IT 2173 - Income tax: employee: transfer in locality of employment: removal expenses

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TAXATION RULING NO. IT 2173

INCOME TAX: EMPLOYEE: TRANSFER IN LOCALITY OF EMPLOYMENT: REMOVAL EXPENSES

F.O.I. EMBARGO: May be released

REF H.O. REF: 82/6377 DATE OF EFFECT:

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1193166	EMPLOYEE: TRANSFER IN LOCALITY OF EMPLOYMENT: REMOVAL EXPENSES	25(1) 26(e) 51(1)

PREAMBLE Where an employer transfers an employee from one locality of employment to another and pays the employee an amount which represents either -

(a) a reimbursement of quantified removal expenses which the employee has incurred in the transfer to the new locality; or

(b) a reasonable estimate of removal expenses that would necessarily have been incurred,

it is the practice of this office not to treat any part of the amount received by the employee as assessable income. Where the amount received exceeds the expenses actually incurred the excess is included in assessable income. No part of the expenses in respect of which the amount has been received is considered to be allowable as income tax deductions.

FACTS 2. In a case brought to the attention of this office a resident of the United Kingdom accepted an offer of employment with an Australian University. The University paid the air fares of the taxpayer and his family from the United Kingdom to Australia and also undertook to pay a specified sum towards the cost of removal of the taxpayer's furniture and effects to Australia. The total cost of the removal, which was well in excess of the sum specified, was paid directly to the firm of removalists by the University which then recovered the difference between the specified sum and the actual cost from the taxpayer. The taxpayer claimed a deduction for the difference.

RULING 3. The circumstances of the case referred to differ from those in respect of which the established practice applies. There was not a transfer in an existing employment but the embarking on a new employment where the new employer undertook to make some payment towards the cost of removal to the new

locality of employment. Notwithstanding the difference in circumstances, it was considered that the established practice should apply, i.e. the amount paid by the University should not be regarded as assessable income of the taxpayer nor was he entitled to any deduction for any of the costs of removal from the United Kingdom to Australia. This ruling may be applied in other comparable situations.

COMMISSIONER OF TAXATION
12 July 1985

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