



Chat Legal Pty Ltd  
ABN 64 621 391 553  
letschat@chatlegal.com.au  
PO Box 74, Underwood, QLD 4119  
<https://chatlegal.com.au>

# Let's chat

Back to Basics: Travel Expenses: Work, Play or a Bit of Both? (October 2023)

With:

Darius Hii –Director at Chat Legal

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



# Overview

- See paper for more detail and references
- General principles regarding deductions
- Application of principles in relation to travel expenses
- Specific consideration of travel scenarios
  - Travel between home and alternative work location
  - Travel between home and distant regular work-place
  - Overnight travel between home and alternative work-place
  - Travel as a result of being 'on call'
  - "Travelling on work" v 'living at a location'
  - Travel with spouse and appropriate apportionment
  - Travel due to itinerant work
  - Travel for self-education, international travel and substantiation requirements



# 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* [usual negative limb relevant for travel expenses]
  - *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 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



# Travel expenses - generally

- TR 2021/1
- Deductible – expenses are part of an employee’s employment duty
  - incurred ‘on work’
  - incurred as part of the employment or an incident in the employment
- Not deductible – expenses incurred between an employee’s home and ‘regular place of work’

*“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**”*

- *Lunney v Commissioner of Taxation* [1958] HCA 5



# Travel expenses - generally

- Factors supporting deductible travel:
  - the travel fits within the duties of employment i.e. 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
- Additional supportive factors (not determinative):
  - the employer asks for the travel to be undertaken;
  - the travel occurs on work time; and
  - the travel occurs when the employee is under the direction and control of the employer
- Above factors are consistently referred back to in determining whether certain travel (outside of travel between home and regular place of work) is deductible



# Home to regular place of work



Home

Non deductible



Regular place of  
work



# Home to regular place of work

- TR 2021/1 Example 1:
  - Mischa lives 30km from the office and travels by train.
  - Mischa frequently checks work emails and home on her work phone and sometimes chooses to do some work tasks before leaving for work (or after coming home).
  - Mischa occasionally uses her work phone to respond to work emails and texts whilst on the train.
  - 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.



# Home to regular place of work

- TR 2021/1 Example 2:
  - 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.**
  - The expenses are not incurred in the course of gaining or producing her assessable income.



# Home to regular place of work

- TR 2021/1 Example 5:
  - 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 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.



# 'Regular place of work'

- Meaning depends on:
  - Contract of employment
  - Customary practice
  - Nature of the work duties
  - Where duties commence and at what point in time the employee is under the direction and control of their employer
- Possible to have more than one regular place of work
- Travel to regular place of work seen as prerequisite to earning of one's assessable income



# 'Regular place of work'

- General position does not change despite:
  - an employee performing minor work tasks at home or in transit as a matter of convenience
  - the employee's home being distant;
  - a second regular place of work being distant;
  - the need to travel to and from home and the regular place of work multiple times in a day;
  - a lack of public transport being available;
  - whether the employee receives a travel allowance;
  - whether the employee works overtime; or
  - whether the employee stops between their regular place of work and home to undertake incidental work.

