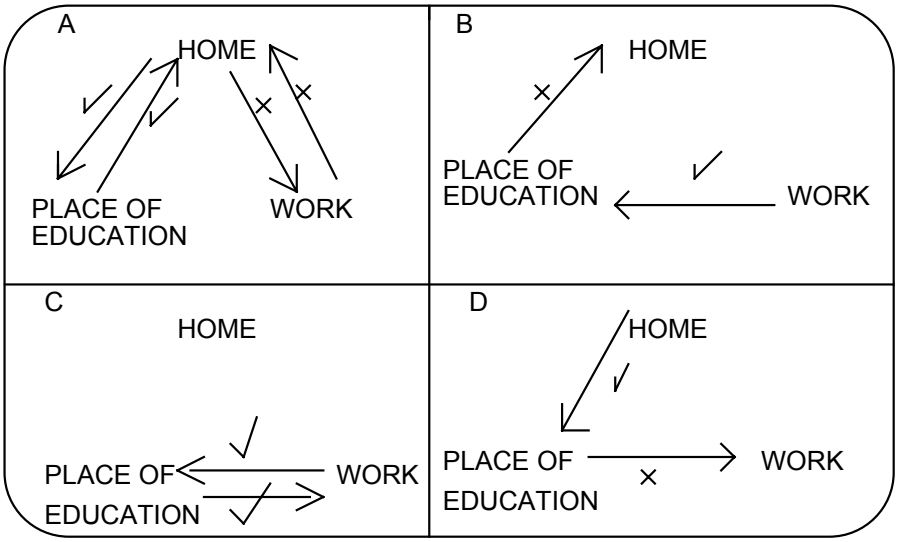
216. We consider that this principle will only apply in special circumstances where it is considered that the teacher's employment is inherently itinerant.

Travel to a place of education (see diagram)

217. Where travel is undertaken for the purposes of self 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 teacher travels from home to the place of education and then on to work, only the first leg of the trip is deductible;
- if the teacher travels from work to the place of education and then home, only the first leg of the trip is deductible.

DIAGRAM Travel in relation to self-education



218. Paragraphs 239 to 264 of this Ruling provide information on the deductibility of self-education expenses.

Newspapers

219. 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.

220. This decision is supported by the following cases: *Case K68,* 78 ATC 667; (1978) 22 CTBR(NS) *Case 8; Case N67,* 81 ATC 349; (1981) 25 CTBR(NS) *Case 18*; *Case P30,* 82 ATC 139; (1982) 25 CTBR(NS) *Case 94*; *Case P114,* 82 ATC 586; (1982) 26 CTBR(NS) *Case 47* and *Case P124*, 82 ATC 629; (1982) 26 CTBR (NS) *Case 55*.

221. These cases can be contrasted with *Case R70,* 84 ATC 493; (1984) 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.

222. However, where the main reason for the purchase of the newspapers is for their use in the course of teaching and that use can be clearly demonstrated, then the work-related portion of the cost is allowable. Reference is made to *Case S12*, 85 ATC 165; (1985) 28 CTBR(NS) *Case 18* and *Case U5*, 87 ATC 124.

Parking fees and tolls

223. Parking fees (but not fines) and toll fees are travelling expenses which may be incurred by teachers. This decision is supported by *Case Y43,* 91 ATC 412; (1991) 22 ATR 3402.

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

225. Deductions for parking fees (but not fines) and toll fees 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 223 -225 of this Ruling provide further information on the deductibility of motor vehicle expenses.

Professional library

226. Depreciation on a professional library may be claimed as a deduction under section 54. If an individual reference book is purchased after 1 July 1991, and the cost does not exceed $300 or its effective life is less than 3 years, it may be depreciated at 100% in the year of purchase under section 55. See Taxation Determination TD 93/159.

227. For depreciation purposes, reference books may only be included in the professional library if their content is directly relevant to the duties performed. Encyclopaedias and general reference books are too general in nature to warrant a deduction.

228. In *Case P26*, 82 ATC 110; (1982) 25 CTBR(NS) *Case 90*, a university lecturer was allowed a claim for depreciation expenses on legal books but denied a deduction for depreciation on general reading and fiction books. 'No doubt the illustrations and anecdotes which he was able to use did serve as useful teaching aids but in my view these were not plant or articles within the meaning of section 54 of the Act, as they were not used or installed ready for use for the purposes of producing assessable income' (ATC at 112; CTBR at 661).

