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Back to Basics: Claiming Work Related Expenses: Some You Can, Some You Can't and Some in Part (May 2023)

With:

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Information provided is general in nature; precise application depends on specific circumstances



Overview

- Focus on employees – other sessions consider deductibility for business owners
- See paper for more detail and references
- Foundational principles including substantiation
- General work related expense claims
 - Motor vehicle
 - Travel
 - Clothing
 - Self-education
 - Work from home
- Practical tip in how to determine deductibility and examples



What's deductible?

- Section 8-1 *Income Tax Assessment Act 1997* (ITAA 1997)
- Loss or outgoing must meet one of the following positive limbs:
 - *incurred in gaining or producing your assessable income*
 - *necessarily incurred in carrying on a business for the purpose of gaining or producing your assessable income*
- Note second positive limb not relevant for an employee
- Loss or outgoing **must not** meet one of the following negative limbs:
 - *it is a loss or outgoing of capital, or of a capital nature;*
 - *it is a loss or outgoing of a private or domestic nature; or*
 - *it is incurred in relation to gaining or producing your exempt income or your non-assessable non-exempt income; or*
 - *a provision of [ITAA 1997] prevents you from deducting it.*



What's deductible?

- Examples of expenses that may be incurred in gaining or producing your assessable income:
 - Acquisition of daily tools and equipment
 - Professional journals
 - Membership fees
 - Travel expenses
 - Phone and internet expenses
- ATO Employee Guide for Work Expenses for more examples

What's not deductible? – Incurred



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- Expenses that are reimbursed by employer not incurred and therefore not deductible
- Expenses 'gifted' not incurred and therefore not deductible
- Expenses incurred by an employee at direction of employer not necessarily deductible if not required in the course of gaining or producing income
 - Note distinction against expense incurred that might ordinarily be expected to occur in carrying out the duties of employment
 - See later example of sunglasses

What's not deductible? – Capital



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- Not all expenses are deductible immediately if they are capital or of a capital nature
- Rather, any deductions must be spread out over a number of years over the effective life of the asset (depreciation)
- Noted COVID-19 rules allowing temporary full expensing of depreciating assets for businesses – **not employees**
- Whether an asset is capital in nature depends on various factors
 - whether the expense has a long lasting benefit (which is more reflecting of it being capital in nature);
 - whether the amount incurred is a 'one-off' rather than a recurring obligation;
 - whether the expense is paid in a lump sum to obtain the benefit
- Note Sharpcan and TR 2020/1

What's not deductible? – Capital



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- Examples of expenses that are of capital nature:
 - Laptop or mobile devices (note certain exemptions)
 - Office equipment
 - Furniture
 - Motor vehicles

What's not deductible? – Private



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- Expenses that are of a private or domestic nature will not be deductible
 - Food
 - Conventional clothing
- Where expense partially used, then apportionment rules apply to provide a partial deduction
- Where precision is available, apportionment should be determined on that basis – i.e. ability to apportion number of work calls to total calls; or amount of data downloaded for work purposes as percentage of total downloads for a smart device
- Where precision not available, apportionment must be based on a reasonable and logical method – noting that time spent on a computer for work over total time spent on a computer **may not be reasonable** for determining internet expense claim where the internet may be used by other devices owned by other persons

What's not deductible? – Apportioning



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- Examples of apportionment:
 - \$80 per month phone plan
 - Bill outlines phone calls and monthly data use
 - Identified 20% of calls made are work-related
 - \$16 per month claimed as a deduction and extrapolated for the remainder of the year
 - One month not included as leave was taken
- Other than bill, consider data usage information on smart devices

What's not deductible? – Other



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- Expenses incurred in producing exempt or non-assessable non-exempt income
- Expenses specifically denied a deduction under the law



Common deductions

- Insuring and repairing tools or trade and equipment
- Acquisition of tools of trade and equipment – noting difference if value is less than \$300 or \$1,000 due to low-value pool
- Technical books and journals (including subscriptions)



Potential deductions

- Gifts and advertising – e.g. real estate industry where it is part of the role
- Fitness expenses – e.g. professions require a higher than normal level of fitness (such as police academy training instructors and performing artists)



Substantiation rules

- Generally, written evidence must be obtained from the supplier and retained for 5 years and produced within (approximately) 28 days of a request being made by the Commissioner
- Some exemptions apply:
 - Work expense – No written evidence or record required if claiming \$300 or less
 - Laundry expense – No written evidence or record required if claiming \$150 or less
 - Allowance expenses for travel and overtime meal may not require written evidence if within reasonable amounts – ATO issues guidance
 - Where an expense is \$10 or less with the total of such expenses not exceeding \$200, a record of expense will suffice over a document from a supplier
 - Where phone expenses being claimed are less than \$50, a detailed breakdown is not required and a per call deduction may apply



