TR 2021/1 - Income tax: when are deductions allowed for employees' transport expenses?

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There is a Compendium for this document: **TR 2021/1EC** .

This ruling is being reviewed as a result of a recent court decision. Refer to Decision impact statement Commissioner of Taxation v Hall [2026] FCAFC 43 (Published 17 June 2026).

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Taxation Ruling

Income tax: when are deductions allowed for employees' transport expenses?

Relying on this Ruling

This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

*[**Note:** This is a consolidated version of this document. Refer to the Legal database (ato.gov.au/law) to check its currency and to view the details of all changes.]*

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What this Ruling is about

1. This Ruling sets out when an employee can deduct transport expenses under section 8-1 of the *Income Tax Assessment Act 1997*.[1] This includes the cost of travel by airline, train, taxi, car, bus, boat, or other vehicle.

2. This Ruling explains that transport expenses incurred for ordinary travel between home and a regular place of work[2] are not deductible. In contrast, transport expenses incurred by an employee in travelling between work locations usually are deductible. This Ruling also explains a number of special cases or exceptions to these general rules.

3. This Ruling also applies for the purposes of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) in determining whether such expenses paid by the employer would have been 'otherwise deductible' if incurred by the employee.

4. This Ruling should be read in conjunction with:

- Taxation Ruling TR 2020/1 *Income tax: employees: deductions for work expenses under section 8-1 of the Income Tax Assessment Act 1997*
- Taxation Ruling TR 2021/4 *Income tax and fringe benefits tax: employees:*
  - *accommodation and food and drink expenses*
  - *travel allowances, and*
  - *living-away-from-home allowances*

[1] All legislative references in this Ruling are to the *Income Tax Assessment Act 1997* unless otherwise indicated.
[2] See paragraphs 24 to 28 of this Ruling for discussion on the concept of a 'regular place of work'.

- Practical Compliance Guideline PCG 2021/3 *Determining if allowances or benefits provided to an employee relate to travelling on work or living at a location – ATO compliance approach.*

5. This Ruling does not address or discuss in detail:

- the substantiation of transport expenses[3]
- transport expenses related to self-education or study – refer to Taxation Ruling TR 2024/3 *Income tax: deductibility of self-education expenses incurred by an individual*
- the deductibility of parking fees
- employees carrying out itinerant work – refer to Taxation Ruling TR 95/34 *Income tax: employees carrying out itinerant work – deductions, allowances and reimbursements for transport expenses*
- transport expenses which are deductible under section 25-100
- fringe benefits tax generally, except to the extent the principles outlined in this ruling are relevant to the application of the 'otherwise deductible' rule.[4]

Previous ruling

6. Taxation Ruling TR 2017/D6 *Income tax and fringe benefits tax: when are deductions allowed for employees' travel expenses?* has been withdrawn.

Ruling

7. An employee can only deduct a transport expense under section 8-1 to the extent that:

- they incur the expense in gaining or producing their assessable income[5]
- the expense is not of a capital[6], private or domestic nature
- the expense is not incurred in gaining or producing exempt income or non-assessable non-exempt income, and
- a provision of the Act[7] does not prevent it from being deducted.[8]

8. This Ruling does not address expenses incurred in gaining or producing exempt income, non-assessable non-exempt income, or provisions of the Act that prevent transport expenses from being deducted.

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[3] See Divisions 28 and 900.

[4] The 'otherwise deductible' rule allows the employer to reduce the taxable value of fringe benefits by the amount for which the employee would be able to claim a once-only deduction. To the extent that an expense is otherwise deductible, the taxable value of the fringe benefit is reduced, which reduces the employer's potential liability to fringe benefits tax.

[5] This Ruling assumes that the income from the employment is assessable income of the employee.

[6] Certain transport expenses may be capital in nature, for example the cost of purchasing a car. Such expenses are not dealt with in this Ruling. If an expense is not deductible under section 8-1, it may nevertheless be recognised under another provision (such as the deduction for decline in value of a depreciating asset under section 40-25).

[7] 'Act' in this context means the *Income Tax Assessment Act 1936* (ITAA 1936) and the ITAA 1997.

[8] Refer to TR 2020/1 for a detailed discussion on when a work expense is deductible under section 8-1.

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9. For an expense to be incurred 'in' gaining or producing assessable income it is both sufficient and necessary that the occasion of the expense should be found in whatever is productive of the assessable income.[9]

10. If the transport expenses incurred by an employee meet the requirements of section 8-1, the applicable substantiation requirements[10] must also be satisfied for the employee to claim the expense as a deduction.

Deductibility of transport expenses – general principles

11. Where the occasion of transport expenses can be found in the employee's employment duties, the expenses will be incurred in gaining or producing the employee's assessable income.

12. It has long been established that the term 'incurred in gaining or producing assessable income' is understood as meaning incurred 'in the course of gaining or producing' assessable income.[11] Other ways that this has been expressed in the context of transport expenses is that the employee is travelling 'on work'[12], the travel is part of the employment[13] or the travel is an incident of the employment.[14]

13. Conversely, a close connection between a journey and the employee's private or domestic life is a strong indication that the journey occurs outside of the employee's income-producing activity and is not deductible.

14. The deductibility of transport expenses where the employee is travelling between home and a regular place of work[15] has long been regarded as settled. With limited exceptions[16], such expenses are not deductible. *Lunney*[17], the leading judicial decision on the matter, states[18]:

> It is, of course, beyond question that unless an employee attends at his place of employment he will not derive assessable income and, in one sense, he makes the journey to his place of employment in order that he may earn his income. But to say that expenditure on fares is a prerequisite to the earning of a taxpayer's income is not to say that such expenditure is incurred in or in the course of gaining or producing his income … Expenditure of this character is not by any process of reasoning a business expense; indeed it possesses no attribute whatever capable of giving it the colour of a business expense. Nor can it be said to be incurred in gaining or producing a taxpayer's assessable income or incurred in carrying on a business for the purpose of gaining or producing his income; at the most, it may be said to be a necessary consequence of living in one place and working in another.