229. Where the cost of a textbook has been claimed as a deduction previously, its cost may not be subsequently added to the value of a professional library and depreciated. For example, a teacher may have claimed a deduction for cost of a textbook as part of her self-education expenses. The cost of this textbook is not able to be included in the value of a professional library for depreciation purposes.

230. Paragraphs 105 to 116 of this Ruling provide further information on the deductibility of depreciation.

Removal and relocation expenses

231. Removal or relocation expenses incurred by a teacher to take up a transfer in existing employment or to take up an appointment with a new employer are not deductible under subsection 51(1). This applies whether the transfer of employment is voluntary or at the employer's request.

232. In some instances, a teacher is paid an allowance from the employer as compensation for depreciation, disturbance, removal and storage expenses. This allowance is assessable in full and no deductions are allowable under subsection 51(1).

233. If a reimbursement is received for the actual expenses incurred by a teacher, the amount is not assessable and deductions are not allowable under subsection 51(1).

234. The non-deductible expenses that may be incurred include temporary board and lodging; freight to consign personal and educational items; insurance and hire of vehicles to transport items. These expenses come at a point of time too early to be regarded as being incurred in gaining or producing assessable income.

235.. We consider that where a teacher transfers employment from one locality to another and incurs expenditure in moving from one place of residence to a new place to take up duties of the new position, that expenditure is not incurred in gaining or producing assessable income and is not deductible under subsection 51(1). The teacher is travelling to his work and not between two places of employment.

236. Our view is supported in the following two cases:

In *Fullerton v. FC of T* 91 ATC 4983; (1991) 22 ATR 757, the taxpayer worked for the Queensland Forest Service (QFS) as a professional forester for over 20 years. In that time, QFS transferred him to a number of different locations. As a result of a reorganisation his position ceased to exist. He had no choice but to accept a transfer as he may have been retrenched. The QFS reimbursed a portion of the relocation expenses and the taxpayer claimed the remainder as a tax deduction. It was held that the expenditure on the taxpayer's domestic or family arrangements is not deductible under subsection 51(1), even though the expenditure had a causal connection with the earning of income.

237. In *Case U91*, 87 ATC 525, the taxpayer, a Commonwealth public servant, was transferred at the request of his employer from a State office to the central office of the department in Canberra. He was denied a deduction for expenses incurred in attempting to auction his house. It was held that the expenses were too remote from the income-producing process to be incurred in gaining or producing assessable income.

238. Taxation Rulings IT 2406, IT 2481, IT 2566 and IT 2614 provide further information on the treatment of these expenses.

Self-education expenses

239. 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 teacher 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.

240. Expenses incurred in attending courses, seminars or conferences designed to update the knowledge of the teacher in his or her particular occupational field so that the teacher 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.

241. 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.

242. 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.

243. 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.

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

245. 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.

246. 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.

247. A deduction is not allowable for self-education expenses if the study, viewed objectively, is designed to enable a teacher 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.

248. The intention or purpose of a teacher 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.

249. 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.

250. Whether or not the particular self-education expense has the necessary connection with the production of assessable income depends upon the relevant facts and circumstances of each particular case.

251. This is particularly true of overseas study tours undertaken by teachers. Some factors which may be taken into account when determining the deductibility of teacher's overseas travel are: promotion prospects, relevance to employment, whether there has been a break in employment and whether the employer has encouraged the teacher to undertake the travel. The general proposition that the overseas travel has made the teacher able to carry out better his or her duties is not sufficient for the expenditure to be allowable.

252. Where a teacher is planning an overseas study tour, he or she is encouraged to apply for a private ruling on the deductibility of the expenses prior to undertaking the trip.

253. 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 teacher's home or attending an educational institution away from the teacher'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. See paragraphs 152 to 161 of this Ruling.

254. 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 teacher, while attending a course at an educational institution in the course of normal travel to and from home.

255. For motor vehicle expenses in relation to self-education see paragraphs 217.

Limit on deductibility

256. Where self-education expenses are allowable under subsection 51(1) as discussed in paragraph 162 of this Ruling, 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.

257. '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 teacher in connection with a course of education provided by a school, college, university or other place of education and undertaken by the teacher to gain qualifications for use in the carrying on of a profession, business, trade or in the course of any employment.

258. Where the expenses are allowable under subsection 51(1) and they are not 'expenses of self-education' as defined, the full amount will be deductible.

