TR 93/30 - Income tax: deductions for home office expenses

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Taxation Ruling
Income tax: deductions for home office expenses

other Rulings on this topic

IT 126; IT 2115; IT 2397

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This Ruling, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the ***Taxation Administration Act 1953****, is a public ruling for the purposes of that Part . Taxation Ruling TR 92/1 explains when a Ruling is a public ruling and how it is binding on the Commissioner.*

What this Ruling is about

1. This Ruling is about the deductions allowable for "home office" expenses. In particular, it explains:

- when an area of the home is considered to be a private study;
- when an area of the home is considered to be a place of business;
- what deductions are allowable in each case and how they should be calculated; and
- the deductibility of rates and taxes under section 72 of the *Income Tax Assessment Act* 1936 and repairs under section 53.

It also deals with the capital gains tax implications on the disposal of a private residence for which home office expenses have been allowed.

This Ruling consolidates previous Rulings on home office expenses.

Ruling

2. As a general rule, expenses associated with a taxpayer's home are of a private or domestic nature and do not qualify as deductions for taxation purposes. An exception to this general rule is where part of the home is used for income producing activities and has the character of a "place of business". In such cases some of the expenses incurred in respect of the home such as rent, interest, repairs, house and contents insurance, rates and property taxes may be partly deductible.

3. Another exception to this general rule is where part of the home is used in connection with the taxpayer's income earning activities but does not constitute a place of business. In this case, a more limited range of deductions may be available.

4. Whether an area of the home has the character of a place of business is a question of fact which depends on the particular circumstances of each case. This is likely to be the case where a part of a residence is set aside exclusively for the carrying on of a business by a self employed person (e.g., a doctor's surgery). Another example is where part of the home is used as a taxpayer's sole base of operations for income producing activities (e.g., where no other work location is provided to an employee by an employer).

5. The following factors, none of which is necessarily conclusive on its own, may indicate whether or not an area set aside has the character of a "place of business" :

- the area is clearly identifiable as a place of business;
- the area is not readily suitable or adaptable for use for private or domestic purposes in association with the home generally;
- the area is used exclusively or almost exclusively for carrying on a business; or
- the area is used regularly for visits of clients or customers.

6. The deductible expenses in respect of a home office can be divided into two broad categories:

- Expenses relating to ownership or use of a home which are not affected by the taxpayer's income earning activities (i.e., occupancy expenses). These include rent, mortgage interest, municipal and water rates and house insurance premiums.
- Expenses relating to the use of facilities within the home (i.e., running expenses). These include electricity charges for heating/cooling, lighting, cleaning costs, depreciation, leasing charges and the cost of repairs on items of furniture and furnishings in the office.

7. If an area of the home has the character of a place of business as outlined in paragraph 5, some part of the expenses from both categories may be claimed as a deduction. In most cases the apportionment of expenses should be made on a floor area and, in addition, where the area of the home is a place of business for part of the year, a time basis. However, where an area of the home is simply used in connection with income producing activities, but does not have the character of a place of business, only expenses in the latter category (the running expenses) are allowable. The amounts allowable as deductions are the additional expenses incurred as a result of income producing activities.

Date of effect

8. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Explanations

9. Expenses which relate to the use or ownership of a home (or to facilities in it) normally have a private or domestic character and are not allowable deductions under subsection 51(1); [*Thomas v FC of T* (1972) 3 ATR 165; 72 ATC 4094 and *FC of T v Faichney*(1972) 129 CLR 38; (1972) 3 ATR 435; 72 ATC 4245 (*Faichney's Case*)]. However, in certain circumstances, part of these expenses may be allowed as a deduction. The allowable deductions will depend on whether an area of the home has the character of a place of business or is merely a private study.

10. In deciding cases concerning home office expenses, courts and tribunals have consistently drawn a distinction between cases:

- where part of a home can be characterised as a place of business; and
- where a room is used as a study or home office merely as a matter of convenience.

The reason this distinction is important is that if an area of the home has the character of a place of business then expenses associated with that part of the home can be said to take on a business or businesslike character and are allowable deductions [*Swinford v FC of T* (1984) 15 ATR 1154; 84 ATC 4803 (*Swinford's Case*)]. In effect, the area used loses its domestic character.

When is an area of a home a place of business rather than a private study?