Motor-vehicle claims

- Considered 'car expenses':
 - petrol;
 - repairs and servicing;
 - new tires;
 - interest on car loan;
 - car washes and polishes
- Own substantiation rules/methods:
 - Cents per kilometre
 - Logbook
- Only available where employee owns or hires/leases the car



Cents per kilometre method

- Number of business kilometres travelled by the car in the income year * rates of cents kilometre determined under subsection 128-25(4) ITAA 1997 for the car for the income year
- The current rate of cents kilometre is 72 cents as of the 2020/2021 and 2021/2022 financial years; 78 cents as of 2022/2023
- Business kilometres are considered kilometres the car travelled in the course of producing the employee's assessable income or travel between workplaces
- The maximum business kilometres available for deduction is 5,000 (i.e. \$3,600/\$3,900)
- No other substantiation required other than counting kilometres (although retaining a diary may assist in recalling travel)



Logbook method

- Logbook made for 12 continuous weeks (which can then be applied for the remainder of the year and the next four thereafter unless exceptions apply)
- Stringent requirements in the logbook relating to details of the trip, odometer, kilometres travelled and information about the car – see paper for more information
- Note the rules surrounding travel expenses may assist in determining whether the trip related to producing income
- Consider buying a physical book or downloading an app
- Records must be in English

Motor vehicle expense exceptions



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- Above methods only apply for a 'car'
- Legislation defines car to mean a motor vehicle (except a motor cycle or similar vehicle) designed to carry a load of less than 1 tonne **and** fewer than 9 passengers
- Motor vehicles that fall outside this definition may include a ute
- In claiming deductions, no formal logbook required and claims must be substantiated using reasonable methods
- A logbook may assist, however, in calculating the necessary percentage related to producing assessable income



Travel expenses

- Travel between places of employment or worksites – deductible
- Travel between home and work – generally not but may be deductible
 - Depends if home considered dominant base of work
 - What does the contract say?
 - Depends if carrying bulky tools or equipment to work
 - Professional musician transporting bulky musical equipment (no storage offered by employer) – deductible (example provided below)
 - Carpenters required to transport heavy tools to work - deductible
 - Depends if employee is ‘on-call’ and type of work?
 - Computer consultant on call 24 hours a day with specialised equipment at home – deductible (example provided below)
 - Radiographer on call but not commencing income-producing duties until arrival at hospital – not deductible



Travel expenses

- Travel between home and work not deductible:
 - Medical practitioner travelling from home to work as locum at various hospitals
 - Contrast with profession (e.g. plumber) who may be carrying tools on hand
 - Teachers travelling between home and school to attend other school functions outside school hours (i.e. parent-teacher meetings)
 - Casual nurses working on a casual basis for a different employer each day
- International travel may be deductible depending on whether incurred for income-producing purposes or self-education purposes (considered below)
- Expenses for accompanying spouse not deductible unless spouse either performs employee duties or if able to show spouse would have still gone on trip in absence of taxpayer
- Apportionment generally equal unless reasonable calculations able to be shown (e.g. hotel room single and double room rates)



'Clothing' expenses

- Generally of a private nature
- Potentially deductible if:
 - Required to be worn under workplace policies
 - Is unique and distinctive to the employer (such that the employer can be identifiable which may require a logo of the employer permanently attached to the uniform); **and**
 - Not be available to the public
- Protective or profession specific clothing may be deductible (e.g. chef's outfit or barrister's wig)
- Conventional clothing generally not unless specific circumstances arise



'Clothing' expenses

- Consider the following:
 - Clothing purchased by professional actor who buys such items to wear on stage as a costume in a particular production
 - Shoes, socks and stockings purchased to form part of a compulsory and distinctive uniform and enables the employer to be identifiable
 - Particular clothing of certain industries such as airline industry, hairdressers and shop assistances (separate tax rulings exist)
- Protective clothing satisfies deductibility where:
 - Designed to protect taxpayer from risk of injury in the course of carrying out taxpayer's income earning activities
 - Risk is not remove or negligible
 - Protection item provides protection of risk and is used in carrying out function.
- Non-compulsory uniform registered into Textile, Clothing and Footwear Corporatewear Register?