# Home to place that becomes regular place of work

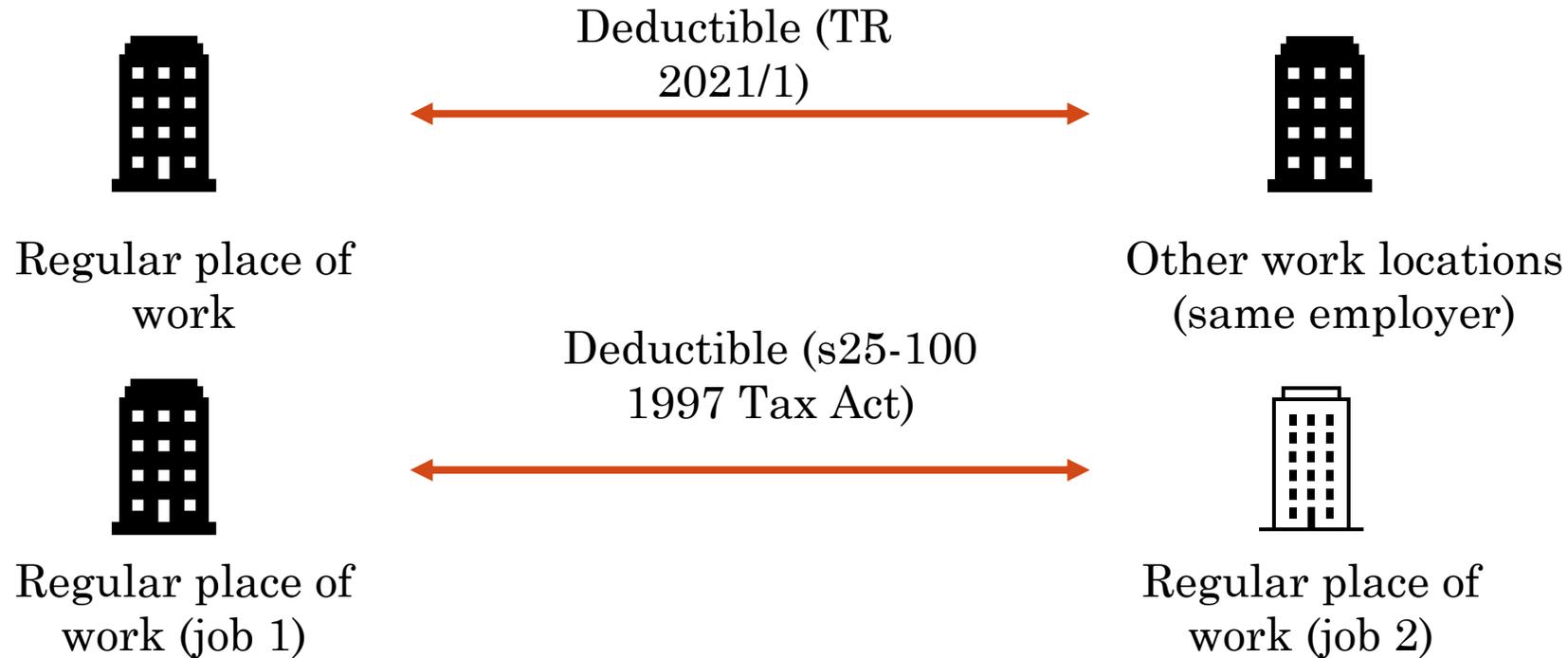


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- TR 2021/1 Example 3:
  - Raj is an accountant who lives on the Gold Coast and is employed by an accounting practice located in Southport (15 minutes travel from his home).
  - **Raj's employer requires him to work at their Brisbane city office (one hour's travel from home) while another employee is on five months' long service leave.**
  - 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. No overnight travel is required.**
  - 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.



# Work to work



\*Attendance at work locations must be for work purposes rather than convenience or any private purposes – cannot attend other work location for convenience of attending private matters