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[9] *Commissioner of Taxation v Payne* [2001] HCA 3 (*Payne*) at [9], *Ronpibon Tin NL v Commissioner of Taxation (Cth)* [1949] HCA 15; *Commissioner of Taxation v Day* [2008] HCA 53 (*Day*) at [30]. If no assessable income is produced, the occasion of the expense should be found in what would be expected to produce assessable income.

[10] See Divisions 28 and 900.

[11] *Payne* at [9], per Gleeson CJ, Kirby and Hayne JJ.

[12] *John Holland Group Pty Ltd v Commissioner of Taxation* [2015] FCAFC 82 (*John Holland*) at [45], per Edmonds J.

[13] *John Holland* at [60], per Pagone J.

[14] *John Holland* at [36], per Edmonds J referencing *The Roads and Traffic Authority of New South Wales v Commissioner of Taxation* [1993] FCA 445.

[15] See paragraphs 24 to 28 of this Ruling for discussion on the concept of a 'regular place of work'.

[16] For example, travel to alternative work locations (see discussion at paragraphs 42 to 45 of this Ruling) and transporting bulky equipment (see discussion at paragraphs 79 to 81 of this Ruling). See also TR 95/34 for the treatment of transport expenses incurred by itinerant employees.

[17] *Lunney v Commissioner of Taxation* [1958] HCA 5 (*Lunney*).

[18] *Lunney*, per Williams, Kitto and Taylor JJ.

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Incurred in gaining or producing assessable income

15. Determining whether a particular transport expense is incurred in gaining or producing assessable income will involve consideration of the proper scope of the particular employee's work activities to determine if the circumstances of the transport expense have a sufficiently close connection to earning the employment income. It is important to have regard not just to the duties in the contract of employment, but to the nature of the work as a matter of substance.[19]

16. While transport expenses will only be deductible if they satisfy the requirements of section 8-1, the following factors (based on relevant case law) would support a characterisation of transport expenses as being incurred in gaining or producing assessable income:

- the travel fits within the duties of employment, that is, the obligation to incur transport expenses arises out of the employment itself and not the employee's personal circumstances
- the travel is relevant to the practical demands of carrying out the employee's work duties or role, that is, the transport expenses are a necessary consequence of the employee's income-producing activity.[20]

17. In addition to the factors at paragraph 16 of this Ruling, the following factors (based on relevant case law) may also be relevant in determining whether a transport expense is incurred in gaining or producing assessable income:

- the employer asks for the travel to be undertaken[21]
- the travel occurs on work time[22]
- the travel occurs when the employee is under the direction and control of the employer.[23]

18. The factors identified in paragraphs 16 and 17 of this Ruling need to be considered in the context of both the form and substance of the specific employment arrangement. No single factor on its own will necessarily support a conclusion that an expense is deductible. For instance, the mere fact that an employer asks the employee to attend their regular place of work[24] on a particular day does not change the conclusion that such travel is a prerequisite to the employment, rather than being incurred in gaining or producing assessable income.

19. Reaching a conclusion as to the deductibility of a transport expense requires a holistic assessment of the relationship between the employment and the expense. The fact that an employee considers a transport expense serves an employment-related purpose is not sufficient to establish the deductibility of the expense.[25]

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[19] *Day* and *Commissioner of Taxation v Cooper, R.J.* [1991] FCA 190 (*Cooper*).
[20] The transporting of bulky equipment would be an example of the practical demands of carrying out the employee's work duties necessitating the transport expenses; see paragraphs 79 to 81 of this Ruling.
[21] Refer to paragraphs 31 to 36 of TR 2020/1.
[22] *John Holland* at [45], [48] and [58].
[23] *John Holland* at [45], [48] and [58].
[24] See paragraphs 24 to 28 of this Ruling for discussion on the concept of a 'regular place of work'.
[25] *Newsom v Robertson (Inspector of Taxes)* [1952] 2 ALL ER 728 (*Newsom*); *Payne*; *Day*; *Amalgamated Zinc (De Bavay's) Limited v Federal Commissioner of Taxation* [1935] HCA 81 (*Amalgamated Zinc*), per Dixon J.

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Deductibility of transport expenses – common circumstances

20. The balance of this Ruling considers the deductibility of employee transport expenses in a range of common circumstances. However, it does not purport to deal exhaustively with all situations. The deductibility of employee transport expenses ultimately requires a judgment in any case about whether the expense is incurred in the course of gaining or producing assessable income.

Travel to a regular place of work

21. With limited exceptions[26], an employee's costs of travelling between home and a regular place of work[27] are not deductible.[28] Such costs are not incurred in the course of gaining or producing an employee's assessable income. This expenditure is regarded as a prerequisite to earning an employee's assessable income. They are explained by where the employee lives in relation to where they report for work.[29] Further, transport expenses incurred in travelling between an employee's home and their regular place of employment are private in nature.[30]

22. This is not changed by the fact that the employee performs work-related tasks at home as a matter of choice or for their convenience.[31] Nor does the conduct of some work activities whilst travelling (for example, answering emails on the train) convert the travel to being part of the employment if it is otherwise private. This is because the travel itself is a prerequisite to commencing the work duties (refer to Example 1 of this Ruling).

23. Similarly, where the employee travels to their regular place of work[32] from another location in which they undertake private activities, for example a café or a holiday location, the cost of the travel is not deductible. Such expenses are not deductible as they are not incurred in the course of earning assessable income.

Regular place of work

24. 'Regular place of work'[33] is a concept used in this Ruling to assist in identifying whether certain travel is incurred in gaining or producing assessable income.

25. Most employees have a regular place of work, being a usual or normal place where the employee starts and finishes their work duties with a particular employer.

