


# ***TR 94/D14 - Income tax: employee work-related deductions for police officers***

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This document has been finalised by TR 94/20.



## Draft Taxation Ruling

### Income tax: employee work-related deductions for police officers

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## What this Ruling is about

1. This Ruling covers most deductions for work related expenses generally claimed by police officers. The Ruling considers whether deductions are allowable under either subsection 51(1) or section 54 of the *Income Tax Assessment Act 1936*.
2. The receipt of an allowance does not automatically entitle police officers to deductions for expenses incurred in relation to the allowance. If the expenses incurred are allowable deductions, the amount allowable is not limited by the amount of the allowance received.
3. While employment-related expenses over \$300 need to be substantiated by documentary evidence (section 82KZ) to be allowable under subsection 51(1), this Ruling does not discuss these substantiation requirements.

## Ruling

4. The taxation treatment of deductions for police officers' work-related expenses are listed below in alphabetical order. For further explanation, refer to the paragraphs in brackets in the Explanations section.

**Airwing allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against an airwing allowance are not allowable. Deductions for the cost of obtaining an instrument flying rating are allowable (paragraphs 6 and 7).

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**Ammunition:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional ammunition compatible with the types of guns permitted to be used while on duty are allowable (paragraphs 8 to 10).

**At sea allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against an at sea allowance are partially allowable (paragraphs 11 to 13).

**Bandsmen allowance:** This allowance is paid to police officers in South Australia. Deductions against a bandsmen allowance are not allowable (paragraphs 14 and 15).

**Beepers, paging units and answering machines:** Deductions for the purchase cost and rental cost of such items are allowable deductions. An apportionment must be made between work-related and private use (paragraphs 16 to 18).

**Boot allowance:** This allowance is paid to police officers in Western Australia. Deductions against a boot allowance may be allowable (paragraphs 19 to 21).

**Brief cases:** Deductions for the purchase cost of brief cases may be allowable for police officers who perform work duty at their place of residence (paragraphs 22 and 23).

**Bullet proof jackets/vests or body armours:** Deductions for the purchase cost of bullet proof jackets/vests or body armours are allowable (paragraphs 24 and 25).

**Camp allowance:** This allowance is paid to police officers in Tasmania. Deductions against a camp allowance are not allowable (paragraphs 26 to 28).

**Carter's Criminal Code:** Deduction for the purchase cost of the Carter's Criminal Code is allowable (paragraph 29).

**CIB unit allowance:** This allowance is paid to police officers in South Australia. Deductions for payments to informants made by police officers during the course of their duties are allowable (paragraphs 30 and 31).

**Civilian clothing allowance:** This allowance is paid to police officers in Victoria. Deductions against a civilian clothing allowance are not allowable (paragraphs 32 to 34).

**Clothing allowance:** This allowance is paid to police officers in Queensland and Western Australia. Deductions against a clothing allowance are not allowable (paragraphs 35 to 37).

**Compensatory allowance:** This allowance is paid to police officers in Tasmania. Deductions against a compensatory allowance are not allowable (paragraphs 38 to 40).

**Computers and software:** The purchase cost of computers and software may be depreciated or deductible in full in the year of purchase. An apportionment must be made between work-related and private use (paragraphs 41 to 45).

**Conferences, seminars and training courses:** Deductions for expenses incurred by police officers in attending conferences, seminars and training courses to maintain or improve their current knowledge or ability to perform their duties are allowable (paragraphs 46 to 53).

**Consolidated allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against a consolidated allowance are not allowable (paragraphs 54 and 55).

**Depreciation disturbance allowance:** This allowance is paid to police officers in New South Wales. Deductions against a depreciation disturbance allowance are not allowable (paragraphs 56 to 58).

**Detective allowance:** This allowance is paid to police officers in Queensland and Tasmania. Deductions for payments to informants made by police officers during the course of their duties are allowable (paragraphs 59 and 60).

**Dislocation, depreciation and education allowance:** This allowance is paid to police officers in Queensland. Deductions against a dislocation, depreciation and education allowance are not allowable (paragraphs 61 to 63).

**District allowance:** This allowance is paid to police officers in Tasmania. Deductions against a district allowance are not allowable (paragraphs 64 to 66).

**Diving allowance:** This allowance is paid to police officers in Queensland. Deductions against a diving allowance are not allowable (paragraphs 67 and 68).

**Dog handler's allowance:** This allowance is paid to police officers in Queensland and Tasmania. Deductions against a dog handler's allowance may be allowable (paragraphs 69 to 71).

**Driver's licence:** Deductions for the cost of obtaining or renewing a driver's licence are not allowable (paragraphs 72 to 74).

**Equestrian related equipment:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional and/or more sophisticated equipment are allowable. An apportionment must be made between work-related and private use (paragraphs 75 to 78).

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**Fines:** Deductions in respect of fines and penalties payable to a court or under a law of the Commonwealth, a State, Territory or a foreign country are not allowable (paragraph 79).

**Fingerprint section allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against a fingerprint section allowance are not allowable. Deductions for the cost of obtaining the relevant qualifications are allowable (paragraphs 80 and 81).

**Freight of perishables allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against a freight of perishables allowance are not allowable (paragraphs 82 to 84).

**Gaming squad allowance:** This allowance is paid to police officers in Tasmania. Deductions for payments to informants made by police officers during the course of their duties are allowable (paragraphs 85 and 86).

**Gauntlets, holsters, hand grips, handcuffs, holders, pouches, utility belts, etc:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional and/or more sophisticated equipment are allowable (paragraphs 87 and 88).

**Guard dogs and security systems:** Deductions for expenditure incurred in maintaining guard dogs or installing security systems for the protection of police officers' families are not allowable (paragraphs 89 to 92).

**Guns and related equipment:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional and/or more sophisticated equipment used for work-related purposes are allowable subject to restrictions imposed by the Police Department (paragraphs 93 to 95).

**Gun cleaning materials:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional gun cleaning materials are allowable (paragraphs 96 and 97).

**Hairdressing expenses:** Deductions for the cost of hairdressing are not allowable (paragraphs 98 to 100).

**Home office expenses:** Deductions for the running expenses of home offices are allowable for police officers who perform work duty at their place of residence or are entitled to claim self-education expenses (paragraphs 101 and 102).

**Housing allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against a housing allowance are not allowable (paragraphs 103 and 104).

**Informant expenses:** Deductions for payments to informants made by police officers during the course of their duties and which have not been reimbursed by the Police Department are allowable (paragraphs 105 to 107).

**In lieu of quarters allowance:** This allowance is paid to police officers in the Northern Territory and Western Australia. Deductions against an in lieu of quarters allowance are not allowable (paragraphs 108 and 109).

**In lieu of uniform allowance:** This allowance is paid to police officers in the New South Wales. Deductions against an in lieu of uniform allowance are not allowable (paragraphs 110 to 112).

**Kilometre allowance:** This allowance is paid to police officers in Tasmania. Deductions against a kilometre allowance may be allowable (paragraphs 113 and 114).

**Licensing squad allowance:** This allowance is paid to police officers in Tasmania. Deductions for payments to informants made by police officers during the course of their duties are allowable (paragraphs 115 and 116).

**Living allowance:** This allowance is paid to police officers in New South Wales. Deductions against a living allowance are not allowable (paragraphs 117 to 119).

**Living away from home allowance:** This allowance is paid to police officers in Tasmania. Deductions against a living away from home allowance are not allowable (paragraphs 120 to 122).

**Locality allowance:** not allowable (paragraphs 123 to 125).

**Lodging allowance:** This allowance is paid to police officers in Western Australia. Deductions against a lodging allowance are not allowable (paragraphs 126 and 127).

**Maintenance of uniforms and protective clothing:** Deductions for the cost of laundering, dry cleaning, altering or repairing of clothing which is deductible under subsection 51(1) or section 51AL as uniforms or protective clothing are allowable (paragraphs 128 to 130).

**Meals:** Deductions for the purchase cost of meals consumed while on duty are not allowable unless an award overtime meal allowance has been paid (paragraphs 131 to 133).

**Meals to prisoners or witnesses allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against a meals to prisoners or witnesses allowance are allowable (paragraphs 134 and 135).

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**Motor vehicle allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against a motor vehicle allowance may be allowable (paragraphs 136 and 137).

**Motor vehicle expenses:** In most instances, deductions for the cost of travelling between a principal place of residence and a regular place of employment are not allowable even if no public transport is available. Deductions for motor vehicle expenses may be allowable under certain circumstances (paragraphs 138 to 142).

**Newspapers:** Deductions for the purchase cost of newspapers are not allowable (paragraphs 143 to 145).

**Night duty allowance:** This allowance is paid to police officers in Queensland. Deductions against a night duty allowance are not allowable (paragraphs 146 and 147).

**Northern Territory allowance:** This allowance is paid to police officers in the Northern Territory. Deductions against a Northern Territory allowance are not allowable (paragraphs 148 to 150).

**On call allowance:** This allowance is paid to police officers in South Australia. Deductions against an on call allowance are not allowable. Deductions for work-related telephone calls are allowable. Deductions for telephone rental expenses may be allowable. Deductions for motor vehicle expenses may be allowable (paragraphs 151 to 153).

**Out of pocket allowance:** This allowance is paid to police officers in South Australia. Deductions for payments to informants made by police officers during the course of their duties are allowable (paragraphs 154 and 155).

**Out of uniform allowance:** This allowance is paid to police officers in South Australia. Deductions against an out of uniform allowance are not allowable (paragraphs 156 to 158).