259. **Example**: A teacher holds a Diploma of Education. She decides to undertake studies to advance her career prospects by completing a Bachelor of Education course with the view to becoming a subject master. She incurs $950 to complete the course.

260. The expenses associated with her study are allowable under subsection 51(1) because the obtaining of the Education degree is likely to lead to an increase in her income from teaching in the future. The expenses also fall within the definition of 'expenses of self-education' under section 82A.

261. The first $250 of the expenditure is disallowed as a deduction under section 82A and she is only entitled to a deduction of $700 as self-education expenses.

262. **Example**: A teacher attends a conference delivered by a professional association at a centre away from his regular school. The conference is designed to keep him abreast of developments in his teaching field.

263. The cost of the conference is $400 and this includes the conference fees and the motor vehicle expenses incurred to travel from home to the centre and the return trip home.

264. The expenses associated with the conference are allowable under subsection 51(1) and they are not 'expenses of self-education' as the course is not at a place of education as defined in section 82A. The amount of $400 is deductible in full.

Social functions

265. Expenditure incurred in attending staff dinners, school formals or similar functions qualifies as an entertainment expense under section 51AE and therefore is not allowable as a deduction under subsection 51(1). The costs of attending functions such as staff dinners and farewell dinners are not incurred in the course of producing income and they are essentially a private expense. The expenditure is not allowable under subsection 51(1).

266. A deduction is not allowable for the cost of providing entertainment by way of food, drink or recreation (whether to the taxpayer or another person). This is irrespective of whether the attendance at these functions is in connection with the duties of any office or employment (subsections 51AE(3) and (4)).

267. Even though the attendance at school formals by a teacher may be considered part of the duties of employment, the cost of the tickets and any travel costs incurred to attend these functions are not deductible, if the cost of the ticket provides for food, drink or recreation.

268. In *Case Y11*, 91 ATC 184; (1991) 22 ATR 3063, a senior officer in the Australian Defence Force involved in negotiations to buy defence equipment was disallowed a deduction for expenditure incurred in attending a range of lunches, cocktail parties, dinners and other forms of social contact relevant to the performance of his duties. Direct business was done on many of those occasions. It was held that section 51AE(4) operated to deny the claim. It did not matter that the expenditure was directly relevant to business transactions.

269. Where the expenditure incurred does not qualify as an entertainment expense under section 51AE then it may be allowable. For example, a teacher attends a student function in his official capacity as a teacher. The cost of the ticket to the function does not include the provision of food, drink or recreation. The costs incurred in attending the function are allowable as a deduction.

270. In *Frankom v. FC of T* 82 ATC 4599; (1982) 13 ATR 636, a magistrate was denied a deduction for the costs of attending a cocktail party hosted by the Bar Association and Law Society and dinners given by the Queensland Stipendiary Magistrates' Association. The taxpayer's duties as a magistrate did not necessitate his attendance at social functions. Hence, the expenditures were not incidental and relevant to the taxpayer gaining his salary and also were of a private nature.

271. The provision of morning or afternoon tea or light refreshments by a teacher to other staff members is not allowable as a deduction under subsection 51(1) as it is not incurred in producing assessable income and also it is a private expense. Even if the provision of refreshment is part of 'team building', it is not sufficiently connected to the duties by which a teacher produces assessable income and remains a private expense.

Student expenses

272. Teachers may outlay their own money to supply items to students for their own individual needs (e.g., books and uniforms); purchase gifts for students (e.g., Christmas gifts); purchase food and drinks for special occasions (e.g., student birthdays) and replace money lost by students (e.g., money for bus fares and lunch).

273. While teachers may feel a moral, personal or social obligation to outlay these expenses, there is no connection between the expenditure incurred by the teacher and the gaining or producing of assessable income and it is also considered to be of a private nature. Therefore, this expenditure is not allowable as a deduction under subsection 51(1).

274. Expenditure incurred in purchasing gifts for other teachers is not deductible under subsection 51(1).

Teaching aids

275. Where a teacher purchases teaching aids to be used in the course of carrying out the duties of employment and that expenditure is not of a private, domestic or capital nature, a deduction is allowable under subsection 51(1). The items purchased must have a direct and relevant use in carrying out those duties.

276. Where an item or article is used for both work-related and other purposes then the cost must be apportioned and a deduction claimed only for that proportion which is work-related.