26. In most cases, identifying an employee's regular place of work is clear. In circumstances where it isn't clear, it may be necessary to consider in more depth the contract of employment, customary practice, the nature of the work duties, where these duties commence and at what point in time the employee is under the direction and control of their employer in order to determine where the employee's regular place of work is.

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[26] For example, travel to alternative work locations (see discussion at paragraphs 42 to 45 of this Ruling) and transporting bulky equipment (see discussion at paragraphs 79 to 81 of this Ruling). See also TR 95/34 for the treatment of transport expenses incurred by itinerant employees.

[27] See paragraphs 24 to 28 of this Ruling for discussion on the concept of a 'regular place of work'.

[28] *Lunney*.

[29] *Commissioner of Taxation v Toms, A.J.* [1989] FCA 153 (*Toms*); *The Commissioner of Taxation of Australia v Charlton, Robert Ewing Scott* [1984] VicSC 297 (*Charlton*); *Hiremani and Commissioner of Taxation* [2020] AATA 1653 (*Hiremani*).

[30] *Lunney*, per Williams, Kitto and Taylor JJ.

[31] *Newsom*.

[32] See paragraphs 24 to 28 of this Ruling for discussion on the concept of a 'regular place of work'.

[33] For the purposes of this Ruling, 'regular place of work' has the same meaning as a 'regular place of employment', 'normal workplace' 'normal place of employment', 'usual place of work' and 'usual place of employment'. These terms are interchangeable.

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27. In some employment arrangements there may be more than one regular workplace established.[34] This may be expressly provided for in the employment agreement or contract between the employer and employee, or it may arise as a matter of practice in the relationship between employer and employee. A second or subsequent place of work would be a regular place of work if it is also a normal or routine place where the employee works, such that travelling between there and the employee's home is better characterised merely as part of the necessity of travelling to and from work.[35]

28. The usual position that the cost of travel between home and the employee's regular place of work is not deductible does not change merely because:

- the employee's home is very distant (for example, requiring a flight) from their regular place of work.[36] For example, an employee takes a job based wholly in Sydney but chooses to continue to live in Brisbane with their family and flies to their work in Sydney each week (refer to Example 5 of this Ruling)
- a second or subsequent regular place of work is distant to the employee's home (refer to paragraphs 52 to 55 of this Ruling for further discussion)
- the employee needs to travel to and from their regular place of work more than once a day. For example, a teacher who drives to school after hours to attend parent-teacher interviews
- the location of the employee's home or their regular place of work limits the choices of travel, for instance if no public transport is available[37], or their regular place of work can only be reached by a particular mode of transport such as a boat
- the employee receives an allowance related to travel[38]
- the employee works overtime or works shift hours that begin or end during the night. For example, a nurse who works night shift and drives to their regular place of work because there is no public transport available at the time they start work[39]
- the employee stops en route to their regular place of work to fulfil an incidental work task. For example, a dentist calling into a dental laboratory to collect dentures on their way to the surgery[40] or a secretary collecting newspapers or mail on their way to the office.

Example 1 – travel between home and a regular work location – transport expenses not deductible

29. *Mischa is a public servant who works in Geelong. She lives 30 kilometres from the office and travels between home and work by train. Mischa frequently checks her work*

[34] *NT85/128-129 and Commissioner of Taxation* [1987] AATA 495.
[35] Refer to paragraphs 52 to 55 of this Ruling for further discussion on this point.
[36] *Case P49* 82 ATC 227 and *NT87/3317 and Commissioner of Taxation* [1988] AATA 209 (*NT 87/3317*).
[37] *Case R22* 84 ATC 212 (*Case R22*); *Case R69* 84 ATC 491 (*Case R69*); *NT87/6308 and Commissioner of Taxation* [1988] AATA 212 (*NT87/6308*) and *ST86/31-32 and Ors and Commissioner of Taxation* [1987] AATA 699 (*ST86/31-32*).
[38] *NT87/6308*; *NT85/128-129 and Commissioner of Taxation* [1987] AATA 495; *NT 87/3317* and *ST86/31-32*.
[39] *Case R22*; *Case R69* and *ST86/31-32*.
[40] Refer to paragraph 34 of Miscellaneous Taxation Ruling MT 2027 *Fringe benefits tax: private use of cars: home to work travel*.

emails at home on her work phone and sometimes chooses to do some work tasks before she leaves for work, or after she gets home from work. While on the train travelling to work, Mischa sometimes uses her work phone to respond to work emails and texts and make work-related phone calls.

30. *Mischa's travel is undertaken to put her in the position to undertake her duties. The cost of Mischa's travel between her home and the office is not incurred in gaining or producing Misha's assessable income. Rather, the travel between her home and her regular place of work is merely a prerequisite to earning her assessable income and is private in nature. The fact that Mischa undertakes some work-related activities at home and during her journey does not change this characterisation. Mischa is not entitled to a deduction for her travel.*

Example 2 – travel between home and regular work locations – transport expenses not deductible

31. *Aisha works for a retail company. Under the terms of her employment contract she works on a Monday, Thursday and Friday at a store located in a suburban shopping centre and on a Tuesday and Wednesday at a store of the same employer in a different suburb of the same city. Aisha is not entitled to a deduction for the cost of her travel between home and the stores at either location. Both of the stores are considered to be regular places of work for Aisha because they are routine places where she commences work. The journey to each is merely part of the ordinary necessity of getting to work and thus a prerequisite to earning her assessable income.*[41] *The expenses are not incurred in the course of gaining or producing her assessable income.*

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32. The regular place or places of work of an employee may change over time. This may occur by agreement between employer and employee. It may also occur by custom. In situations where it is difficult to conclude whether a second or subsequent place of work is also a regular place of work, an actual or anticipated duration of three months or more at the location would usually be sufficient for the location to amount to a regular place of work. However, consideration should also be given to matters including:

- the nature of the employment. A briefer period may be sufficient in the context of a short-term contract rather than ongoing employment
- the frequency at which the employee attends the workplace. Attending a location once a fortnight for four months would not usually be sufficient to establish a location as a regular place of work
- whether any element of choice on the part of the employee is influential, such as the choice of where to live[42], and
- whether the travel to a new workplace occurs when the employee is on work time, or substantively under the direction and control of the employer. This would tend to support the characterisation of the travel to the location as being part of the employment rather than a prerequisite to travel to another regular place of work.