**Overtime meal allowance:** Deductions against an overtime meal allowance paid under an industrial award are allowable (paragraphs 159 to 161).

**Parking fees and bridge toll fees:** Deductions for the cost of parking fees (but not fines) and bridge toll fees may be allowable (paragraphs 162 to 164).

**Physical training clothing:** Deductions for the purchase cost of physical training clothing which are unique and particular to the Police Department are allowable. Deductions for the purchase cost of physical training clothing which form part of a non-compulsory uniform may be allowable (paragraphs 165 to 169).

**Physical training expenses:** Deductions for expenditure incurred in maintaining a degree of fitness may be allowable (paragraphs 170 to 176).

**Plain clothes:** Deductions for the cost of purchasing, maintaining and replacing plain clothes are not allowable (paragraphs 177 to 184).

**Plain clothes allowance:** This allowance is paid to federal police officers and to police officers in the Northern Territory, Queensland, South Australia and Tasmania. Deductions against a plain clothes allowance are not allowable (paragraphs 185 to 187).

**Police Academy:** Deductions for expenses incurred in attending training courses held at the Police Academy are allowable as self-education expenses (paragraphs 188 to 195).

**Police Citizens Youth Welfare Association:** Donations of \$2 or more to the Queensland Police Citizens Youth Welfare Association are allowable deductions (paragraphs 196 and 197).

**Police dogs:** Deductions for expenses incurred in maintaining and training police dogs are allowable (paragraphs 198 to 202).

**Police Legacy scheme:** Donations of \$2 or more to all State Police Legacy schemes except Tasmania are allowable deductions (paragraphs 203 to 205).

**Police Widows scheme:** Donations of \$2 or more to the Victorian Police Widows scheme are allowable deductions (paragraphs 206 and 207).

**Protective clothing and safety shoes:** Deductions for the purchase cost of protective clothing and safety shoes used for work-related purposes are allowable (paragraphs 208 to 211).

**Range instructors' and supervisors' allowance:** This allowance is paid to police officers in Tasmania. Deductions against a range instructors' and supervisors' allowance are not allowable (paragraphs 212 to 213).

**Relieving allowance:** This allowance is paid to police officers in Queensland and Tasmania. Deductions against a relieving allowance are allowable (paragraphs 214 and 215).

**Relocation expenses:** Deductions for storage, removal and depreciation expenses incurred by police officers when transferring from one district to another are not allowable (paragraphs 216 to 218).

**Sea duty allowance:** This allowance is paid to police officers in Tasmania. Deductions against a sea duty allowance are not allowable (paragraphs 219 and 220).



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**Search, attendance and escort allowance:** This allowance is paid to police officers in Western Australia. Deductions against a search, attendance and escort allowance are not allowable (paragraphs 221 and 222).

**Self-education expenses:** Deductions for self-education expenses are allowable provided there exists a real connection between the course of study undertaken and the derivation of police officers' assessable income (paragraphs 223 to 235).

**Sick leave bank:** Deductions for contributions made towards a sick leave bank are not allowable (paragraphs 236 to 238).

**Sickness and accident insurance:** Premiums paid under a sickness and accident insurance policy are allowable deductions if the benefits obtained are assessable (paragraphs 239 to 243).

**Special emergency response team allowance:** This allowance is paid to police officers in Queensland. Deductions against a special emergency response team allowance are not allowable (paragraphs 244 and 245).

**Special expenses allowance:** This allowance is paid to police officers in New South Wales. Deductions for payments to informants made by police officers during the course of their duties are allowable (paragraphs 246 and 247).

**Special tactics and rescue force allowance:** This allowance is paid to police officers in South Australia. Deductions against a special tactics and rescue force allowance may be deductible (paragraphs 248 and 249).

**Specialist allowance:** This allowance is paid to police officers in New South Wales and Tasmania. Deductions against a specialist allowance are not allowable (paragraphs 250 and 251).

**Spending allowance:** This allowance is paid to federal police officers and to police officers in the Northern Territory. Deductions for payments to informants made by police officers during the course of their duties are allowable (paragraphs 252 and 253).

**Stationery, street directories and diaries:** Deductions for the purchase cost of stationery, street directories and diaries used for work-related purposes are allowable (paragraphs 254 and 255).

**Stockings:** Deductions for the purchase cost of stockings are not allowable (paragraphs 256 to 259).

**Stockings allowance:** This allowance is paid to police officers in New South Wales and Queensland. Deductions against a stockings allowance are not allowable (paragraphs 260 to 262).

**Sunglasses:** Deductions for the purchase cost of sunglasses are generally not allowable (paragraphs 263 to 268).

**Technical or professional journals, periodicals and textbooks:** Deductions are allowable for the purchase cost or the subscription cost of technical or professional journals, periodicals and textbooks, provided there is a direct nexus between the content of the publication and the duties performed by police officers (paragraphs 269 to 272).

**Telephone calls:** Deductions for the cost of work-related telephone calls are allowable (paragraphs 273 and 274).

**Telephone installation cost:** Deductions for the cost of installing a telephone are not allowable (paragraphs 275 and 276).

**Telephone rental expenses:** Deductions for telephone rental expenses may be allowable. An apportionment must be made between work-related and private use (paragraphs 277 to 284).

**Telephone silent number:** Deduction for the cost of obtaining a silent telephone number is not allowable (paragraphs 285 and 286).

**Temperate clothing allowance:** Deductions against a temperate clothing allowance are not allowable (paragraphs 287 to 289).

**Tools and equipment:** Deductions for the purchase cost of tools or equipment used for work-related purposes are allowable. An apportionment must be made between work-related and private use, if any (paragraphs 290 to 292).

**Travel allowance:** Deductions against a travel allowance for the cost of food, drinks, accommodation and incidentals are allowable (paragraphs 293 to 295).

**Uniform and boot allowance:** This allowance is paid to police officers in Western Australia. Deductions for the purchase cost and maintenance of uniforms are allowable. Deductions for the purchase cost of footwear may be allowable (paragraphs 296 to 300).

**Uniform footwear and maintenance allowance:** This allowance is paid to police officers in Victoria. Deductions for the maintenance of uniforms are allowable (paragraphs 301 and 302).

**Unions or professional associations fees:** Deductions for unions or professional associations fees are allowable (paragraphs 303 to 305).

**Watches:** Deductions for the purchase cost of conventional watches are not allowable. Deductions for the purchase cost of special watches used for work-related purposes are allowable (paragraphs 306 to 311).

**Water police overnight allowance:** This allowance is paid to police officers in South Australia. Deductions against a water police overnight allowance are not allowable (paragraphs 312 to 314).

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**Whyalla living allowance:** This allowance is paid to police officers in South Australia. Deductions against a Whyalla living allowance are not allowable (paragraphs 315 to 317).

## Explanations

5. Whether or not a deduction is allowable for the type of expenditure set out in the Ruling is determined by looking at subsection 51(1) or section 54. If the deduction satisfies subsection 51(1) or section 54, then other provisions such as the substantiation provisions need to be satisfied, although explanations of the substantiation provisions are not provided in this Ruling.

### Airwing allowance

6. In the Northern Territory, police officers attached to the airwing squad are paid an allowance according to the instrument flying rating they hold. This allowance is paid in recognition of the special skills and qualifications obtained by police officers to carry out their duties. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Deductions against an airwing allowance are not allowable under subsection 51(1).

7. However, deductions are allowable for the cost incurred in obtaining instrument flying ratings as self-education expenses. Such expenses contribute directly to police officers' increase in salary. Paragraphs 223 to 235 of this Ruling provides further information on the deductibility of self-education expenses.

### Ammunition

8. In the normal course of duty, police officers are issued with ammunition but are also permitted to purchase and use additional ammunition. Police officers may also attend official testing courses or train during their own time for firearm proficiency. Only sufficient practice rounds are issued to enable police officers to maintain their validation for operational purposes. Effective use of guns requires far more practice than the rounds of ammunition provided by the Police Department.

9. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income-producing activities. Therefore, expenses incurred voluntarily by police officers

on ammunition used for work-related purposes only and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

10. Claims for additional ammunition may not be allowable if there are restrictions imposed on the types of guns permitted to be used by police officers while on duty. In such instances, the only type of ammunition which would be allowed must be of the same calibre as that used for official guns. Paragraphs 93 to 95 of this Ruling provides further information in regards to guns restrictions.

### **At sea allowance**

11. In the Northern Territory, police officers employed in the police marine and fisheries section are paid an at sea allowance when their vessel is absent from its home port overnight. This allowance is paid in lieu of a travel allowance, an overtime meal allowance, penalty and overtime payments.

12. The component of this allowance paid in relation to a travelling allowance is an allowable deduction under subsection 51(1). Paragraphs 293 to 295 of this Ruling provides further information on the deductibility of a travel allowance.

13. The component of this allowance paid in relation to an overtime meal allowance and penalty and overtime payments is calculated as 37.5% of the daily base salary of a senior constable. This component is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against this component are not allowable under subsection 51(1).

### **Bandsmen allowance**

14. In South Australia, a bandsmen allowance is paid to police officers attached to the police band for performing community relation services in the form of entertainment.

15. Deductions are not allowable in respect of entertainment expenses for food, drink or recreation under section 51AE.

### **Beepers, paging units and answering machines**

16. These items are used by police officers so they may contact, or be contacted by, the Police Department and other police officers on a regular basis for work-related purposes. These items are considered to be necessary for such contacts to be made quickly and effectively

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when police officers are not on duty or are working outside police stations.