Place of business:

11. Paragraph 5 lists some of the factors which may indicate that a part of a home has the character of a place of business. The existence of any of these factors or a combination of them will not necessarily be conclusive in ascertaining the character of an area used as a home office. Rather the decision in each case will depend on whether, on a balanced consideration of:

- the essential character of the area;
- the nature of the taxpayer's business; and
- any other relevant factors,

the area constitutes a "place of business" in the ordinary and common sense meaning of that term.

12. The absence of an alternative place for conducting income producing activities has also influenced a court or tribunal to accept a part of a taxpayer's residence as a place of business. Examples include:

- a self employed script writer using one room of a flat for writing purposes and for meetings with television station staff (*Swinford's Case)*;
- an employee architect conducting a small private practice from home (*Case F53*, 74 ATC 294; *Case 65*, 19 CTBR(NS) 452);
- a country sales manager for an oil company whose employer did not provide him with a place to work (*Case T48*, 86 ATC 389; *Case 47*, 29 CTBR(NS) 355).

In each of these cases the taxpayer was able to show that, as a matter of fact, there was no alternative place of business, it was necessary to work from home, and that the room in question was used exclusively or almost exclusively for income producing purposes.

13. In circumstances such as those referred to in paragraph 12, a place of business will exist only if:

- it is a requirement inherent in the nature of the taxpayer's activities that the taxpayer needs a place of business;
- the taxpayer's circumstances are such that there is no alternative place of business and it was necessary to work from home; and
- the area of the home is used exclusively or almost exclusively for income producing purposes.

Private Study:

14. The circumstances where part of a home is considered to have the character of a place of business can be contrasted with the more common case where a taxpayer maintains an office or study at home as a matter of convenience (i.e., so that he or she can carry out work at home which would otherwise be done at his or her regular place of business or employment). Examples of this include:

- a barrister who reads client briefs at home;
- a teacher who prepares lessons or marks assignments at home; and
- an insurance agent who maintains client files and occasionally interviews a client in his or her home office.

In these circumstances the area of the home and the expenses incurred (subject to the exceptions listed below) retain their private or domestic character (*Handley v FC of T* (1981) 11 ATR 644 ; 81 ATC 4165 (*Handley's Case*) and *Forsyth v FC of T* (1981) 11 ATR 657; 81 ATC 4157).

Which expenses can be claimed?

15. The expenses that may be associated with a home office or study can be divided into two broad categories. These are:

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

Occupancy Expenses:

16. If part of a taxpayer's home qualifies as a place of business, the taxpayer may be able to claim a portion of the occupancy expenses incurred under subsection 51(1) .

17. The actual amount which can be claimed is dependent on the taxpayer's individual circumstances. In most cases, the apportionment of the total expense incurred on a floor area basis is the most appropriate method.

18. However, where an area of the home is a place of business for part of the year only, it may be necessary for expenses to be apportioned on a floor area and a time basis. The time apportionment under this method should reflect the period of the year in which the room is used for income producing purposes.

Running Expenses:

19. Running expenses may take on a different character where taxpayers, who have a home office, establish that they have incurred additional expenditure on the running expenses as a result of their income producing activities (refer *Faichney's Case).* In appropriate circumstances, taxpayers are entitled to a deduction for the expenditure actually incurred through their income producing activities which is additional to their private expenditure.

20. While it is not practicable to provide a list of the running expenses which may be allowable as income tax deductions, the following paragraphs illustrate the type of expenses which may be claimed.

Heating/Cooling and Lighting Expenses:

21. A deduction may be allowable where additional heating/cooling and lighting expenses are incurred as a result of income producing activities. However, the extra expenditure must relate to facilities provided exclusively for the taxpayer's benefit while he or she works. For example, if a taxpayer merely sits in the lounge room with his or her family and at the same time does some work related activity, the expenditure for lighting and heating/cooling retains its private or domestic character (refer *Faichney's Case*). This would be the case where, for example, a teacher marks school work in a room where other family members are watching television or listening to music.

22. However, if the taxpayer uses the room at a time when others are not present or uses a separate room, he or she is entitled to a deduction. This is the case even if the room used is not set aside solely as a home office. In this respect the treatment of lighting and heating expenses is different to most other home office expenses. This is because heating/cooling and lighting expenses relate to the use by the occupant rather than to the premises occupied.

23. The amount that the taxpayer is entitled to claim is the difference between what was actually paid for heating/cooling and lighting and what would have been paid had he or she not worked from home.