[41] Refer to paragraphs 13 and 14 of this Ruling.
[42] *Toms*, *Charlton,* and *Hiremani*.

Example 3 – travel between home and a subsequent place of work that has become a regular work location – transport expenses not deductible

33. *Raj is an accountant who lives on the Gold Coast and is employed by an accounting practice located in Southport (15 minutes travel from his home).*

34. *Raj's employer requires him to work at their Brisbane city office (one hour's travel from home) while another employee is on five months' long service leave.*

35. *Under this arrangement, the employer requires Raj to make his own way to the Brisbane city office. Raj starts and ends work in Brisbane at the times he usually starts and ends work at Southport. The Brisbane location is not permanent but is nevertheless a workplace for a sustained period.*

36. *Raj is not on work time and is not subject to the employer's direction and control for the time he spends travelling between his home on the Gold Coast and the Brisbane office. The travel between the Gold Coast and Brisbane does not require Raj to stay away from home overnight.*

37. *Having regard to the broader nature of the arrangement, it is considered that the transport expenses incurred by Raj in travelling between his home and the employer's Brisbane city office are 'home to a regular place of work'. The expenses of the travel are not incurred in gaining or producing his income. They are also private in nature. Accordingly, Raj is not entitled to a deduction for the transport expenses he incurs in travelling to the Brisbane office (just as he is not entitled to a deduction for his transport expenses to the Southport office).*

38. *If Raj was required to replace another employee in the Brisbane office for a shorter period, say three months or less, it may be arguable in light of the shorter duration of the working arrangement that the Brisbane office has not become a regular place of work during that period. The full facts and circumstances of the specific working arrangement in place must always be considered in determining the nature and deductibility of the transport expenses incurred.*

Travelling between work locations that do not include the employee's home

39. In contrast to transport expenses between home and a regular place of work, expenses of travelling between work locations, neither of which is the employee's home[43], are ordinarily deductible provided that the employment is the occasion for the expenses. This includes different workplaces of the same employer, clients of the employer and other locations where the employee carries out their employment duties (for example, a court of law or at a client's work site). Where travel is between work locations of different employers or different income-producing activities, section 25-100 applies.[44]

[43] This excludes an employee's home where it is a 'place of business' as per paragraphs 4 and 5 of Taxation Ruling TR 93/30 *Income tax: deductions for home office expenses*.

[44] We consider that section 8-1 applies to travel an employee undertakes between workplaces relating to the same employment and not section 25-100. Section 25-100 was enacted following the decision in *Payne* where the High Court denied a taxpayer's claim under section 8-1 for transport expenses between places where the taxpayer conducted separate income-earning activities. We consider that section 25-100 applies to specifically confer a deduction for transport expenses where taxpayers travel between places where they engage in separate income-producing activities, subject to the limitation that neither of the places is where they reside.

40. Where, for example, an employee is required to travel from their regular place of work to attend a meeting at another office of their employer, the outgoings for transport for travel between the workplaces, occasioned by the employee's employment duties and the factors outlined in paragraphs 16 and 17 of this Ruling, support the characterisation of the transport expense being incurred in producing assessable income as:

- the travel fits within the duties of employment
- the travel is relevant to the practical demands of carrying out the employee's work duties
- the employer generally asks for the travel to be undertaken
- the travel would occur on work time, and
- the employee is under the direction and control of their employer.

Accordingly, the transport expenses would be deductible.

41. Conversely, where an employee works at one of their employer's other workplaces for part of the day for private purposes (for example, they have a private appointment in the morning nearby that office) and then they travel to their normal office and work there for the rest of the day, the outgoings for transport for travel between the two offices is not occasioned by the employee's employment. The occasion of the outgoing is to be found in the employee's private decision to work from the other office for their mere convenience. In this scenario, consideration of the factors outlined in paragraphs 16 and 17 of this Ruling support the conclusion that the transport expenses are not incurred in producing assessable income and are not deductible.

Travelling to a location other than a regular place of work

42. If the duties of employment require that the employee travels from their home to somewhere other than the employee's regular place of work[45] (an alternative work location), for example to attend a client's premises or another office of their employer, the costs of such travel may be deductible. The cost of travel from home to such a work location can be characterised as being incurred in the course of gaining or producing the employee's assessable income.[46] However, this does not include travel from home to a regular place of work where an employee completes minor work-related tasks, including a stopover, while en route. The cost of this travel would not be characterised as being incurred in the course of gaining or producing the employee's assessable income and accordingly, would not make their travel deductible. Conversely, the fact that an employee might incidentally attend to private matters at, or en route to, an alternative work location, does not prevent the transport expenses to that location being deductible.

Example 4 – travel between home and an alternative work location – transport expenses are deductible

43. *Aruni is a government employee who lives and works in Darwin. He is required by his employer to attend a one-day mandatory training course at a venue located 90 minutes' drive from his regular place of work. Aruni drives directly from his home to the training venue and back home at the end of the day when the training is finished. Aruni is requested to undertake the travel by his employer and the travel to attend the training is*

[45] If the employee has more than one regular place of work, this includes all of their regular places of work.
[46] The principles in paragraphs 81 to 95 of TR 2024/3 apply where an employee attends an alternative work location which involves an overnight stay for work purposes and private purposes.

both relevant to and a requirement of his role (it is part of and relevant to the practical demands of carrying out his work duties). The expenditure is incurred in gaining or producing his assessable income because his duties of employment require him to commence work at a location other than his regular place of work in the performance of his duties. Aruni is entitled to claim a deduction for the cost of his travel from home to the training venue (the alternative work location) and return.[47]

44. The cost of travelling from home to a location other than a regular place of work is not deductible if it reflects a choice of the employee at their mere convenience to work at a different location. In this situation the travel is not explained by their duties of employment, rather by their personal choice. For example, if an employee of a national organisation who lives in Geelong arranges to work from the organisation's Darwin office for a period because of family reasons, the cost of travel to Darwin is not deductible. The expenses are not incurred in gaining or producing the employee's assessable income and they are also private in nature.