# Travel to 'alternative work location'



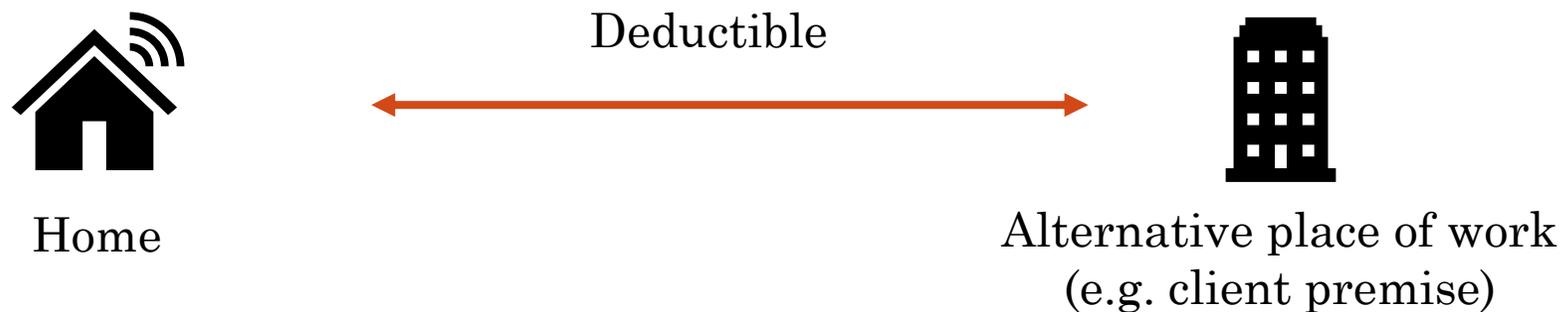
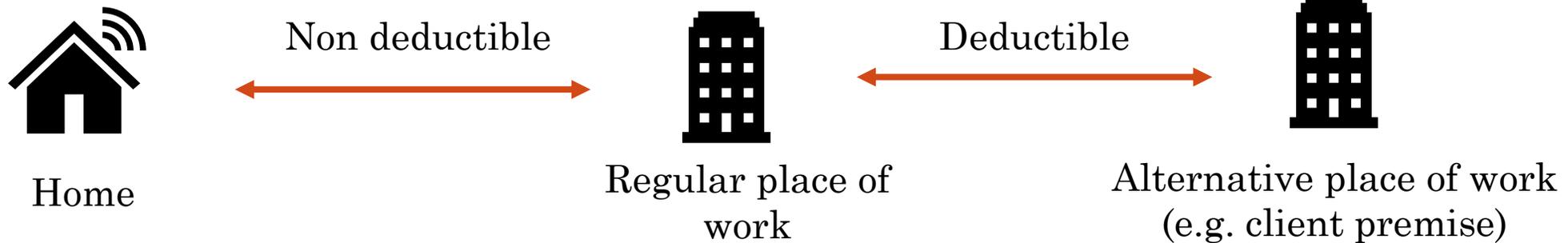
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- Deductible where *'duties of employment require that the employee travels from their home to somewhere other than the employee's regular place of work'*
- Travel to alternative work location cannot be merely for convenience and not a requirement of employment:
  - Travel to alternative work location because closer to a private engagement
  - Travel to alternative work location not required to perform employment duties (it could have been done at the regular place of work)

# Home to alternative place of work



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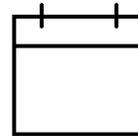
# Home to alternative place of work



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Home



Minor incidental  
private matter



Alternative place of work  
(e.g. client premise)

# Home to alternative place of work



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- TR 2021/4 Example 4:
  - 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 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.

# Home to distant 'workplace'



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- Distance will not generally change the standard rule. That is:
  - Travel to regular place of work – not deductible
  - Travel to alternative place of work – deductible
- Requires consideration of the general factors:
  - travel fits within the duties of employment
  - travel relevant to the role
  - to a lesser extent:
    - the employer asks for the travel to be undertaken;
    - the travel occurs on work time; and
    - the travel occurs when the employee is under the direction and control of the employer



# Home to alternative place

- TR 2021/1 Example 6:
  - **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.



# Home to alternative place

- TR 2021/1 Example 7:
  - Narelle works for a tourism company and she lives with her family on the north coast of New South Wales (NSW).
  - **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.**
  - 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
  - Narelle's position is based on the North Coast and the office located there is her regular place of work.



# Home to alternative place

- TR 2021/1 Example 7:
  - 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.
  - Accordingly, the cost of travelling from Narelle's home to the Sydney office is deductible.



# Home to alternative place

- TR 2021/1 Example 8:
  - **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
  - 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

# Home to ‘workplace’ involving ‘transit points’



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- Variations arise where a ‘transit point’ exists – a location where an employee reports for work but differs from where they carry out substantive duties
  - E.g. Travel to an airport (to clock on) before travelling to the regular place of work
  - *John Holland Group Pty Ltd v Commissioner of Taxation* [2015] FCAFC 82

*“The criteria for deductibility is thus not that there is a great distance to travel from home to work but that the travel is a part of the employment. A distant or remote location for the performance of employment duties may, however, be a relevant factor in determining whether travel is part of the employment. **The location of the place at which work needs to be performed may occasion a need for travel to be part of the employment.** The remoteness of the project location in this case provides the explanation for the travel being part of the employment in contrast to the need to incur the “living expense” of the kind considered in Newsom”*