17. The purchase cost of beepers, paging units and answering machines are allowable deductions under subsection 54(1). If such an item is purchased on or after 1 July 1991 for \$300 or less or has an effective life of less than three years, the portion of the cost that relates to use for work-related purposes is deductible in full in the year of purchase. If the item cost more than \$300 and has an effective life of more than three years, the portion of the cost that relates to use for work-related purposes is deductible as depreciation. The rate of depreciation depends on the effective life of the item. These items ordinarily have an effective life of 7 years.

18. Rental expenses are allowable deductions under subsection 51(1) which must be apportioned between work-related and private use.

## **Boot allowance**

19. In Western Australia, police officers are paid an allowance to purchase footwear as part of their compulsory uniform. Police officers have the choice of wearing black steel-capped boots or black conventional shoes.

20. Black steel-capped boots are considered protective footwear and deductions for the purchase cost of these items are allowable under subsection 51(1). Paragraphs 208 to 211 of this Ruling provides further information on the deductibility of protective footwear.

21. The purchase of conventional shoes is considered to be private in nature and no deductions are allowable under subsection 51(1) regardless of the colour imposed by the Police Department. Paragraph 183 of this Ruling provides further information on the deductibility of conventional footwear.

## **Brief cases**

22. As police officers are normally dealing with confidential material, it is unlikely that they would take work home. However a deduction will be allowable if police officers can demonstrate that the brief cases are used for work-related purposes and not merely to carry general information and/or personal belongings to and from work . Taxation Ruling IT 2261 provides further information on the deductibility of brief cases.

23. If the brief case is purchased on or after 1 July 1991 for \$300 or less, or has an effective life of less than three years, the purchase cost

is deductible in full in the year of purchase. If the brief case costs more than \$300 and has an effective life of more than three years, the cost is depreciable.

**Bullet-proof jackets/vests or body armours**

24. Light weight bullet-proof jackets/vests or soft body armours which may be concealed under conventional clothing are not normally supplied by the Police Department. These items are to be contrasted to the traditional heavy duty bullet-proof jackets which are supplied by the Police Department to all police officers as a matter of course and which can only be worn over conventional clothing.

25. These light weight bullet proof jackets/vests or soft body armours are considered protective clothing which are unique to the profession and are not suitable for any other activities outside police officers duties. Expenses incurred in purchasing such items are allowable deductions under subsection 51(1).

**Camp allowance**

26. In Tasmania, police officers who are required, in the performance of their duties, to camp or to proceed to sea for water patrol duty and are away from their normal place of residence overnight are paid a camp allowance. This allowance is also referred to as a sea victualling allowance.

27. This allowance is not a living away from home allowance or a travelling allowance. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against a camp allowance are not allowable under subsection 51(1).

28. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

***Carter's Criminal Code***

29. The *Carter's Criminal Code* is an essential publication for police officers which updates current legislation and case law. As there exists a direct nexus between the expense and the duties carried out by police officers, a deduction is allowable under subsection 51(1).

**CIB unit allowance**

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30. In South Australia, a CIB unit allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

31. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 105 to 107 of this Ruling provides further information on the deductibility of payments made to informants.

## **Civilian clothing allowance**

32. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all police officers by the Police Department.

33. In Victoria, a civilian clothing allowance is paid to all police officers who are required to wear plain clothes while on duty. It is paid to cover additional expenses incurred by police officers in purchasing conventional clothing.

34. The cost of conventional clothing worn at work has been held to be a private expense. Therefore, deductions against a clothing allowance are not allowable under subsection 51(1). Paragraphs 177 to 184 of this Ruling provides further information on the deductibility of conventional clothing.

## **Clothing allowance**

35. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all police officers by the Police Department.

36. In Queensland and Western Australia, a clothing allowance is paid to all police officers who are required to wear plain clothes while on duty. It is paid to cover additional expenses incurred by police officers in purchasing conventional clothing.

37. The cost of conventional clothing worn at work has been held to be a private expense. Therefore, deductions against a clothing allowance are not allowable under subsection 51(1). Paragraph 177 to 184 of this Ruling provides further information on the deductibility of conventional clothing.

## **Compensatory allowance**

38. In Tasmania, police officers are paid an allowance as compensation for the disturbance of leisure time after normal hours of

duty, stand by availability, special assignments or for being appointed to a one man station.

39. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against a compensatory allowance are not allowable under subsection 51(1).

40. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

### **Computers and software**

41. Expenses incurred by police officers when purchasing computers and related software for work-related purposes are allowable deductions under either subsection 51(1) or section 54.

42. By way of examples, police officers may use computers for the preparation of reports regarding their investigations or other work-related documents such as sketch and scale plans by the accident investigation squad, or the preparation of lesson plans and other handout materials by police officers required to present training courses.

43. Police Officers may also incurred such expenses in relation to self-education expenses. Paragraphs 223 to 235 of this ruling provides further information on the deductibility of self-education expenses.

44. 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 use for work-related purposes is deductible as depreciation. The rate of depreciation depends on the effective life of the item. These items ordinarily have an effective life of 5 years.

45. 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, seminars and training courses**

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

47. 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



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'... 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).

48. In *Case W73* 89 ATC 659; *Case 5260* (1989) 20 ATR 3848 the taxpayers were police officers who undertook a study tour overseas and visited various police stations and interviewed professors of law. It was held that the expenses incurred were allowable deductions under subsection 51(1). The police officers were able to demonstrate that the knowledge obtained during the overseas tour improved their performance in critical areas of their work.

49. Therefore costs incurred in attending conferences, seminars and training courses qualify as allowable deductions provided there is a relevant nexus with the duties performed by police officers. The conferences, seminars and training courses may be held in Australia or overseas.

50. Deductions would include fares to and from the venue regardless of the mode of transport, accommodation expenses, meals, registration fees and other expenditure associated with the attendance at the conferences, seminars or training courses. Payments received by police officers from the Police Department as partial or full reimbursement of such expenses must be returned as assessable income.

51. 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.

52. If the attendance to the conference, the seminar or training course was only incidental to a private activity (ie a holiday) then only the expenses directly attributable to the conference, the seminar or the 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).

53. Taxation Ruling TR 92/8 provide further information on the deductibility of the cost of attending conferences.

## **Consolidated allowance**

54. In the Northern Territory, a consolidated allowance is paid in lieu of shift penalties payable when police officers work overtime.

This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes.

55. Deductions against a consolidated allowance are not allowable under subsection 51(1).

### **Depreciation disturbance allowance**

56. In New South Wales, police officers are paid a depreciation allowance as compensation for accelerated depreciation on personal household effects when transferring from one locality to another.

57. Deductions against a depreciation disturbance allowance are not allowable under subsection 51(1).

58. Paragraphs 216 to 218 of this Ruling provides further information on the deductibility of relocation expenses.

### **Detective allowance**

59. In Queensland and Tasmania, a detective allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

60. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 105 to 107 of this Ruling provides further information on the deductibility of payments made to informants.

### **Dislocation, depreciation and education allowance**

61. In Queensland, police officers are paid a dislocation, depreciation and education allowance when they are transferred from one locality to another as compensation for the inconvenience of moving, depreciation of furniture and disruption to the education of their children.

62. Deductions against a dislocation, depreciation and education allowance are not allowable under subsection 51(1).

63. Paragraphs 216 to 218 of this Ruling provides further information on the deductibility of relocation expenses.

### **District allowance**

64. In Tasmania, police officers are paid a district allowance to compensate for additional costs incurred by police officers living in an isolated area.

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65. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against a district allowance are not allowable under subsection 51(1).

66. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

## **Diving allowance**

67. In Queensland, police officers are paid a diving allowance every time they are required to participate in a diving exercise for work-related purposes. This allowance is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty.

68. Deductions against a diving allowance are not allowable under subsection 51(1).

## **Dog handler's allowance**

69. This allowance is paid to police officers in Queensland and Tasmania.

70. In Queensland, police officers attached to the dog handler's squad are paid an allowance representing additional income for extra duties and responsibility undertaken during the course of their duties. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. In such instances, deductions against a dog handler's allowance are not allowable under subsection 51(1).

71. In Tasmania, police officers attached to the dog handler's squad are paid an allowance when they are required to feed, groom and exercise a police dog on days that are not rostered working days. In such instances, deductions may be deductible under subsection 51(1). Paragraphs 198 to 202 of this Ruling provides further information on the deductibility of expenses incurred in maintaining and training a police dog.

## **Driver's licence**

72. 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.

73. In *Case R49* 84 ATC 387; 27 CTBR(NS) *Case 104*, it was held that even though travel was an essential element of the work to be

performed by the taxpayer, a driver's licence was still an expense private in nature and therefore not deductible under subsection 51(1).

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

### **Equestrian-related equipment**

75. Police officers who are attached to the mounted police unit are generally supplied with standard saddles and other accessories by the Police Department as a matter of course.

76. However, police officers may choose to purchase additional and/or more sophisticated equestrian equipment such as personal protective gear (ie back protectors, knee and shin pads); boot pullers to enable long leather riding boots to be pulled onto foot; boot trees to protect and maintain shape and appearance of long leather boots; sheepskins to cover saddles to afford some degree of comfort during operational patrols. Expenses are also incurred on a voluntary basis for boot polish and related items to clean and preserve the issued long rubber boots including brushes and other boot polish accessories.

77. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income-producing activities. Therefore, expenses incurred voluntarily by police officers on equestrian-related equipment used for work-related purposes and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

78. The deductions should be apportioned to the extent that the items were used for private purposes.

### **Fines**

79. Deductions are not allowable in respect of fines and penalties payable to a court or under a law of the Commonwealth, a State, Territory or a foreign country under subsection 51(4).