45. Similarly, if the duties of employment are such that it does not matter where they are carried out, travel from home to wherever the employee chooses to carry out their work duties is a matter of mere convenience and is not deductible.

46. The same principles in paragraphs 42, 44 and 45 of this Ruling apply to travel back home from an alternative work location.

47. This Ruling does not deal with circumstances of an employee who has no regular place of work. The principles established in TR 95/34[48] should be considered for such cases.

Transport expenses when travelling away from home for work

48. The mere fact that an employee lives a significant distance from their regular place of work does not make their transport expenses deductible, for example, if they are required to fly to attend work. In such instances, the transport expenses are incurred because the employee lives at a distance from their regular place of work, rather than the employment itself being the occasion for the expenses. The expenses are explained by where the employee chooses to live in relation to where their regular place of work is located and as such, they are not incurred in gaining or producing the employee's assessable income. The transport expenses are also private expenses.[49]

Example 5 – travel between home and a distant regular work location – transport expenses not deductible

49. *Isabelle is a specialist technician who lives in Brisbane. She works as an employee for a company based in Sydney on a part-time basis. On the days she is required to work (Wednesdays and Thursdays), she drives from her home in Brisbane to the airport, catches a flight to Sydney and then a taxi to her company's office. She stays overnight in*

[47] For additional information on when transport expenses related to a study tour, work-related conference or seminar are deductible and when those expenses need to be apportioned, refer to paragraphs 81 to 95 of TR 2024/3.
[48] For discussion on the difference between 'itinerancy' and 'regular places of work', refer to paragraphs 28 to 33 of TR 95/34.
[49] *Lunney*, per Williams J, Kitto J and Taylor J, *Toms* and *Charlton.*

Sydney on Wednesday night and returns home on Thursday evening. Isabelle's transport expenses (travel between her home and Brisbane airport, return flights from Brisbane to Sydney and taxis between Sydney airport and her office) are not deductible. Isabelle's travel is undertaken to put her in the position to commence her duties and the expenses are not incurred in gaining or producing her assessable income. The expenses are incurred as a necessary consequence of Isabelle choosing to live in Brisbane and work in Sydney and are a prerequisite to gaining or producing her assessable income. Isabelle's travel between her home and her regular workplace is also private in nature.[50]

50. In contrast, where the nature of the employment requires an employee to travel away from home overnight, for purposes explained by their employment and not because of where they have chosen to live, the transport expenses incurred in travelling to the alternative work location will be incurred in the course of gaining or producing the employee's assessable income.

Example 6 – travel between home and an alternative work location that requires overnight travel – transport expenses are deductible

51. *Duy works for a company in Rockhampton, where he lives. One of the employment duties attached to Duy's role is to attend a two-day meeting and meet clients in Brisbane once a fortnight. Duy flies from Rockhampton to Brisbane on the day of the meeting and returns home the following evening. He also catches a taxi from his home to Rockhampton airport and from Brisbane airport to the office. He does the same in reverse when he returns home. The cost of Duy's flights and taxis between his home in Rockhampton and the office in Brisbane are deductible as the travel occurs while Duy is engaged in carrying out the employment duties attached to his role. Duy has a regular place of work in Rockhampton and in the performance of his duties travel is undertaken to an alternative destination which is not a regular place of work. Duy is required by the specific requirements of his role to carry out his duties of employment both in Rockhampton and Brisbane. The travel to Brisbane is not attributable to Duy's choice to live in Rockhampton, or do part of his job in Brisbane Therefore, the transport expenses are incurred in gaining or producing Duy's assessable income and are deductible.*

52. Where the employee's duties of employment necessarily require them to work with some regularity for the same employer at two or more locations that are geographically distant from each other, a question arises as to whether travel to both places ought to be characterised as private in nature, or whether travel to the more distant location for the performance of employment duties may instead be an incident of the employment. The factors set out in paragraphs 16 and 17 of this Ruling need to be considered in deciding whether the cost of transport is deductible.

53. Unlike the ordinary case of home-to-work travel, in this situation travel to the more distant location may not be attributable to the employee's choice of where to live, but may instead be a necessary consequence of the employment duties needing to be performed in more than one location. In other words, the distance or remoteness of a place of work may cause the need for the travel to be part of that for which the employee is employed.

[50] Refer to paragraphs 13 and 14 of this Ruling.

Status: **legally binding**

54. It is essential to deductibility in such cases that the travel fits within the duties of employment and is relevant to the practical demands of carrying out the work duties. If, in contrast, the employment arrangement contemplates the employee being allowed to undertake some of their work at or near their home, but their role is fundamentally based at the distant location, the cost of travel to that distant location would not be regarded as being incurred in gaining or producing the employee's assessable income. It would also be regarded as a private expense and not deductible. This is because the work duties do not necessitate the travel, but the travel is instead explained by the employees' private circumstances such as a choice of where to live (refer to Example 8 of this Ruling).

55. Subject to the requirements of paragraphs 15 to 17 of this Ruling, the Commissioner will accept that travel to a secondary location of work which would typically require an overnight stay from home and which cannot be attributed to an employee's choice of where to live, would be construed as a necessary incident of the employment. Therefore, the cost would be deductible.