# Home to 'workplace' involving 'transit points'



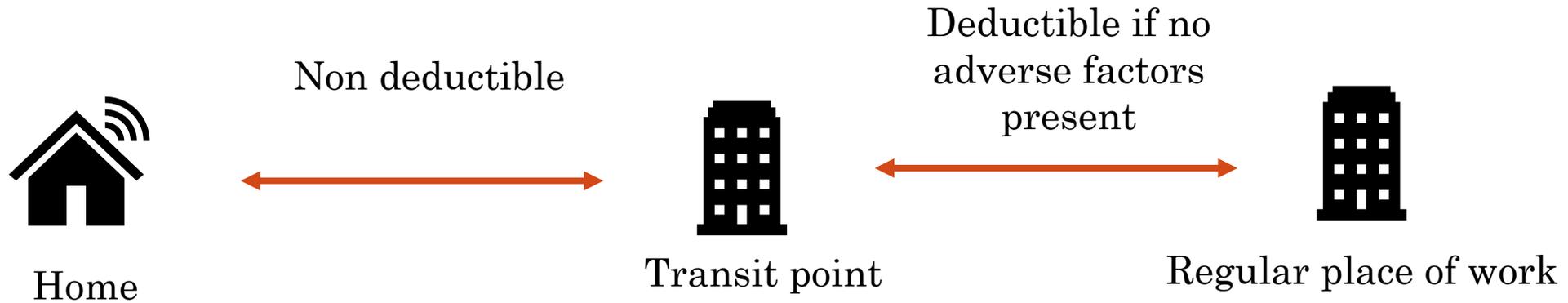
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- Additional considerations relating to the transit point
  - where the employee commences their employment duties
  - whether the employee is substantively under the 'direction and control' of the employer during the travel; and
  - whether such 'direction and control' is explained by the duties of employment and the need to travel for work.
- Considerations supporting no deduction:
  - 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

# Home to transit point to regular place of work



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# Home to transit point to regular place of work



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- TR 2021/1 Example 9:
  - 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.
  - 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.

# Home to transit point to regular place of work



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- TR 2021/1 Example 9:
  - 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.
  - 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

# Home to regular place of work whilst 'on-call'



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Home where employee conducts substantive employee duties

Deductible



Regular place of work where employee travels to complete duties



Home where employee does not commence duties prior to leaving

Non deductible



Regular place of work where duties of employee commences once present

# Home to regular place of work whilst 'on-call'



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- TR 2021/1 Example 10
  - 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
  - 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

# Home to regular place of work whilst 'on-call'



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- TR 2021/1 Example 11
  - 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.
- TR 2021/1 Example 12
  - 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 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



# “Travelling on work”

- Relevant in considering deductibility of accommodation and meal expenses associated with travel
- Taxation Ruling 2021/4
  - *“Food and drink are ordinarily private matters, and the essential character of expenditure on food and drink will ordinarily be private rather than having the character of a working or business expense.”*
- May be deductible if expenses incurred whilst employee ‘travelling on work’



# “Travelling on work”

- *“Where a taxpayer is required by his employer, and for the purposes of his employer, to reside, for periods at a time, away from home and at the work site, and that employee incurs expenditure for the cost of sustenance, or indeed other necessary expenditure which, if the taxpayer had been living at home, would clearly be private expenditure, the circumstance in which the expenditure is incurred, that is to say, the occasion of the outgoing operates to stamp that outgoing as having a business or employment related character.”*
- *“... if the Applicant is entitled to a deduction for meals he can be so entitled only when on a trip which required him to sleep away from home. In the absence of such a requirement, the expenditure must necessarily be regarded as private in nature.”*



# “Travelling on work”

- Must be required to stay away from home
- Following must not apply:
  - The expenses are incurred because the employee’s personal circumstances are such that they live far away from where they gain or produce their assessable income
  - The employee incurs the expenses because they are ‘living at a location’
  - The employee incurs the expenses as a result of relocating from their usual residence



# “Living at a location”

- Purpose of stay overseas will be considered as ‘living at a location’ rather than ‘travelling on work’ where:
  - there is a change in the employee’s regular place of work;
  - the length of the overall period the employee will be away from their usual residence is a relatively long one;
  - the nature of the accommodation is such that it becomes their usual residence; and
  - whether the employee is, or can be, accompanied by family or visited by family and friends
- If ‘living at a location’, travel expenses (including accommodation and meal expenses) are not deductible