### **Fingerprint section allowance**

80. In the Northern Territory, a fingerprint allowance is paid to police officers attached to the fingerprint section. This allowance is paid as a recognition of the expertise and special qualifications obtained by police officers to carry out their duties. This allowance is not a reimbursement or a payment for expenses incurred by police

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officers for work-related purposes. Deductions against a fingerprint section allowance are not allowable under subsection 51(1).

81. However, deductions are allowable for the cost incurred in obtaining relevant qualifications (ie Associate Diploma of Applied Science in Dactylography) as self-education expenses. Such expenses contribute directly to an increase in police officers' salary. Paragraphs 223 to 235 of this Ruling provides further information on the deductibility of self-education expenses.

## **Freight of perishables allowance**

82. In the Northern Territory, police officers permanently stationed in an isolated locality are paid an allowance for the cost of freight of perishables to the isolated locality.

83. This allowance is paid to reimburse police officers for the additional transportation expenses incurred to the isolated locality. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Deductions against a freight of perishables allowance are not allowable under subsection 51(1).

84. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

## **Gaming squad allowance**

85. In Tasmania, a gaming squad allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

86. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 105 to 107 of this Ruling provides further information on the deductibility of payments made to informants.

## **Gauntlets, holsters, hand-grips, handcuffs, holders, pouches, utility belts, etc**

87. In the normal course of duty, these items are supplied and replaced by the Police Department to all police officers as a matter of course.

88. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income-producing activities. Therefore, the voluntary purchase of additional and/or better or more sophisticated equipment by police officers is an

allowable deduction under subsection 51(1) when these items are used for work-related purposes.

### **Guard dogs and security systems**

89. Expenses incurred in maintaining guard dogs for the protection of police officers and their families because of the nature of their duties are considered to be private in nature.

90. Expenses incurred in installing security systems at police officers' normal place of residence are considered to be both capital and private in nature.

91. In *Case T20* 86 ATC 211; 29 CTBR(NS) *Case 23* and *Case V114* 88 ATC 906, the taxpayers were Family Court judges who were advised to improve the security of their private residence for safety reasons. In both instances, it was held that the expenses incurred in installing a security system and maintaining a guard dog were essentially private in nature.

92. Therefore no deductions are allowable for expenses incurred on maintaining guard dogs and installing security systems under subsection 51(1).

### **Guns and related equipment**

93. Guns are normally supplied and replaced by the Police Department to all police officers as a matter of course. Related equipment such as speed loaders, sighting devices and slings weapons grips are not normally supplied by the Police Department.

94. If there are restrictions imposed by the Police Department on the types of guns permitted to be used while on duty, deductions for the purchase of better and/or more sophisticated guns are not allowable. In Queensland, New South Wales, South Australia, Western Australia, Victoria and the Northern Territory police officers are only permitted to use the Police Department-issued guns while on duty. In Tasmania, police officers may be authorised to supply their own weapons by purchasing them through the agency of the Police Department.

95. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income-producing activities. Therefore, the voluntary purchase of additional and/or better or more sophisticated gun-related equipment, such as a speed loader, a sighting device and a sling weapon grip, is an allowable deduction under subsection 51(1) when these items are used for work-related purposes.

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## Gun cleaning materials

96. Gun cleaning materials are generally supplied to all police officers by the Police Department as a matter of course.

97. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers on gun cleaning materials which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

## Hairdressing expenses

98. The requirement that police officers must have a neat, well-groomed hairstyle is of a private nature. Deductions for hairdressing expenses are not allowed under subsection 51(1).

99. In *Case U217* 87 ATC 1216, the hair cuts and personal grooming expenses incurred by a police officer were held to be private in nature and not deductible. This decision is supported by the following cases: *Case N34* 81 ATC 178; 24 CTBR(NS) *Case 104*, *Case L61* 79 ATC 488; 23 CTBR(NS) 680 and *Case R54* 84 ATC 408; 27 CTBR(NS) *Case 108*.

100. It is possible to contrast between the cases mentioned above and *Case P90* 82 ATC 431; 26 CTBR(NS) *Case 24* in which a hairdressing deduction was allowed to a theatrical dancer. This case is consistent with the decision not to allow similar deductions made by police officers in that the dancer's expenses were unique to her employment as she was required to arrange her hair in a certain style in accordance with the theatrical role she was playing. It is not considered that police officers hairstyles are unique to their occupation and therefore any expenses incurred are considered to be private in nature.

## Home offices expenses

101. Although some police officers may find it necessary to carry out some of their duties such as typing reports in their own home, the occupation of police officers does not require the use of a home office as a place of business. Police officers may however bring work home for their personal convenience rather than as a matter of necessity. In such instances, deductions for the additional expenses incurred on electricity, depreciation of furniture and equipment (ie desk, chair, computer, etc) are allowed where police officers use their home for

additional work related duties. Taxation Ruling TR 93/30 provides further information on the deductibility of home office expenses.

102. Deduction for similar expenses will also be allowed to police officers who are entitled to claim self-education expenses. Paragraphs 223 to 235 of this Ruling provides further information on the deductibility of self-education expenses.

### **Housing allowance**

103. In the Northern Territory, an housing allowance is paid to police officers who are not supplied with their own private accommodation by the Police Department.

104. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against an housing allowance are not allowable under subsection 51(1).

### **Informant expenses**

105. Payments made to informants by police officers to obtain evidence or information are allowable deductions whether or not an allowance has been paid to the police officers. Such payments may take the form of cash or goods such as cigarettes and meals.

106. If police officers are reimbursed for their informant expenses by the Police Department, then they are not entitled to make claims for informant expenses.

107. Taxation Determinations TD 93/68 and TD 93/69 provide further information on the deductibility of informant expenses.

### **In lieu of quarters allowance**

108. In the Northern Territory and Western Australia, an in lieu of quarters allowance is paid as a rental subsidy to police officers who have not been provided with rent free housing by the Police Department.

109. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against an in lieu of quarters allowance are not allowable under subsection 51(1).

### **In lieu of uniform allowance**

110. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all police officers by the Police Department.



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111. In New South Wales, an in lieu of uniform allowance is paid to all police officers who are required to wear plain clothes while on duty. It is paid to cover additional expenses incurred by police officers in purchasing conventional clothing.

112. The cost of conventional clothing worn at work has been held to be a private expense. Therefore, deductions against an in lieu of uniform allowance are not allowable under subsection 51(1).

Paragraphs 177 to 184 of this Ruling provides further information on the deductibility of conventional clothing.

## **Kilometre allowance**

113. In Tasmania and Victoria, police officers are paid a kilometre allowance when they are authorised by the Police Department to use their private motor vehicle in the performance of their duties or to travel between their home and their place of duty under certain circumstances.

114. Deductions against a kilometre allowance may be deductible under subsection 51(1). Paragraphs 138 to 142 of this Ruling provides further information on the deductibility of motor vehicle expenses.

## **Licensing squad allowance**

115. In Tasmania, a licensing squad allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

116. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 105 to 107 of this Ruling provides further information on the deductibility of payments made to informants.

## **Living allowance**

117. In New South Wales, police officers are paid a living allowance to compensate for additional costs incurred by police officers residing in a remote area.

118. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against a living allowance are not allowable under subsection 51(1).

119. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

**Living away from home allowance**

120. In Tasmania, police officers who are required to relocate to another locality on a permanent appointment or transfer are paid a living away from home allowance. This allowance is paid as compensation for additional expenses incurred by way of board and lodging. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes.

121. Police officers are required to transfer regularly as part of the Police Department career structure. These officers are not considered to be living away from their normal place of residence.

122. Deductions against a living away from home allowance are not allowable under subsection 51(1).

**Locality allowance**

123. In Queensland and South Australia, a locality allowance is paid to police officers who are required to live in a remote location.

124. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against a locality allowance are not allowable under subsection 51(1).

125. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

**Lodging allowance**

126. In Western Australia, a lodging allowance is paid to police officers stationed in the metropolitan area who have not been supplied with living quarters by the Police Department.

127. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against a lodging allowance are not allowable under subsection 51(1).

**Maintenance of uniforms and protective clothing**

128. The Police Department normally supply all police officers with the appropriate compulsory uniforms and protective clothing. These various uniforms are unique and peculiar to the various State and Federal Police Departments. The maintenance of these uniforms are

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the responsibility of the police officers and not that of the Police Department.

129. When, as a condition of employment, police officers are required to wear distinctive and unique clothing that constitute a uniform, the cost of purchasing the uniforms are allowable deductions under subsection 51(1). Taxation Ruling IT 2641 provide further information on the deductibility of the purchase cost of uniforms.

130. Deductions for expenses incurred in maintaining, laundering, dry cleaning uniforms and protective clothing including the purchase of boot polish and related items are allowable deductions under subsection 51(1). Taxation Ruling IT 2452 outlines the method of calculating home laundry expenses.

## Meals

131. Deductions for the cost of meals consumed while on duty are not allowable as the consumption of food and beverages is a private expense.

132. 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).

133. Paragraphs 159 to 161 of this Ruling provides further information on the deductibility of an overtime meal allowance.

## Meals to prisoners or witnesses allowance

134. In the Northern Territory, an allowance is paid to police officers who are required to provide meals to prisoners or witnesses. The provisions of such meals do not constitute entertainment expenses as defined in subsection 51AE(4).

135. Deductions for expenses incurred by police officers in providing meals to prisoners or witnesses are allowable under subsection 51(1).

## Motor vehicle allowance

136. In the Northern Territory and Western Australia, police officers are paid a motor vehicle allowance when they are authorised by the Police Department to use their private motor vehicle for official purposes or are required to work additional shifts at times when normal public transport is not available.