Example 7 – travel between home and work location is part of employment duties – transport expenses deductible

56. *Narelle works for a tourism company and she lives with her family on the north coast of New South Wales (NSW).*

57. *The company that Narelle works for has offices in various locations in NSW. The head office is on the North Coast of NSW and Narelle is based there. Another significant office is in Sydney. Narelle manages staff in both the North Coast and Sydney offices. A number of significant duties attached to her role, including supervising Sydney-based staff, attending conferences and attending internal and external meetings, necessarily require her to travel to Sydney regularly, and less frequently to other locations.*

58. *During the income year, Narelle works a total of 24 weeks on the NSW north coast, 20 weeks in Sydney and eight weeks elsewhere or on leave. When Narelle is working in Sydney she stays there, rather than travelling back to her North Coast home.*

59. *Narelle's position is based on the North Coast and the office located there is her regular place of work. Although she travels frequently to Sydney, the following factors indicate that the travel between her home and the Sydney office is better characterised as a consequence of the employment requiring the duties to be performed in more than one location and not attributable to Narelle's choice about where to live:*

- *Narelle carries out her employment duties at the North Coast Office and the Sydney office. The travel is relevant to the practical demands of carrying out her work duties and is undertaken at the request of her employer.*
- *The distance between the North Coast of NSW where her regular workplace is located and Sydney creates the need for the travel to be part of that for which Narelle is employed.*
- *Narelle's travel is different to her ordinary daily trips to work and involves overnight stays. These two matters contribute to the business character of the travel, in contrast to the travel being a mere private matter of getting to her regular place of work.*

60. *Accordingly, the cost of travelling from Narelle's home to the Sydney office is deductible. Narelle's transport expenses to the other locations (not including the North Coast) will also be deductible for the reasons listed in paragraph 59 of this Ruling.*

Status: **legally binding**

Example 8 – travel between home and work location not part of employment duties – transport expenses not deductible

61. *Sue lives with her family in Sydney. Sue takes on a leadership role with a company that has offices all around Australia. The role is based in Melbourne and the duties attached to it can be primarily performed in Melbourne. However, Sue enters into an arrangement with her employer where she must attend the Melbourne office at least three days per week, but at her discretion (or choice) can work out of the Sydney office up to two days per week.*

62. *Although the Melbourne office is a distant work location and Sue carries out her duties at the Melbourne and Sydney offices, Sue's travel from home to those offices will not be deductible. This is not a case where the role Sue undertakes necessarily requires travel to be undertaken. The substantive duties attached to Sue's role do not require her to travel between Sydney and Melbourne. The travel is attributable to Sue's choice to remain living in Sydney whilst taking on a Melbourne-based role. Sue is required to work in Melbourne, and, for convenience, she may also work part of the time in Sydney. The transport expenses incurred in travelling between Sydney and Melbourne are not incurred in gaining or producing her assessable income. The travel is better characterised as travel from home to a regular work location which is attributable to her private circumstances, that is, her choice about where to live rather than being a necessary incident of her employment.*

Commencing or finishing duty at transit points

63. Sometimes the location where an employee reports for work will be different to where they carry out their substantive duties. The employee travels to a place (a transit point) from which further travel is needed to reach the place substantive duties are carried out.

64. In these cases, the cost of travel between home and where the employee regularly reports for work at the transit point is not deductible as it is a prerequisite to gaining or producing their assessable income. However, the cost of travel between the transit point and the place where they carry out their substantive duties will be deductible where it can be said that the employment is the occasion for the expense.

65. In order to determine whether the employment is the occasion for the transport from a transit point, it is necessary to take into account both the form and substance of the arrangements as discussed at paragraphs 16 and 17 of this Ruling.

66. Consideration should also be given to the contract of employment, any applicable award and the practical needs of the employment. Importantly, the need for a transit point must fit within what would be reasonably expected by the duties of employment and not by the private characteristics of the employee, such as where they live in relation to where they report for work. For instance, in the *John Holland* case the remoteness of the project location provided an explanation for the travel being part of the employment.[51]

67. When considering whether the cost of travel from a transit point is deductible, it is also relevant, but not determinative to consider where the employee commences their employment duties, and whether the employee is substantively under the 'direction and

[51] *John Holland* at [60] and [64].

control'[52] of the employer during that travel. It is important however to consider direction and control in the overall context of the facts and circumstances of each case, because direction and control alone is not sufficient to establish the relevant connection with employment.[53] The need to be under the direction and control must be explained by the duties of employment and the need to travel for work.[54]

Example 9 – travel between home and a transit point – transport expenses not deductible; Travel between a transit point and the work location – transport expenses deductible

68. *Brian lives in Sydney and is employed by a mining company based in Perth. The mining company requires him to undertake assignments at different locations in Western Australia usually for periods of less than 12 months. The terms of his employment require not only his attendance at the project location but also at Perth airport. Brian has a work assignment on a 12-month project at a mine site in Geraldton.*[55] *When he finishes working on the Geraldton project he will be moved to another project. Brian's roster is 20 days on and seven days off. On the day Brian's roster starts, he travels from his home to Sydney airport and catches a flight to Perth airport. Brian is rostered on duty and is paid from the time he arrives at Perth airport. From the time he arrives at the airport he is also subject to his employer's direction and control, that is, all of his employer's workplace policies and procedures apply to him. Brian catches a charter flight organised by his employer, along with other employees, from Perth airport to Geraldton airport and then a bus chartered by his employer from the Geraldton airport to the work site. A similar arrangement applies in reverse at the end of Brian's roster. Brian is not entitled to a deduction for the expenditure he incurs for travelling between his home and Sydney airport or the cost of the flights between Sydney and Perth airport. This travel is private travel between Brian's home and his regular work location at Perth airport and is a merely a prerequisite to gaining or producing Brian's assessable income. However, the expenses incurred for Brian's travel from Perth airport to Geraldton airport and return, and from Geraldton airport to the work site and return are incurred in gaining or producing Brian's income and would be an allowable deduction if Brian had incurred and paid for the travel himself.*[56] *These transport expenses relate to travel between work locations. The nature of Brian's work at different locations in Western Australia for periods of less than 12 months makes it necessary to carry out his employment duties in several places and explains why Perth airport, in the context of his circumstances, is a transit point. Further, from the time Brian arrives at the Perth airport, he is on duty, he is subject to the direction and control of his employer and he is being paid for the time he spends travelling from the transit point to the work site which is consistent with the nature of the work and duties of Brian's employment.*