# “Travelling on work”

- TR 2021/4 Examples 2
  - **Michelle lives in Brisbane with her family. Michelle accepts a job in Canberra.** Early on a Monday morning, Michelle catches a flight to Canberra and on Friday afternoon she returns by plane to Brisbane. On Monday to Thursday nights, Michelle stays in a serviced apartment and cooks for herself and sometimes she eats out
  - The occasion of the outgoings is not explained by Michelle’s employment. Rather, it is explained by her personal circumstances of living in Brisbane while working in Canberra. The expenses Michelle incurs are private and domestic in nature.
- TR 2021/4 Examples 3 (mentioned previously)
  - **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.** Sue’s arrangement with her employer is that she must attend the Melbourne office at least three days per week, but at her discretion, she can work out of the Sydney office, at another office, or from home up to two days per week. Because Sue lives in Sydney, her personal circumstances allow her to work at the Sydney office two days per week for her convenience. Sue’s duties do not require her to work in the Sydney office.
  - The occasion of Sue’s travel to Melbourne and her accommodation and food and drink expenses are not explained by Sue’s employment duties but rather her personal circumstances. Instead of relocating her usual residence to Melbourne, Sue’s personal circumstances allow her to continue living in Sydney with her family.



# “Travelling on work”

- TR 2021/4 Example 4

- Len lives with his family in Perth and works as a sales manager for a company that has offices all around Australia and operates nationally. Under the terms of his employment agreement, **Len’s regular place of work is his employer’s Perth office, but he is also responsible for the other three offices located in Western Australia.**
- Each of those other three **offices are located at least 200 kilometres from where Len lives so Len travels and stays overnight** the night before he visits them. Len visits the offices located outside Perth regularly for meetings, performance appraisals and to ensure the offices are meeting sales targets.
- He also travels to the head office in Melbourne once a month for meetings with sales managers from other regions. Len incurs expenditure on accommodation and food and drink when he visits the three offices located outside Perth and when he travels to Melbourne.
- In this case, as Len’s employment duties require him to travel to different offices, the expenditure he incurs on accommodation and food and drink while he is travelling to those other offices is incurred in the course of performing his employment duties.



# “Travelling on work”

- Compare:
  - Employee living in Townsville in a two-bedroom apartment (big enough to accommodate the employee’s family) for four-months due to **a change in regular place of work from Brisbane to Townsville** – ‘living at a location’ – TR 2021/4 Example 5
    - Note when travelling from Townsville to other locations for work, travel expenses may be deductible
  - Employee **travelling** for three weeks **to train new staff** and staying at a motel. Employee frequently returns each weekend to his home – ‘traveling on work’ – TR 2021/4 Example 6
  - Employee seconded to an overseas company for a period between 90 and 120 days where they will **work full time for the overseas based company** – ‘living at a location’ – TR 2021/4 Example 7
- Note potential to initially start as ‘travelling on work’ but change of circumstances to ‘living at a location’ – TR 2021/4 Example 8 where an employee was notified the short-term engagement has been extended to 6 weeks to replace another employee who resigned.



# Travelling with a spouse

- More broadly, importance to apportion expenses accordingly
- Accepted provided apportionment considered fair and reasonable
- Consider:
  - Whether spouse's presence influenced expenses incurred (i.e. a hotel upgrade or not)
  - Whether certain components of a trip is private in nature due to presence of a spouse
  - Whether spouse's presence would be been deductible due to their own duties as an employee
  - Appropriate apportionment of food and drink expenses during work related compared to private component of travel



# Travelling with a spouse

- TR 2021/4 Example 11
  - Therese is employed as the regional manager of a company that operates clothing stores. Her regular place of work is in Sydney. Each year, the regional managers attend an internal five-day planning workshop held on the Gold Coast in Queensland. **Therese would not have travelled to the Gold Coast but for her attendance at the workshop.** Lunch is provided at the workshop each day and Therese's employer also provides dinner for all the regional managers one evening.
  - When she travels to the Gold Coast for the workshop, Therese's husband will join her and they will stay an extra two days to have some leisure time together. While Therese is at the workshop, her husband will play golf and go to the beach.
  - The room **Therese has booked is not influenced by her husband accompanying her and the cost of the room is the same whether one or two people stay in it.** The cost of the room for the seven nights is \$1,680. 92. Travel for the period of the workshop is an incident of Therese's employment and the expenditure she incurs on accommodation and food and drink is incurred in the course of performing her income-producing activities. Accordingly, Therese is travelling on work during that period and the accommodation expenses she incurs for the first five nights of her stay are deductible.