24. Once it has been established that a taxpayer does, in fact, incur additional expense by reason of working at home, an appropriate formula for calculating the additional expense for an appliance is:

Formula

(a) x (b) x (c)

where -

(a) is the cost per unit of power used;

(b) is the average units used per hour; and

(c) is the total annual hours used for income producing purposes.

25. Generally speaking however, the quantum of any allowable deduction for the additional expense will be small. Accordingly, a *bona fide* estimate based on a reasonable percentage of the household annual fuel bill will be acceptable.

Depreciation:

26. Taxpayers are entitled to claim depreciation on items which are used wholly or partly for carrying out income producing activities. This includes a professional library and items of equipment used at home.

27. Where items used for business purposes are also used for domestic or private purposes the taxpayer will need to apportion the depreciation allowance. To do this a *bona fide* estimate of the percentage of business use of the item should be made. This is the proportion of the annual depreciation which the taxpayer is entitled to claim.

Other Considerations:

Rates and Taxes:

28. Many taxpayers simply maintain a private study in their homes to enable them, as a matter of convenience, to do work at home rather than at their regular place of work. It has been suggested that such taxpayers may be entitled to claim a proportionate amount of council and water rates. This argument relies on a deduction being allowable under section 72.

29. Section 72 provides that no deduction is allowable unless the property is used for the purpose of gaining or producing income or carrying on a business for the same purpose.

30. Taxation Ruling IT 2673 deals with the capital gains tax implications of using a sole or principal residence for income producing purposes. As indicated in that Ruling, conducting income producing activities from a residence is not necessarily the same as using the residence for the purpose of producing assessable income. The view taken in IT 2673 was that for a dwelling (or part of it) to be regarded as being "used for the purpose of gaining or producing income" it must constitute a place of business in the way described in paragraphs 11 to 13 above. Using similar reasoning to that in IT 2673, no deductions are allowable under section 72 for rates and taxes in respect of a residence where the only income producing activities are associated with a private study.

31. Where the area is used as a place of business a deduction for rates and taxes will be allowable under subsection 51(1) or section 72.

Repairs to a home office:

32. Section 53 allows a deduction for non-capital expenditure on repairs to premises, or part of premises, held, occupied or used by the taxpayer for the purpose of producing assessable income, or in carrying on a business for that purpose.

33. The principles explained above in relation to rates and taxes should be applied in determining whether the taxpayer is entitled to claim the cost of repairs to that part of the residence used as a home office or study.

34. In general if part of the home qualifies as a place of business, then the cost of repairs referable to that part of the home is deductible under section 53.

35. Where the premises, or part of the premises are used partly for income-producing purposes and partly for other purposes, the cost of repairs is deductible only to the extent to which the premises are used for income-producing purposes [refer subsection 53(3)]. For example, the cost of repairing a broken window in a doctor's surgery is wholly deductible, while the cost of repairing a broken window in a home office which is also used for private purposes would have to be apportioned accordingly.

Capital Gains Implications:

36. Generally, capital gains tax does not apply to a person's sole or principal residence. However, subsection 160ZZQ(21) applies to deem a capital gain (or loss) to have accrued to the extent to which the sole or principal residence disposed of was also used for the purpose of gaining or producing assessable income during the period of ownership. IT 2673 states that as a rule of thumb, it can be expected that where an area of a home is a place of business the capital gains provisions will apply . The calculation of any capital gain or loss is discussed in paragraphs 21 and 22 of IT 2673.

Previous Rulings

37. The relevant principles from Taxation Rulings IT 140, 191, 192, 193, 194, 2061, 2135 and 2338 have been incorporated into this Ruling. Accordingly, those Taxation Rulings are now withdrawn.

Commissioner of Taxation

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- Thomas v FC of T (1972) 3 ATR 165; 72 ATC 4094
- FC of T v Faichney (1972) 129 CLR 38; (1972) 3 ATR 435, 72 ATC 4245
- FC of T v Forsyth (1981) 11 ATR 657; 81 ATC 4157
- Handley v FC of T (1981) 11 ATR 644; 81 ATC 4165
- Swinford v FC of T (1984) 15 ATR 1154; ATC 4803
- Case 65, 19 CTBR(NS) 452; Case F53, 74 ATC 294
- Case 47, 29 CTBR(NS) 355; Case T48, 86 ATC 389