[52] In this context, 'direction and control' means the employee is subject to their employer's orders or directions, whether or not those orders or directions are exercised during the period of travel (*Stevens v Brodribb Sawmilling Co Pty Ltd* [1986] HCA 1, per Mason J).

[53] *Cooper*.

[54] *John Holland.*

[55] Geraldton is not a remote area location for the purposes of exempt residual benefits in subsection 47(7) of the FBTAA.

[56] Where the employer incurred and paid for Brian's transport expenses, the statutory hypothesis in subsection 52(1) of the FBTAA (the 'otherwise deductible' rule) would apply to reduce to nil the taxable value of the residual fringe benefits provided.

Status: **legally binding**

69. Conversely, some combination of the following factors[57] may indicate that transport expenses relating to travel between a transit point and a work location are not incurred in gaining or producing an employee's assessable income, in which case they may not be deductible:

- the terms of the employee's employment only requires their attendance at the work location (that is, the employee does not have to consistently attend a specified transit point)
- the employee does not work for the same employer on other projects after the project at the work location has concluded
- the employee is rostered on duty and paid from the time they arrive on site at the work location (not the transit point)
- the employee is free to arrange their own travel and they can travel from and to a destination of their choice before their rostered duty commences and after it ceases
- the employee is not under the direction and control of their employer, and the employer's workplace policies and procedures do not apply while the employee is travelling to and from the transit point to the work location.

On call and standby arrangements

70. In some limited cases, travel that occurs while an employee is 'on call' may be construed as part of the employment, rather than a private matter even if it is between home and a regular place of work. Care is needed to distinguish between travel that is part of the employment, and travel that is merely necessary and a prerequisite to arriving at the workplace. The fact that an employee is awaiting a call from their employer to attend a regular place of work[58], does not in itself justify characterising travel to the regular place of work as deductible.[59] For an employee who is on call, the travel would usually be characterised as part of the employment if all of the following factors are present:

- the employee's duties can be construed as having substantively commenced at their home (or another private location) and the employee is required to travel to a regular place of work to complete those particular duties
- undertaking the work in two locations is a necessary obligation arising from the nature of the duties, and
- the travel to the workplace is not part of a normal journey to work that would have occurred anyway.[60]

[57] This list is not exhaustive. Reference to the requirements under section 8-1 and the principles outlined in paragraphs 15 to 19 of this Ruling remain key in determining the deductibility of transport expenses.
[58] Also, the fact that an employee does not have a regular place of work is not sufficient to take them outside the general principles about travel between home and work in *Lunney*.
[59] *Commissioner of Taxation v Genys, H.M.* [1987] FCA 520 (*Genys*).
[60] *Federal Commissioner of Taxation v Collings* 76 ATC 4254; (1976) 6 ATR 476.

Example 10 – travel between home and a regular work location where duties have substantively commenced at home and completed at regular work location – transport expenses deductible

71. *Christine is a highly-trained computer consultant who is involved in supervising a major conversion in computer facilities which her employer provides for its customers. This requires her to be on call 24 hours a day. In order to assist in diagnosing and correcting computer faults while she is at home after her normal work hours, Christine's employer installs specialised equipment at her home. Typically, matters can be resolved by Christine at home with the use of this equipment but if the problem cannot be resolved at home, Christine travels to the office in order to progress the matter further.*

72. *Christine's cost of travel between her home and the office every day is not incurred in gaining or producing her assessable income. They relate to private travel between her home and her regular work location. However, in circumstances where Christine is called to correct a fault after hours and where she commences work on that fault at home but has to travel to her employer's premises because she cannot rectify it at home, the cost of travel between her home and the office will be deductible. Although this travel is between her home and a regular work location, the cost of these abnormal journeys is deductible because Christine commences substantive work prior to leaving home and then completes that work once she attends the office. Christine does not choose to do part of the work of her job in two separate places, but rather the two places of work are a fundamental part of Christine providing specialised support arising from the nature of her special duties. The expenses she incurs in travelling to the office in such circumstances are incurred in gaining or producing her assessable income.*

73. A contrasting situation is where an employee waits at home for advice from their employer whether they are required to work, in a sense on 'standby', and does not commence any substantive duties at the place where they receive the call or request from their employer. In such a case, when the employee is advised that they are required at their regular place of work, the expenses of travelling to that regular place of work are not deductible. Although the employee may not be working regular hours, in these circumstances, the employee commences duty on arrival at their regular place of work[61] and the travel is a prerequisite to gaining or producing the employee's income.

Example 11 – travel between home and a regular work location when on 'standby' – transport expenses not deductible

74. *Linda is a nurse, who is sometimes required to be on standby duty. If Linda is called by her employer while she is on standby duty, she travels from her home to the hospital and starts her shift once she gets there. Linda's travel is between her home and a regular work location with short notice of her start time. The transport expenses are not incurred by Linda in gaining or producing her assessable income. The expenses are a prerequisite to Linda's income-earning activities and are private in nature. The transport expenses Linda incurs in travelling from her home to the hospital are not deductible.*

[61] *Genys.*

Status: **legally binding**

Working from home, remote working and flexible work arrangements

75. The mere fact that an employee undertakes some work duties at home at their convenience does not make expenses of travel to their regular place of work deductible. This is because the travel itself is not explained by the employment duties and is thus not part of the employment. This treatment will not change even if the travel occurs during work hours. Moreover, travel from home to a regular place of work in this situation is still explained by where an employee chooses to live in relation to their regular place of work, which is a private or domestic matter. It does not matter whether the work at home occurs informally or as part of a regular arrangement with the employer.