Self-education expenses

- Note repeal of section 82A ITAA 1997
- Includes course fees, professional journals and books, airfares and interest incurred to borrow money to fund self-education
- Does not include meals and accommodation where taxpayer not required to sleep away from home
- Deductible where:
 - Expense will be deductible if it relates to the cost of improving knowledge or skills without being incurred as a capital expense.
 - Expenses incurred in keeping an employee up to date in their field or allowing such employee to discharge their duties may be deductible.
 - Expenses incurred to either assist an employee obtain new employment or pivot into a different field unrelated to their current employment are likely not to be deductible.



Self-education expenses

- Question is whether expense relates to:
 - Cost of improving knowledge or skills/keeping an employee up to date in their field – deductible
 - Enable employee obtain new employment or pivot into a different field unrelated to their current employment – not deductible
- A deduction to obtain an overseas MBA course by a mining engineer was denied in the course of the mining engineer accepting an offer of employment as a mine manager with another company – *FCT v Roberts*
- A self-employed dentist studying overseas for a specialist degree (periodontist) to enable the dentist to enhance such treatment offered as part of his services and charge higher fees as a general dentist had deduction allowed – *Highfield's case*



Self-education expenses

- Compare above with:
 - GP who undertakes additional study in order to set up a specialist practice as a dermatologist
 - A medical registrar resigning before travelling to the United Kingdom to undertake specialized research to enable him to commence his own practice
- Clear line if 'new employment' the result
- Murky if 'part of same employment' but enables taxpayer to 'pivot'



Work from home expenses

- Running expenses – expenses relating to the use of facilities within the home such as electricity, heating, lighting, cleaning costs, depreciation, leasing charges and the cost to repair items
- Occupancy expenses – expenses relating to the ownership or use of a home which have not affected by a taxpayer's income activities such as rent, mortgage interest, rates, land taxes and house insurance premiums
- Occupancy expenses only available where the home is used for income producing activities and has the character of a “place of business” – not usually available to employees
- Running expenses available for deduction even where home office is used as a matter of convenience
- COVID-19 deductions available for 2021/2022 financial year



Running expenses

- Two methods:
 - Actual expense method – TR 93/30 to assist with apportionment
 - Fixed rate method – PCG 2023/1
- TR 93/30 includes:
 - Heating/lighting/electricity – formula is available in TR93/30, however, accepted a reasonable percentage may be accepted in relation to use of a room **with no other persons present while in use** for work related purposes
 - Depreciation, insurance and repairs – consider apportionment if items also used for private use
 - Cleaning costs and pest control – apportion on a total floor area basis
 - Telephone and internet – consider prior apportionment discussion



Running expenses

- Fixed rate method under PCG 2023/1 requires:
 - Working from home while carrying out their employment duties or carrying on their business on or after 1 July 2022
 - The work has to be substantive and directly related to the taxpayer's income-producing activities and it is noted that 'minimal' tasks such as occasionally checking emails or taking phone calls while at home will not qualify as 'working from home'.
 - PCG 2023/1 contrasts between the 'occasional checking of a paramedic's roster' (which would not qualify as working from home) with a salesperson who is employed to work from home one day a week (which would qualify as working from home).
 - It is noted that the taxpayer is not required to have a separate home office or dedicated work area set aside in order to rely on PCG 2023/1.
 - Incurring additional running expenses of the kind outlined in paragraph 14 of PCG 2023/1 (energy expenses, internet, mobile/phone and stationary) which are deductible under section 8-1 as a result of working from home:
 - Deductions are not available where the taxpayer is reimbursed for the incurring of additional running expenses



Running expenses

- Fixed rate method under PCG 2023/1 requires:
 - Keeping and retaining relevant records in respect of the time they spend working from home and for the additional running expenses (covered by the rate per hour) they are incurring (third criterion)
 - Appropriate records for the entire income year does not include an estimate or an estimate based on the number of hours worked from home during a particular period and applied to the rest of the income.
 - Actual hours worked from home must be recorded and records must be kept in one of the following forms:
 - Time sheets.
 - Rosters
 - Logs of time spent accessing employer systems or online business systems
 - Diary
 - Invoice/record via one document for each additional running expense must be retained
 - Where invoices and bills are in the name of one member of the household but the cost is shared, each member of the household who contributed to the payment of the expense will be taken to have incurred it



Running expenses

- Fixed rate method calculated hours per year * 67 cents
- No double up for any deductions of the running expense under fixed rate method (e.g. cannot separately claim mobile phone usage deduction)
- Worked example – PCG 2023/1 at paragraphs 74 to 89



Occupancy expenses

- Only available where home office carries character as being a place of business. Distinguish:
 - Home office with a computer and shelves which an employee undertakes sporadic work after hours.
 - To:
 - A bank's IT employee required to perform duties during after-hours and weekends who works from home using equipment supplied by the employer
 - A country sales manager for an oil company whose employer did not provide him with a place to work
- An analysis on the relationship and occupancy expenses denied where barristers used home studies and:
 - There were no physical separation of studies from their homes
 - Chambers were located elsewhere.
 - Studies were not a place of business.