137. Deductions against a motor vehicle allowance may be deductible under subsection 51(1). Paragraphs 138 to 142 of this Ruling provides further information on the deductibility of motor vehicle expenses.

**Motor vehicle expenses**

138. The cost of travel between police officers' normal place of residence and their regular place of employment is generally considered to be a private expense and is not deductible under subsection 51(1), even if public transport is not available.

139. Deductions may be allowable when police officers are required to use their private motor vehicle and travel:

- (a) between two separate places of work where there are two separate employers involved. For example, a police officer has a part time job as a security officer for a car yard. Any travel undertaken between the car yard and the regular place of employment are allowable deductions;
- (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. For example, a police officer is required to travel from the regular police station to a district court for work-related purposes. Any travel undertaken from the regular police station to the district court and then back to the regular police station or directly home from the district court is an allowable deduction;
- (c) from home to an alternative place of employment for work-related purposes and then to the normal place of employment. For example, a police officer is required to attend a staff meeting at the Police Headquarters when the regular police station is actually in another suburb. The travel undertaken between from the police officer's home to the Police Headquarters and then on to the regular police station is an allowable deduction;
- (d) between police stations while on duty. Where police officers are required to travel to their regular police station to report for duty and then travel to another police station for work-related purposes and back to their regular police station, the travel undertaken between the two police stations is an allowable deduction;
- (e) between home and a place of employment and back home where police officers are deemed to be "on call" due to the nature of their duties. Police officers are deemed to be "on call" where under the terms of their employment, they must be accessible by telephone for work-related purposes and either:

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give work related instructions over the telephone before leaving home for a specific location; or

are entitled, under their awards, to penalty payments or to overtime from the moment they receive a telephone call to report at some specific location.

In these instances, deductions are allowable for travel undertaken between home and the specific location and back home as the police officers are deemed to commence duty at home upon receiving the telephone call from the Police Department. It is considered that police officers perform sufficient work-related tasks to be said to be on duty from the moment they are contacted by the Police Department.

Police officers who are provided with fully equipped departmental vehicles due to the nature of their duties (i.e. the scientific investigation squad or the rescue squad) would not generally incur motor vehicle expenses;

(f) to a place of education. For self-education purposes:

- 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 police officer travels from home to the place of education and then on to work, only the first leg of the trip is deductible;
- if the police officer travels from work to the place of education and then home, only the first leg of the trip is deductible.

140. Police officers may be required to travel to the Police Academy for different purposes. In determining the deductibility of travel expenses, the purpose of the journey must first be established. If the purpose of the journey is work-related paragraphs 139(b) and 139(c) will apply. If the purpose of the journey is for self-education purposes paragraph 139(f) will apply.

141. Any reimbursement received from the Police Department as part or full payment for such expenses must be included as assessable income.

142. Taxation Rulings IT 112, IT 117, IT 2543 and Miscellaneous Ruling MT 2027 provide further information on the deductibility of travelling expenses between a principal place of residence and a regular place of employment.

**Newspapers**

143. Expenses incurred for the purchase of newspapers is considered to be of a private nature. As newspapers are general in nature, there is no direct nexus between the expense and the nature of the duties carried out by police officers. Deductions are not allowable under subsection 51(1).

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

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

**Night duty allowance**

146. In Queensland, a night duty allowance is paid to police officers who are required to work overtime at the completion of a normal shift. This allowance is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty.

147. Deductions against a night duty allowance are not allowable under subsection 51(1).

**Northern Territory Allowance**

148. In the Northern Territory, police officers are paid an allowance for the inconvenience of living in a remote area.

149. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against a Northern Territory allowance are not allowable under subsection 51(1).

150. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

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## **On-call allowance**

151. In South Australia, police officers are paid an on call allowance for every day they are required to be on call for work-related purposes. This allowance is paid whether or not they are required to report for duty. Deductions against an on call allowance are not allowable under subsection 51(1).

152. However, police officers who are on call for work-related purposes are allowed to claim for work related telephone calls and telephone rental expenses. Paragraphs 273 to 284 of this Ruling provides further information on the deductibility of telephone calls and telephone rental expenses.

153. Police officers who are on call for work-related purposes are also be entitled to claim for motor vehicle expenses. Paragraphs 138 to 142 of this Ruling provide further information on the deductibility of motor vehicle expenses.

## **Out of pocket allowance**

154. In South Australia, an out of pocket allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

155. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 105 to 107 of this Ruling provide further information on the deductibility of payments made to informants.

## **Out of uniform allowance**

156. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all police officers by the Police Department.

157. In South Australia, an out of uniform allowance is paid to all police officers who are attached to the uniformed branch but are required to wear plain clothes temporarily for work-related purposes. It is paid to cover additional expenses incurred by police officers in purchasing conventional clothing.

158. The cost of conventional clothing worn at work has been held to be a private expense. Therefore, deductions against an out of uniform allowance are not allowable under subsection 51(1). Paragraphs 177 to 184 of this Ruling provide further information on the deductibility of conventional clothing.

**Overtime meal allowance**

159. Deductions are allowable for the cost of overtime meals incurred by police officers where an overtime meal allowance is paid under an industrial award.

160. Taxation Rulings IT 2326, IT 2644 and IT 2686 provide additional information on the deductibility of overtime meal expenses.

161. If the overtime meal allowances received are not included on police officers' group certificates, no tax instalments deductions have been levied on the allowances when paid to police officers and therefore deductions for overtime meals expenses are not allowable.

**Parking fees and bridge toll fees**

162. Parking fees (but not fines) and bridge toll fees are expenses which form part of the travelling expenses incurred by police officers. This decision is supported by *Case Y43* 91 ATC 412; *Case 7273* (1991) 22 ATR 3402.

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

164. Deductions for parking fees (but not fines) and bridge 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 138 to 142 of this Ruling provides further information on the deductibility of motor vehicle expenses.

**Physical training clothing**

165. Where it is a condition of employment for police recruits to purchase and wear a particular style of physical training clothing which is unique and distinctive to the Police Department then such clothing is deemed to be a uniform.

166. For example, in New South Wales, police recruits are required to purchase and wear physical training clothing (ie tracksuit, shorts, T-shirts, etc) which are of a specific colour scheme with a distinctive logo and design. These items form part of the compulsory uniform



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worn by police recruits/cadets. In such circumstances, expenses incurred in purchasing and maintaining a prescribed uniform are allowable deductions under subsection 51(1).

167. In other states, police recruits/cadets are required to purchase their own clothing for compulsory physical training activities including running/aerobic shoes. These items are conventional clothing and considered to be of a private nature. Deductions are not allowable under subsection 51(1).

168. Certain squads have also designed their own physical training clothing with the logo or emblem of their particular squad. These items of clothing are not compulsory and do not form part of the traditional police officers uniform. Deductions for the purchase and maintenance cost of these items are allowable provided the design of the clothing has been entered on the Register of Approved Occupational Clothing under section 51AL.

169. Transitional procedures allows deductions for the purchase and maintenance of such clothing until 30 June 1995 if an approval has been received in writing by the Australian Taxation Office qualifying the clothing as a uniform under Taxation Ruling IT 2641.

## Physical training expenses

170. All police officers are required to maintain a relatively high standard of physical fitness and in most instances training is undertaken on a voluntary basis. Expenses incurred in maintaining a high degree of fitness including conventional clothing, gymnasium membership fees and sporting equipment are considered to be essentially private in nature and deductions are not allowable under subsection 51(1).

171. This decision is confirmed in *Case N72 81 ATC 383*; 25 CTBR(NS) *Case 26* where an airline pilot was denied a deduction for a fitness course he undertook to lose weight in order to pass his six monthly medical examination. The expense was not incidental or relevant to the duties performed by the pilot and was considered to be private in nature. In *Case P17 82 ATC 72*; 25 CTBR(NS) *Case 81*, the cost of gymnasium fees was denied to a commercial pilot for similar reasons.

172. Taxation Determination TD 93/112 provides further information on the deductibility of weight reduction related expenses.

173. However, if police officers can demonstrate that they are required to undertake strenuous physical activity on a regular basis as part of their normal duties then physical training expenses are allowable deductions under subsection 51(1).

174. By way of example, members of special emergency squads are required to undertake strenuous daily activities including a compulsory daily one hour aerobic style training session prior to starting work and a minimum of three days per week on compulsory intensive training activities. Every three months, these officers must undertake a physical examination and they must pass a certain level of fitness which is documented. Officers who fail the physical examination are put on non operational duties for one month during which time they are expected to improve their fitness. If they fail to improve their fitness, they will be removed from the squad.

175. Police officers who are working daily with police dogs are also required to undertake physical training activities on a regular basis. These police officers must have a certain level of fitness in order to train with their dogs so they may achieve maximum performance. Police officers must be able to control their dogs at all times, manoeuvre them around and past obstacles and jump over fences two metres high and other similar obstacles with their dogs. These activities are carried out with the police dogs on a 8 to 10 metres long rope and police officers must be able to keep up with the police dogs at all times. The Police Department organises some compulsory training activities including 5 to 6 kilometres trails with the police dogs to simulate tracking down suspected offenders. These activities require police officers to have a certain level of physical strength which is obtained by daily strenuous physical training activities.

176. Taxation Determination TD 93/114 provides further information on the deductibility of fitness related expenses.

**Plain clothes**

177. The purchase, replacement, and maintenance of conventional clothing is considered to be private in nature and no deductions are allowable under subsection 51(1).