277. Expenditure on items or teaching aids used in the everyday duties of a teacher would be allowable as a deduction. Examples of this type of expenditure would include:

- pens, pencils, textas/markers/high-lighters, colouring pencils/pens, stamps/stamp pads, stickers, paints, stationery, posters, maps, laminating, etc.;
- storybooks, jigsaws, games, toys used by early childhood, primary school or special education teachers;
- items used in cooking or sewing classes or science experiments;
- encouragement and achievement rewards purchased for students;
- entrance fees for school excursions;
- whistles and stopwatches used by physical education teachers; conventional watches with a stopwatch function are not deductible; see paragraphs 291 to 295;
- calculators/calculator batteries where the calculator is used in teaching relevant subjects such as mathematics, physics, accounting or business practices; and
- costs of maintaining classroom or school pets.

Technical or professional publications

278. 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 teacher's work and are not general in nature. For example, expenditure on magazines such as *Time*,

The Bulletin and *Readers Digest* is not allowable as a deduction as they are general interest publications.

279. 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).

280. 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

Telephone installation

281. Installation costs for telephones are not deductible under subsection 51(1) as they are considered to be a capital expenditure; see Taxation Ruling IT 85.

282. In *Case M53*, 80 ATC 357; (1980) 24 CTBR (NS) *Case 73*, it was held that (ATC at 359; CTBR at 236):

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

Telephone rental

283. 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; (1981) 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).

284. The situations where telephone rental will be deductible, especially in the employee context, is 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.

285. 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:

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

Cost of telephone calls

286. The cost of calls made by a teacher in the course of carrying out his or her duties are generally deductible under subsection 51(1).

Telephone silent number

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

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

Union fees and professional association fees

289. Union fees, subscriptions to professional associations and teacher registration fees are fully deductible under subsection 51(1). Income Tax Rulings IT 327, IT 2062 and IT 2416 provide information on the tax treatment of unions and professional associations fees.

290. Payments to staff social clubs or associations where the purpose of the club is predominantly social is not allowable under subsection 51(1) as they are private expenses.

Watches

291. The costs of purchasing and repairing ordinary wrist watches, including waterproof watches, are considered to be of a private nature and no deductions are allowable under subsection 51(1).

292. In *Case S82,* 85 ATC 608; (1985) 28 CTBR(NS) *Case 87,* a nursing sister was not allowed a deduction for a watch that was used in the course of her employment. The Board's decision was that the watch was 'an item of a private nature...[and]...The use of a watch ...is important to most people in the community whether it be used...to

ensure not commencing work too early or finishing too late, or to log time...'(ATC at 612; CTBR at 682).

293. In *Case P71,* 82 ATC 338; (1982) 26 CTBR(NS) *Case 3,* an ambulance officer was not allowed a deduction for a watch he claimed under subsection 51(1); nor was he allowed the deduction under section 54. It was decided that the expense was essentially of a private nature and not incurred in gaining assessable income. 'The evidence does not provide any basis either for concluding that the taxpayer's employment would be threatened by his failure to own a watch and use it for official purposes, or that the level of income was improved by using it for that purpose...' (ATC at 341; CTBR at 17).

294. In *Case N84,* 81 ATC 451; (1981) 25 CTBR(NS) *Case 43,* a television cameraman was not allowed a deduction for the purchase of a watch which was used for work. The deduction was denied on the grounds that the watch did not possess any special attributes' and although it was used for work, this fact did not change their essential character as private expenditures'. (ATC at 453; CTBR at 309). This is supported by the following cases: *Case S82,* 85 ATC 608; (1985) 28 CTBR(NS) *Case 87* and *Case P71,* 82 ATC 338; (1882) 26 CTBR(NS) *Case 3*.

295. A dedicated stop watch is an item which can be directly related to the income-producing activities of, for example, a physical education teacher. Deductions for the cost of purchase, repairs and batteries of these watches are allowable deductions under subsection 51(1).

Alternate views

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

296 Clothing: that the cost of purchasing and replacing sports clothing is allowable because this clothing is not conventional. Sunglasses, sunhats and sunscreen are protective and should not be distinguished from protective clothing. The ATO view is at paragraphs 64 to 92 .

297 Motor vehicle: that travel to and from the regular place of employment outside normal school hours or which involves a second or subsequent journey is deductible. The ATO view is at paragraphs 171 to 179.

298 Social functions: that the expenditure incurred in attending these functions do not qualify as entertainment expenses as teachers attend these functions to supervise students and carry out their legal

responsibility as a teacher. The ATO view is at paragraphs 263 to 269.

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299. The following index refers to the paragraph references in the Explanations section of the Ruling.

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