Example 12 – travel between home and work location when working at home for convenience – transport expenses not deductible

76. *Nico works as a travel agent. As he has a small child, his employer allows him to work from home rather than in the office. Nico has a home office that he uses exclusively for work. At least twice per month, Nico is required to attend the office for regular staff meetings. Nico's home office is not a place of business*[62] *because Nico's employer would normally accommodate him at their office. At Nico's request they have agreed to let him work from home so that he can work at whatever time is convenient for him within an extended bandwidth. The transport expenses relating to travel from Nico's home to the office are not incurred in gaining or producing his assessable income and are private in nature. Nico works from home for his mere convenience so he can look after his small child and work flexible hours. Accordingly, his travel from home to his regular place of work at the office is not explained by his work duties, that is, the travel is not relevant to the practical demands of carrying out Nico's work duties. It is a consequence of Nico's choice to work from home rather than in the office. Nico is not entitled to claim a deduction for his transport expenses.*

77. The fact that the employee might choose to undertake their duties at a location other than home or a regular place of work at their convenience does not make the cost of travel to that place deductible. For example, a person working remotely cannot deduct the cost of travel to a resort that they choose to work from. Such expenses are not incurred in gaining or producing an employee's assessable income and are private in nature.

78. Where an employee has an area of their home set aside as their sole base of operations[63] because their employer provides them with no other location to work from, that area of their home becomes their regular place of work. Such an employee will be entitled to a deduction for expenditure incurred in travelling to perform their duties, such as travel to a client's premises.

[62] Refer to paragraphs 4 and 5 of TR 93/30 for guidance on what is a 'place of business'.
[63] TR 93/30 refers to this as a 'place of business'.

Status: **legally binding**

Transporting bulky equipment

79. Where the nature of the employment creates a practical necessity, explained by work duties, to transport bulky equipment[64] to and from a regular place of work (including to and from home to a regular place of work), the expenses of transporting that bulky equipment to and from that regular place of work may be deductible. It is construed by the Commissioner as a narrow exception to the ordinary principle that travel from home to a regular place of work is private and thus not deductible.

80. To come within this exception it is necessary that:

- the equipment is essential for the performance of the employee's employment duties
- the equipment is bulky such that transportation by car or other private vehicle is the only realistic option, and
- transporting the items to and from their regular place of work is a practical necessity because there is no secure area for the storage of the equipment provided at the employee's regular place of work[65] or the equipment needs to be transported to a different site each day.

81. However, if equipment is transported by the employee as a matter of mere convenience or personal choice, the transport costs are private and no deduction is allowable.[66]

Transport expenses to relocate

82. For the purposes of this Ruling, 'transport expenses to relocate' are expenses related to travel undertaken to permanently relocate for work, or travel to live at a location away from an employee's usual residence, usually because of a change in employment conditions such as a regular place of work.

83. Transport expenses incurred in undertaking permanent relocation are not incurred in the course of gaining or producing an employee's assessable income. They are a prerequisite to earning employment income, reflecting the private characteristics of the employee. Therefore they are not deductible.[67]

84. Similarly, where an employee is living at a location away from their usual residence (usually on a temporary basis) for work but retains a connection to their previous home (for example, family remains behind), transport between their new work location and their previous home would not be deductible. This is the case even if the agreement with their employer involves the employer agreeing to provide or fund such transport.

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[64] It is a question of fact whether equipment is bulky. In *Crestani and Commissioner of Taxation* [1998] AATA 612, Senior Member Block stated at [7]:
> I do not think that the term "bulky" should be construed to refer to only an article which is of large size, such as the musical instruments which were the subject of the decision in *FC of T v Vogt* 75 ATC 4073. The term is, in my view, more aptly construed as similar to "cumbersome" in the sense that it is not easily portable.

[65] *Re Taxation Appeals* [1994] AATA 315; *Case 59/94* 94 ATC 501; AAT Case 9808 29 ATR 1232; *Reany and Commissioner of Taxation* [2016] AATA 672.

[66] Refer to paragraphs 63 to 71 of TR 95/34, paragraphs 37 and 38 of MT 2027, and paragraph 8 of Taxation Ruling IT 2543 *Income tax: transport allowances: deductibility of expenses incurred in travelling between home and work*.

[67] *Fullerton, L.W. v Commissioner of Taxation* [1991] FCA 702. Certain fringe benefits tax concessions are available to employers for costs incurred in relocating employees and their families (refer to Fringe benefits tax: a guide for employers).

Status: **legally binding**

Date of effect

85. This Ruling applies 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 settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10 *Public Rulings*). To the extent that there is any conflict between this Ruling and draft Rulings TR 2017/D6 and TR 2019/D7, the Commissioner will have regard to the earlier draft rulings in deciding whether to apply compliance resources in income years to which the earlier draft applies.

Commissioner of Taxation
17 February 2021

Status: **not legally binding**

References

Previous draft:

TR 2017/D6; TR 2019/D7

Related Rulings/Determinations:

IT 2543; MT 2027; TR 93/30; TR 95/34; TR 2006/10; TR 2020/1; TR 2021/4; TR 2024/3

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- Stevens v Brodribb Sawmilling Co Pty Ltd [1986] HCA 1; 160 CLR 16; 63 ALR 513; 60 ALJR 194; [1986] ACL 36085
- The Commissioner of Taxation of Australia v Charlton, Robert Ewing Scott [1984] VicSC 297; (1984) 15 ATR 711; 84 ATC 4415
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Fringe benefits tax: a guide for employers
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