178. Plain clothes police officers are required by the Police Department to wear a collar and tie and a coat while on duty. They are also required to wear suits when appearing in court. It has been argued that the nature of their work is such that it takes a heavy toll on civilian clothes. By way of examples, police officers sit for long periods of time in motor vehicles and they can find themselves in altercations when a person resists arrest which can result in damage to their clothing. They can also be required to do specific tasks such as climbing into dirty roof spaces or burnt buildings, or attending at messy scenes of accident or violence where blood or other substances cause unavoidable soiling of clothing.

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179. The essence of the decision of the Board of Review in *Case 23* 12 TBRD 229 is that, as a general principle, the cost of a person's clothing is incurred not because of his employment, if any, but because of the conventions of civilised life and, for income tax purposes, is thus of a private or domestic nature. The view expressed by the Board in this regard is considered to provide authority for the disallowance of claims in respect of purely conventional-type clothing.

180. There are a number of other cases which qualify this general principle: *Case S85* 85 ATC 619; 28 CTBR(NS) *Case 89: Case T83* 86 ATC 1114. In *Case U219* 87 ATC 1221; 12 CTBR *Case 23*, the taxpayer was a plain clothes policeman who was provided with a uniform, but was also required to wear a suit and tie. The taxpayer was paid an allowance for plain clothes, and he claimed a deduction for purchasing conventional clothing. The claim was disallowed by the Tribunal in the following terms:

'The claim was argued on three alternative bases. First, that the applicant had to expend the amounts in question in order to comply with a direction given to him in the course of employment.....Secondly that, due to his duties....his clothing was subject to unusual wear and tear. The third, and principal, submission was that as he was provided with free uniforms which he could, but for the direction, wear to work, he would normally have spent nothing on clothing for work and, therefore, there was no private component in the expenditure in question.'

'... it is clear that the applicant's employer required that he wear clothing of a particular standard and that the applicant would not usually wear that style of clothing outside work. The clothing, however, is identical to that worn by many if not most professional and business men and is suitable for use outside his employment. The claim before the Tribunal is consequently unable to succeed on the first basis submitted.'

'The final and major submission.....was that as the applicant was provided with a uniform, he would.. [ordinarily] .... have spent nothing on work clothing'

'This submission fails on a fundamental point. From the time when the applicant was required not to wear his uniform, the free provision of such uniform became irrelevant. He became placed in the same position as a taxpayer who leaves a job in which a uniform is supplied and moves to a position where he is required to wear a suit. The matter must therefore be decided without reference to the uniform'

'Having found that the provision of the uniform is irrelevant, the question then falls to be decided according to the normal tests as

set out above. As the clothing in question is of the type worn by many professional and business men,...the claim must be disallowed.'

181. The case above holds firmly to the view that the cost of conventional clothing is a private expense and not allowable as a deduction under subsection 51(1).

182. Taxation Determination TD 93/110 provides further information on the deductibility of conventional clothing for police officers.

183. Expenditure on shoes which have no distinguishable features and can be purchased at normal retail outlets by members of the general public are conventional in nature. Deductions for the purchase cost of conventional shoes are not allowable under subsection 51(1). Taxation Ruling IT 2641 provides further information on the deductibility of conventional shoes.

184. A deduction is allowable if the footwear is considered to be protective in nature such as steel cap boots.

### **Plain clothes allowance**

185. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all police officers by the Police Department.

186. Federal police officers and police officers in the Northern Territory, Queensland, South Australia and Tasmania are paid a plain clothes allowance when they are required to wear plain clothes while on duty. It is paid to cover additional expenses incurred by police officers in purchasing conventional clothing.

187. The cost of conventional clothing worn at work has been held to be a private expense. Therefore, deductions against a plain clothes allowance are not allowable under subsection 51(1). Paragraphs 177 to 184 of this Ruling provides further information on the deductibility of conventional clothing.

### **Police Academy**

188. In all States, there exists a Police Academy. A Police Academy is a separate establishment where police recruits/cadets and sworn police officers undertake structured training programs. It provides basic recruit training, on-going in-house training, skill maintenance courses and firearms training for police officers.

189. A Police Academy is therefore considered a place of education to which section 82A applies. This view is supported by the decision

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of the Board of Review in *Case M11 80 ATC 78*; 23 CTBR(NS) *Case 97*. Any expenses allowable for attendance at a Police Academy for training purposes must be reduced by any amount reimbursed by the Police Department. As these expenses also form part of self-education expenses, the total amount allowable under subsection 51(1) is then reduced by \$250.

190. If police officers are undertaking external studies at another place of education (eg a university) as well as attending training courses at a Police Academy, section 82A only applies once to the total self-education expenses incurred by police officers

191. In New South Wales, new police recruits are required under their award to relocate their place of residence to a location within the Sydney metropolitan area at their own cost. Therefore, the regular place of employment for new police recruits is based in the Sydney metropolitan area.

192. It is an expressed condition of employment that, before being sworn as police officers, police recruits undertake compulsory training courses at the Goulburn Police Academy. As they are required to travel some distance away from their normal place of residence for up to fourteen weeks at a time, deductions are allowable for:

193. Travelling expenses between home and the Police Academy and back again. Where public transport is used for this travel, the police recruits are reimbursed for these expenses and no deductions are allowable under 51AH; and

194. Meals and accommodation expenses incurred while staying at the Police Academy. Under the current state award, an automatic deduction is made from the police recruits' salaries for the cost of meals and accommodation. There are no allowances as such paid to the police recruits by the Police Department.

195. Taxation Ruling TR 92/8 provides further information on the deductibility of fares, accommodation and meals as self-education expenses.

## **Police Citizens Youth Welfare Association**

196. The Queensland Police Citizens Youth Welfare Association is registered as a public benevolent institution with the Australian Taxation Office.

197. Paragraph 78(1)(a) allows deductions for donations of \$2 or more to this association.

## **Police dogs**

198. In most instances, the Police Department installs kennels, supplies all dog food and cleaning detergents and meets all veterinary expenses for police dogs. Police officers would not normally be required to incur expenses in maintaining and training police dogs.

199. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers in maintaining and training police dogs, as opposed to privately owned dogs, and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

200. Other deductible expenses would include motor vehicle expenses used to convey police dogs to the veterinary and exercise areas when departmental vehicles are not available and the additional expenses incurred on electricity for fridges and freezers used for the storage of dog food and supplies.

201. However, the cost of installing security fences at police officers private place of residence for the security of the police dogs are not allowable under subsection 51(1) as the expense is both of a capital and private nature.

202. Some police officers buy their own dogs and train them to become police dogs. These expenses are incurred prior to joining the relevant squad and prior to the derivation of the related assessable income. Under these circumstances, the related expenses are not allowable deductions under subsection 51(1).

### **Police Legacy Scheme**

203. The Police Legacy schemes operating in New South Wales, the Northern Territory, Queensland, South Australia, Victoria and Western Australia are registered as public benevolent institutions with the Australian Taxation Office.

204. Paragraph 78(1)(a) allows deductions for donations of \$2 or more to the registered Police Legacy Schemes.

205. In Tasmania, there is a Police Legacy Scheme currently operating. However it is not registered as a public benevolent institution with the Australian Taxation Office as it does not receive donations from the public.

### **Police Widows Scheme**

206. The Police Widows Scheme in Victoria is registered as a public benevolent institution with the Australian Taxation Office.

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207. Paragraph 78(1)(a) allows deductions for donations of \$2 or more to the Victorian Police Widows scheme.

## **Protective clothing and safety shoes**

208. Protective clothing as defined in subsection 51AL(26) is any item of clothing which protects police officers from personal injury (i.e. safety boots, safety goggles) or protects police officers' uniform or conventional clothing from damage and soilage while performing their duties (i.e. overalls).

209. Protective clothing is normally supplied to all police officers by the Police Department (i.e. Police Officers handling decomposed bodies, Emergency Squads, Water Police, etc). However, police officers may choose to purchase additional items in certain circumstances.

210. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers on protective clothing used for work-related purposes and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

211. Taxation Determination TD 92/157 provides further information on the deductibility of protective clothing.

## **Range instructors' and supervisors' allowance**

212. In Tasmania, police officers who are qualified as range supervisors or instructors and are required to perform the duties of fire controllers at firing ranges are paid a range instructors' and supervisors' allowance. This allowance is paid as a recognition of their expertise or skills obtained to carry out their duties. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Deductions against a range instructors' and supervisors' allowance are not allowable under subsection 51(1).

213. The relevant skills are obtained through an internal training course provided at the Police Academy. Deductions are allowable for the expenses incurred in obtaining these skills. Such expenses contribute directly to an increase in police officers' salary. Paragraphs 223 to 235 of this Ruling provides further information on the deductibility of self-education expenses.

**Relieving allowance**

214. In Queensland and Tasmania, a relieving allowance is another terminology used to describe a travel allowance.

215. Deductions against a relieving allowance are allowable. Paragraphs 293 to 295 of this Ruling provide further information on the deductibility of travel allowances.

**Relocation expenses**

216. When police officers are transferred from one district to another, deductions are not allowable for expenses incurred as the result of the transfer (ie removal and storage expenses).

217. In some instances, police officers are paid an allowance from the Police Department as compensation for depreciation, disturbance, removal and storage expenses. This allowance is assessable in full and no deductions are allowable under subsection 51(1).

218. Taxation Rulings IT 2481, IT 2566 provide further information on the deductibility of relocation expenses.

**Sea duty allowance**

219. In Tasmania, police officers appointed to the marine and rescue squad who are required to perform sea going duties and are away from their normal place of residence overnight are paid an allowance in compensation for extra hours of duties performed and other inconvenience relating to such duties. This allowance is not a payment or a reimbursement of expenses incurred by police officers in the course of duty.