Occupancy expenses

- If available, consider applying following formula

$$\frac{\text{Floor area related to the income earning activity}}{\text{Total floor area}} * \text{Relevant expenditure}$$

- Note potential loss of full capital gains tax main residence exemption



Practical steps

- TR 2020/1 – See Appendix 1
- Occupation specific guides:
<https://www.ato.gov.au/Individuals/Income-and-deductions/In-detail/Occupation-and-industry-specific-guides/>
- Employees guide for work expenses:
<https://www.ato.gov.au/law/view/pdf/sos/employeeguideworkexpenses20180701.pdf>
- Novel scenarios may require consideration of foundations



67. The public rulings, ATO IDs and LAPS relating to work expenses have been grouped under the headings:

- [Work-related travel and car expenses](#)
- [Work-related clothing, laundry and dry-cleaning expenses](#)
- [Work-related self-education expenses](#)
- [Other work related expenses](#)
 - [Work-related physical fitness expenses](#)
 - [Work-related home office expenses](#)
 - [Work-related insurance expenses](#)
 - [Work-related legal expenses](#)
 - [Grooming and cosmetics](#)
 - [Protective items](#)
 - [Memberships and subscriptions](#)
- [General deduction topics](#)
- [Private non-deductible expenses](#)
- [Substantiation](#)

TR 2020/1



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68. **Work-related travel and car expenses**

Taxation Ruling [TR 2021/1](#) *Income tax: when are deductions allowed for employees' transport expenses?*

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*

Taxation Ruling [TR 95/34](#) *Income tax: employees carrying out itinerant work - deductions, allowances and reimbursements for transport expenses*

Taxation Ruling [IT 2543](#) *Income tax: transport allowances: deductibility of expenses incurred in travelling between home and work*

Miscellaneous Taxation Ruling [MT 2027](#) *Fringe benefits tax: private use of cars: home to work travel*

Occupation specific guide



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Table: Occupation guides and summary posters

Occupation and industry guides	Deductions summary – PDF download
Adult industry workers	Not available
Agricultural workers	Agriculture deductions (PDF, 869KB) ↓
Apprentice	Apprentice (PDF, 335KB) ↓
Australian Defence Force members	ADF members deductions (PDF, 256KB) ↓
Building and construction employees	Building and construction deductions (PDF, 261KB) ↓
Bus drivers	Bus driver deductions (PDF, 1.0MB) ↓
Call centre operators	Call centre operators' deductions (PDF, 809KB) ↓
Cleaners	Cleaner deductions (PDF, 242KB) ↓
Community support workers and direct carers	Community worker and direct carer deductions (PDF, 484KB) ↓
Doctor, specialist or other medical professional	Doctor deductions (PDF, 839KB) ↓
Engineers	Engineer deductions (PDF, 934KB) ↓
Factory workers	Factory worker deductions (PDF, 967KB) ↓

Occupation specific guides



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Doctor, specialist and other medical professionals - income and work-related deductions

Income – salary and allowances



Deductions



Common expenses A–F



AMA or other medical professional association membership fees

Annual practising certificate fees

Books, journals and professional library

Doctor, specialist or other medical professionals – income and work-related deductions

If you earn your income as a doctor, specialist or other medical professional, this information will help you to work out what:

- > income and allowances to report
- > you can and can't claim as a work-related deduction
- > records you need to keep.

Find out about doctor, specialist and other medical professionals':

- > [Income – salary and allowances](#)
- > [Deductions](#)
- > [Record keeping](#)

Income – salary and allowances

Your income statement or a payment summary shows all your salary, wages and allowances for the income year.

Include all the income you receive during the income year in your tax return, regardless of when you earned it, including:

- > [salary and wages](#)
- > [allowances](#)

Employees guide for work expenses



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Common myths about work expense deductions

There are many myths about deductions that may lead you to make an incorrect claim. Here are some of the most common.

