


TD 93/D129 - Income tax: are travelling expenses incurred by fruit-pickers as they travel between various places of employment deductible under subsection 51(1) of the Income Tax Assessment Act 1936 (ITAA)?

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Draft Taxation Determination

Income tax: are travelling expenses incurred by fruit-pickers as they travel between various places of employment deductible under subsection 51(1) of the *Income Tax Assessment Act 1936 (ITAA)*?

1. No. Travelling expenses incurred by fruit-pickers as they travel from one place of employment to another are not deductible under subsection 51(1) of the ITAA.
2. Fruit-pickers are not considered to use their homes as a base of operation nor are they classified as independent contractors. They are employees who change their employer with each change of location. Moreover, any equipment maintained for use in their occupation cannot be regarded as numerous or bulky in volume.
3. The motor vehicle expenses and travelling costs of fruit-pickers as they travel between various places of employment are therefore considered to be incurred prior to the earning of the income and are of a private nature.
4. The seemingly similar situation of shearers - which has been outlined in *Case S29, 85 ATC 276; (1985); Case 34, 28 CTBR(NS)* - and subsequently in Taxation Ruling IT 2273 - can be distinguished from that of fruit-pickers.
5. *Case S29; Case 34* found that the shearers' homes constituted their bases of operation in regard to maintaining their equipment and seeking employment. The equipment maintained for use in their particular occupation was numerous and bulky in volume. It was also found that the shearers in that case were independent contractors rather than employees.

Commissioner of Taxation

27/5/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 2273

Subject Ref: employees, travel expenses, fruit pickers

Legislative Ref: ITAA S51(1)

Case Ref: *Case S29 85 ATC 276, (1985) 28 CTBR(NS) Case 34*

ATO Ref: Tow 29

ISSN 1038 - 8982