220. Deductions against a sea duty allowance are not allowable under subsection 51(1).

**Search, attendance and escort allowance**

221. In Western Australia, police officers are paid an allowance each time they are required to search, escort and attend court with a prisoner. This allowance is paid as additional income for extra responsibility undertaken for work-related purposes. This allowance is not a payment or a reimbursement of expenses incurred by police officers in the course of duty.

222. Deductions against a search, attendance and escort allowance are not allowable under subsection 51(1).



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## Self-education expenses

223. Self-education expenses are allowable deductions under subsection 51(1) if there exists a real connection between the course of study undertaken and the derivation of police officers' assessable income.

224. If the course of study is undertaken by police officers to improve their knowledge or proficiency in their current duties or to increase, or probably increase, their assessable income from their current employment at some point in the future or to maintain already acquired professional knowledge, then self-education expenses are allowable deductions under subsection 51(1).

225. Self-education expenses are not allowable deductions if police officers are undertaking study to open up new income earning activities or if the course of study is outside the police officers' present area of employment.

226. If the course of study is a requirement of the current employment then a real connection between the expenses incurred and the assessable income derived has been established. In some instances, undertaking a particular course of study is a prerequisite for police officers to join certain squads or sections within the Police Department. This requirement does not represent the opening up of new earning activities in police officers' current employment but represent an extension of the same activities undertaken by police officers. Police officers derive their income from being employed by the Police Department, they do not derive their income from being a member of a particular squad or section of the Police Department. Regardless of the squads to which they belong, police officers are still paid under the same state award.

227. It is the Police Department's policy that by undertaking external studies, police officers become more competitive for promotion and their self development in carry out their current duties is enhanced. It is also part of the selection process that police officers must be able to demonstrate that they have the ability to carry out a variety of duties by working in different squads. It is therefore a distinct advantage for police officers to undertake external studies when applying for a promotion or a transfer to another squad.

228. In *FC of T v. Smith* 78 ATC 4157; (1978) ATR 518 and in *FC of T v. Lascelles-Smith* 78 ATC 4162; (1978) ATR 524, it was held that expenses incurred when undertaking a course of study which lead to a transfer to another section within the same department and would reasonably lead to an increase in future income through promotion are allowable as self-education expenses.

229. This decision is confirmed in Case 48 93 ATC 520 where a police officer in the Criminal Investigation Branch was allowed a deduction for expenses incurred in obtaining a commercial helicopter pilot's licence. The police officer had incurred the expenses to become eligible for transfer in the Police Air Wing squad. The transfer took place twelve months after starting the course. It was held that by obtaining such a licence, the police officer had increased her efficiency and chances of promotion in her existing occupation.

230. While the Police Departments have a policy to encourage police officers to undertake further tertiary studies, there is no recognised list of approved courses. Each application for study approval is considered on its own merit and the relevance to police duties. By way of example, courses considered relevant to the duties of police officers would include, but are not limited to, Justice Administration, Management, Business Administration, Law, Forensic Science and Psychology.

231. Self-education expenses are reduced by the amount which police officers receive or are entitled to receive by way of scholarship, bursary or reimbursement from the Police Department.

232. If the course of study is undertaken at a recognised place of education (eg a school, university, college, etc) then the total amount allowable under subsection 51(1) as self-education expenses is reduced by \$250.

233. From 1/7/93, in Queensland it is now a condition of employment that all new police recruits undertake tertiary studies. It is not however conditional on police officers who were sworn in before 1/7/93.

234. During the first twelve months, and before being sworn in, police recruits receive a student allowance in lieu of wages while studying full time at university. These police recruits are entitled to claim self-education expenses as there is a direct nexus between the assessable income derived and the expenses incurred. For the first twelve months, as the police recruits have not been appointed to a particular police station, the university is considered to be the police recruits' regular place of employment. Any travel undertaken between the police recruits' place of residence and the university is considered to be private in nature, ie travel to work, and deductions are not allowable under subsection 51(1).

235. Taxation Ruling TR 92/8 provides additional information on the deductibility of self-education expenses as well as the expenses which may be claimed.

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## **Sick leave bank**

236. In some states, police officers are required under their award to contribute part of their annual leave towards a pool of sick days. This pool is commonly referred to as the "sick leave bank". From this bank police officers who have used all their annual sick leave entitlements are able to obtain further sick leave from this particular bank for injuries incurred as a result of duties performed as police officers.

237. In Queensland, police officers contribute two days of their recreation leave on an annual basis. In the Northern Territory and South Australia, police officers are required to contribute one day of their leave entitlement on call. In Tasmania, police officers are required to contribute one day of their recreational leave on an annual basis.

238. Such contributions do not represent expenses incurred by police officers for work-related purposes. Deductions are not allowable under subsection 51(1) for contributions made towards a sick leave bank.

## **Sickness and accident insurance**

239. Premiums paid by police officers under a sickness and accident insurance policy may be deductible depending on the benefits obtained by police officers during the period of incapacity.

240. If the benefits received during the period of incapacity are periodic payments (ie weekly, monthly, etc), then a deduction is allowable for the premiums paid. The periodic payments are considered to be income in nature.

241. If the benefit received during the period of incapacity is a lump sum payment, then generally no deduction is allowable for the premiums paid as the lump sum payment is considered to be capital in nature.

242. If the benefits received during the period of incapacity are a combination of both periodic payments and a lump sum payment, then a deduction is allowable for that portion of the premiums applicable to the periodic payments.

243. This decision is confirmed in *Case J45 77* ATC 417; 21 CTBR(NS) Case 67 and *FC of T v. Smith* 81 ATC 4114; (1981) 11 ATR 538. Taxation Rulings IT 208, IT 2230, IT 2370 and IT 2460 provide further information on the deductibility of sickness and accident premiums.

**Special emergency response team allowance**

244. In Queensland, police officers attached to the special emergency response team are paid an allowance for attending relevant training activities or for being on call for short periods of time. This allowance is paid for additional responsibility undertaken in the normal course of duty. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes.

245. Deductions against a special emergency response team allowance are not allowable under subsection 51(1).

**Special expenses allowance**

246. In New South Wales, a special expenses allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

247. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 105 to 107 of this Ruling provide further information on the deductibility of payments made to informants.

**Special tactic and rescue force allowance**

248. This allowance is paid in South Australia to compensate police officers attached to the special tactic and rescue force for any out of pocket expenses incurred for work-related purposes.

249. Whether or not these expenses are allowable deductions would depend on the nature of the items purchased. If the items purchased can be directly related to income producing activities, deductions are allowable for the expenses incurred under subsection 51(1).

**Specialist allowance**

250. In New South Wales and Tasmania, police officers attached to certain squads are paid an allowance as a recognition of the special qualifications obtained to carry out their duties, or as a recognition of work expertise or for being in charge of a squad. This allowance is not a payment or a reimbursement of expenses incurred by police officers in the course of duty. Deductions against a specialist allowance are not allowable under subsection 51(1).

251. However, if the allowance is paid as a recognition of special qualifications obtained by police officers, deductions are allowable for the cost incurred in obtaining these qualifications as self-education expenses. Such expenses contribute directly to police officers'

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increase in salary. Paragraphs 223 to 235 of this Ruling provide further information on the deductibility of self-education expenses.

## Spending allowance

252. A spending allowance is paid to plain clothes federal police officers and to plain clothes police officers in the Northern Territory to cover expenses incurred for payments made to informants.

253. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 105 to 107 of this Ruling provides further information on the deductibility of payments made to informants.

## Stationery, street directories and diaries

254. Stationery, street directories and diaries are normally supplied by the Police Department. In the course of their employment, police officers are required to maintain diaries to record their daily activities. Any type of stationery used by police officers while on duty or as part of self-education expenses are allowable deductions under subsection 51(1).

255. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers on stationery, street directories and diaries used for work-related purposes and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

## Stockings

256. Deductions are not allowable for the cost of purchasing stockings as the expense is considered to be private in nature and not incurred in gaining or producing assessable income.

257. The fact that female police officers are required to wear stockings of specific colours as part of their total uniform at all times while on duty does not alter the private nature of the expense.

258. In *Case N97 81 ATC 521*; 25 CTBR(NS) *Case 50* (which involved a registered nurse) Dr Gerber (Member) stated that 'Stockings, by their very nature, are part of conventional attire - whether worn under protest or otherwise...' and added later '... there is nothing unique about stockings which would single out a person wearing them as being a nurse...' (ATC at 524; CTBR at 369). In *Case*

*H32 76 ATC 280; 20 CTBR(NS) Case 85*, the expense for stockings damaged at work was not allowed. In the case it was stated: 'True, it is damaged that occurs to her stockings during her hours of duty, but that has nothing really to do with procedures and methods relating to the performance of her duties...' (ATC at 282; CTBR at 909).

258. In *FC of T v. Cooper* 91 ATC 4396; (1991) 21 ATR 1616 Justice Hill said: '... 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. ' (ATC at 4414; ATR at 1636).

259. The fact that an employer may prescribe a particular style or colour of clothing for employees does not necessarily mean that expenditure on clothing by employees becomes an allowable deduction. The clothing must be unique and unsuitable for normal wear outside work. In *Case U88 87 ATC 470; 18 ATR Case 66* a shop assistant was denied a deduction for black clothes. It was stated that "The fact that an employer requires garments of a particular colour to be worn and would even terminate employment if another colour was substituted does not in any way detract from the character of the garments as conventional attire, the cost of which must be regarded as a private expense."