Myth: Everyone can automatically claim \$150 for clothing and laundry, 5000 km under the cents per kilometre method for car expenses, or \$300 for work-related expenses, even if they didn't spend the money.

Fact: There is no such thing as an 'automatic' or 'standard deduction'. Substantiation exceptions provide relief from the need to keep receipts in certain circumstances. While you don't need receipts for claims under \$300 for work-related expenses, \$150 for laundry expenses (**note:** this is for laundry expenses only and does not include clothing expenses) or if you are claiming 5,000 km or less for car expenses under the cents per kilometre method, you still must have spent the money, it must be related to earning your income, and you must be able to explain how you calculated your claim.

See more:

- [Laundry expenses](#)
- [Car expenses](#)
- [Substantiation requirements](#)
- [Exceptions and relief from substantiation requirements](#)

Employees guide for work expenses



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Phones and other telecommunication devices

You can claim a deduction for expenses you incur on phone and other telecommunication devices, including data, if you use the devices for work purposes. If the device cost more than \$300, you can only claim its decline in value as a deduction.

You need to apportion expenses if you use your phone or devices for work and private purposes. You cannot claim a deduction for installation and set up costs.

See more:

- [Decline in value under the capital allowance provisions](#)
- [Apportioning work-related expenses](#)

Example – connection expense

Mark is transferring his home phone and internet connection to the NBN. He must pay a one-off fee for the cost of the modem and connection. He cannot claim a deduction for this fee. The expense is capital in nature.

You cannot claim a deduction for obtaining or maintaining a silent number. Obtaining and maintaining a silent number preserves anonymity and privacy, and is therefore private in nature.

Employees guide for work expenses



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Example – silent number

Hunter is an employee lawyer who works on criminal cases. He maintains a silent home telephone number due to the fact that he does not wish to expose his family to threatening calls. The additional cost of maintaining the silent telephone number is not deductible. The expense is not incurred in the course of earning his employment income. It is a private expense.

See more:



Practical example

- Claiming sunscreen and sunglasses for work
- Deductibility will depend if required as part of work environment
- Consider:
 - Michael, an arborist who is employed by a local council to maintain trees and gardens in a large city park; and
 - office employees who are not expected to have sun exposure risk in the nature of their work
- Deductible for Michael
- TR 2020/1 at paragraphs 20 and 21



Practical example

- Claiming food and drink are notoriously difficult – to the extent that a truck driver who worked up to 18 hours a day was denied a deduction for meal expenses (other than those related to an award overtime meal allowance expense)
- Potentially available where employee travels and stays away from their usual residence overnight in the course of producing income-producing activities – TR 2021/4



Practical example

- Claiming conventional clothing:
 - Generally no and following denied:
 - Solicitor's dark suit
 - Taxi-driver's white shirt
 - Sports clothes for sports teachers/fitness instructors
 - Exceptions available include where:
 - Television game show host who buys formal wear to complement the sets and prizes (TR 95/20)



Practical example

- Claiming fitness expenses
- Again, deductibility will depend if required as part of work environment
- Consider:
 - Dancer employed requiring massage treatment to ensure she is kept injury-free
 - Pilot who undertook a fitness course to lost weight to ensure he did not fail a following regular 6-monthly examination
- Deductible for dancer as physical well-being was so basic to her occupation – *Case P90 82 ATC 431*
- Non-deductible for pilot as not required in the course of producing income – *Case N72 81 ATC 383*



Practical example

- Computer consultant claiming travel expense between home and work
 - On call 24 hours a day as required under employment contract
 - Portable terminal provided at home which connected to work computers
 - Sought to claim travel between home and office outside the normal daily journey
- Deductible:
 - Whilst on call, employee had a special assignment
 - Upon receiving a call, duties in fixing the computer commenced
 - Travel therefore between home/work at such time is travelling on work
- TR 2021/1, Example 10
- Also see *FCT v Collings* 76 ATC 4254



Practical example

- Musician claiming travel expense between home and places where performed
 - Played acoustic bass and electric bass, both of which require amps
 - Employee of two employers and it was a requirement that the employee provide his own equipment to performances and rehearsals
 - Employee kept instruments at home as he was required to practice and there were no other practical places to keep them where he rehearsed.
- Deductible:
 - Between home and places where he performed
 - *'In a practical sense, the expenditure should be attributed to the carriage of the taxpayer's instruments rather than to his travel to the places of performance'*
- *FCT v Vogt* 75 ATC 4073

Questions?



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