### **Stockings allowance**

260. In New South Wales and Queensland, female police officers are paid a stockings allowance. It is paid to cover additional expenses incurred by female police officers in purchasing stockings of specific colours which form part of their compulsory uniforms.

261. The cost of stockings is a private expense. Deductions against a stockings allowance are not allowable under subsection 51(1).

262. Paragraphs 256 to 259 of this Ruling provide further information on the deductibility of stockings.

### **Sunglasses**

263. The purchase cost of normal sunglasses used by police officers while on street duty or while driving police vehicles are not allowable deductions under subsection 51(1).

264. The decision to wear sunglasses is a personal choice and do not form part of the required uniform. Sunglasses are not distinctive or unique to the occupation. The expenses incurred in purchasing sunglasses are of a private nature.

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265. This decision is supported in *Case N84 81 ATC 451*; 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.

266. The purchase cost of sunglasses equipped with additional safety features which protect police officers' eyes from glare, ultraviolet radiation, wind or foreign bodies such as insects, debris and other materials may be allowable deductions under subsection 51(1) as protective clothing.

267. For the purchase cost of safety glasses to be allowable, they must have been purchased for their protective function and used as protective eye wear by police officers in the course of performing their duties (eg a motorcycle patrolman). This decision is confirmed in *Case 10 94 ATC 168*.

268. Taxation Ruling IT 2477 and Taxation Determination TD 93/244 provide further information on the deductibility of sunglasses. Taxation Determination TD 92/157 provides further information on the deductibility of protective clothing.

## **Technical or professional journals, periodicals and text books**

269. For such items to be deductible, the content of the journals, periodicals or textbooks must have a direct relevance to the nature of the duties carried out by police officers. They may be used to update knowledge on current developments in a particular area which is directly relevant to the duties being performed by police officers. For example, a police prosecutor would get a deduction for purchasing the "Weekly Law Reports".

270. Journals, periodicals and textbooks with technical content which is too general in nature are not deductible. For example, a police officer employed in the Police Department motor pool would not get a deduction for the cost of motor trade magazines.

271. In *Case P124 82 ATC 629*; 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 me that the possible connection is altogether too remote.' (ATC at 633-634; CTBR at 422).

272. This contrast with *Case R70 84 ATC 493*; 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 his day to day work. He was, however, not allowed a deduction for the purchase costs of daily newspapers.

**Telephone calls**

273. Police Officers need at times to be available for additional work duty. They need to contact or be contacted by the Police Department or other police officers on a regular basis. It is a condition of employment that police officers be either "on call" or "on stand by" so they may be recall for work duty at short notice. For these contacts to be made, the use of a telephone or mobile telephone is necessary.

274. Where Police Officers are required to make business calls for work-related purposes, the cost of such calls are allowable deductions under subsection 51(1).

**Telephone installation costs**

275. The cost of installing a telephone is a capital expense and is therefore not deductible under subsection 51(1).

276. Taxation Ruling IT 85 provides further information on the deductibility of telephone installation costs.

**Telephone rental expenses**

277. Telephone rental expenses are allowable deductions to police officers if they are required as part of the employment to"

- be "on call" or
- contact the Police Department on a regular basis or
- be contacted by the Police Department on a regular basis.

278. Police Officers need at times to be available for additional work duty. It is a condition of employment that some police officers be either "on call" or "on stand by" so they may be recall for work duty at short notice.

279. When police officers are "on call", the Police Department has the right to recall police officers after completing a normal shift or from leave to perform work duties. Police officers do not have to accept the call and respond to a particular situation. Police officers who respond to the request are paid overtime from the moment they



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accept the call from the Police Department to the time they return home.

280. Police officers who are "on stand by" are required, for a specific period of time only, to resume duty immediately upon receiving a call from the Police Department. During this period of time, police officers are paid an additional penalty rate. This amount is paid to the police officers whether or not they actually were recalled for duty.

281. Where it is a condition of employment for police officers to be continuously on a "stand by" basis, and not just for a specific period of time, a special duties allowance is included in their salary whether or not they are actually recalled for work-related purposes.

282. In these instances, it is considered that police officers perform sufficient work-related tasks to be said to be on duty from the moment they are contacted by the Police Department.

283. For these contacts to be made, the use of a telephone or mobile phone is necessary. Deductions for the cost of telephone or mobile phone's rental expenses are allowable deductions to be apportioned between work-related and private use.

284. Taxation Ruling IT 85 provides further information on the deductibility of telephone rental expenses.

## **Telephone silent number**

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

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

## **Temperate clothing allowance**

287. In the Northern Territory, police officers who are required to travel from a tropical to a temperate locality on official duty are eligible for an allowance to reimburse reasonable costs incurred in purchasing clothing suitable for the trip.

288. The cost of conventional clothing worn at work has been held to be a private expense. Therefore, deductions against a temperate clothing allowance are not allowable under subsection 51(1).

289. Paragraphs 177 to 184 of this Ruling provide further explanation on the deductibility of conventional clothing.

**Tools and equipment**

290. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers on tools and equipment used for work-related purposes and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

291. By way of example, the purchase cost of the following items would be allowable deductions:

- a leatherman tool,
- a kit of tools purchased by police officers attached to the Police Department motor pool,
- diving equipment purchased by police officers attached to the water police section and used during work dives.
- marine charts and associated navigation equipment (i.e. dividers, compass parallel rules),
- bags to carry weapons and other similar items,
- protective boxes for issued weapons with safety locks.
- torches and batteries.

292. Expenses incurred in purchasing such items are allowable deductions under subsection 51(1). If an item is purchased on or after 1 July 1991 for \$300 or less or has an effective life of less than three years, the portion of the cost that relates to use for work-related purposes is deductible in full in the year of purchase. If the item cost more than \$300 and has an effective life of more than three years, the portion of the cost that relates to use for work-related purposes is deductible as depreciation.

**Travel allowance**

293. Police officers who are required to travel for work-related purposes and remain away from their normal place of residence for a period of time are paid a reasonable travel allowance under their industrial award.

294. Deductions are allowable for travelling costs incurred by police officers including accommodation, food and drinks and incidentals.

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295. Taxation Determination TD 93/174 and Taxation Ruling IT 2543 provide further information on the deductibility of travelling expenses.

## **Uniform and boot allowance**

296. In Western Australia, police officers are paid an allowance to cover the expenses incurred in purchasing and maintaining their uniforms including footwear. In regards to the footwear, police officers have the choice of wearing black steel cap boots or black conventional shoes.

297. The required uniforms to be purchased are unique and peculiar to the Police Department in Western Australia and must be worn at all time while on duty. Expenses incurred in purchasing and replacing such uniforms are allowable deductions under subsection 51(1).

298. Black steel cap boots are considered protective footwear and deductions are allowable for the purchase cost of these items. Paragraphs 208 to 211 of this Ruling provides further information on the deductibility of protective footwear.

299. The purchase of conventional shoes is considered to be private in nature and no deductions are allowable under subsection 51(1) regardless of the colour imposed by the Police Department. Paragraph 183 of this Ruling provides further information on the deductibility of conventional footwear.

300. Expenses incurred in maintaining a compulsory uniform are allowable deductions under subsection 51(1). Paragraphs 128 to 130 of this Ruling provide further information on the deductibility of maintenance of uniforms expenses.

## **Uniform footwear and maintenance allowance**

301. In Victoria, police officers are paid an allowance to cover the expenses incurred in maintaining their uniforms. Expenses incurred in maintaining a uniform are allowable deductions under subsection 51(1).

302. Paragraphs 128 to 130 of this Ruling provide further information on the deductibility of maintenance of uniforms expenses.

## **Unions or professional associations fees**

303. Union or professional associations fees are fully deductible under subsection 51(1). Income Tax Rulings IT 327, IT 2062 and IT 2416 provide further information on the deductibility of unions and professional associations fees.

304. In some States, police officers are able to prepay their union fees 12 months in advance. Under sections 82KZL to 82KZO, prepaid expenses are allowable deductions in the year the expense was incurred if the service is provided within 13 months of the prepayment or the amount paid is less than \$1000.

305. If police officers have prepaid their 1994 union fees in June 1993 or earlier, they are entitled to a full deduction in the 1993 financial year.

### **Watches**

306. The purchase of conventional watches, including water proof watches, is considered to be of a private nature and no deduction is allowed under subsection 51(1).

307. While it is necessary for police officers to use their watch in the course of carrying out official duties, the contract of employment does not necessitate the purchase of a watch.

308. In *Case S82 85 ATC 608*; 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).

309. In *Case P71 82 ATC 338*; 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).

310. In *Case N84 81 ATC 451*; 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*; 28 CTBR(NS) *Case 87* and *Case P71 82 ATC 338*; 26 CTBR(NS) *Case 3*.

311. Special watches such as scuba diving watches are items which can be directly related to income producing activities. Deductions for

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the cost of purchase, repairs, batteries and watch bands are allowable deductions under subsection 51(1).

## **Water police overnight allowance**

312. In South Australia, police officers in the water police squad are required in the performance of their duties to attend training courses at a location which requires an overnight stay away from their normal place of residence.

313. This allowance is not a living away from home allowance or a travelling allowance. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. Deductions against a water police overnight allowance are not allowable under subsection 51(1).

314. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

## **Whyalla living allowance**

315. In South Australia, police officers who are posted at Whyalla are paid a living allowance.

316. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Deductions against a Whyalla living allowance are not allowable under subsection 51(1).

317. Taxation Determination TD 93/49 provides further information on the deductibility of similar allowances.

## **Date of effect**

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318. 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 the issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

319. 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.

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