# Travelling with a spouse

- TR 2021/4 Example 11
  - Accordingly, Therese is travelling on work during that period and the accommodation expenses she incurs for the first five nights of her stay are deductible.. The cost of the accommodation for the two nights after the workshop is a private expense and will not be deductible.
  - The full cost of the room for five nights will be deductible because Therese's choice of room and the cost of the room was not affected by her husband accompanying her. Therefore, Therese can claim a deduction of \$1,200 (5/7 nights × \$1,680) for the accommodation
  - . Therese will not be entitled to a deduction in relation to the food and drink that are provided as part of the workshop (lunch each day and dinner on one evening) since she has not incurred the expenditure. However, she will be entitled to claim the cost of any other food and drink she incurs during the period of the workshop.
  - If she eats out with her husband, only the cost of her meal will be deductible. Any food and drink Therese purchases on the last two days of her trip is not deductible because the expenses are private in nature

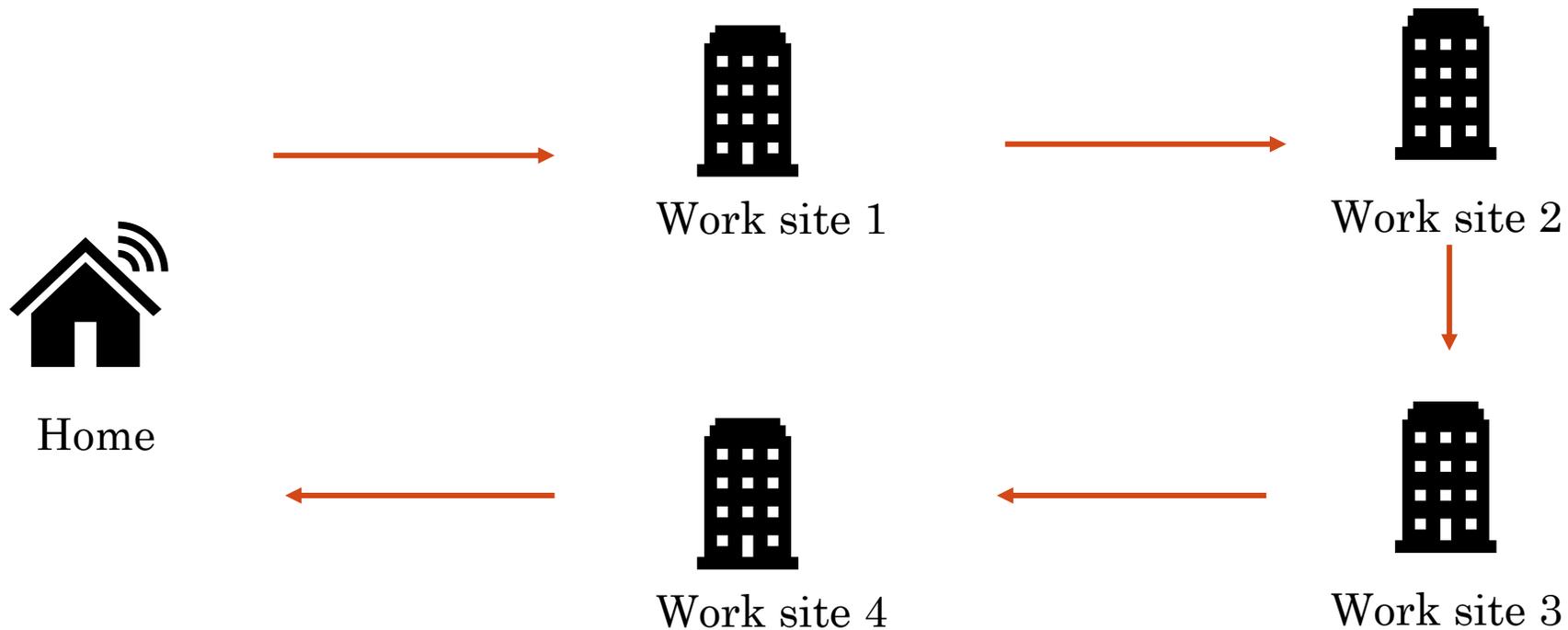


# Itinerant work

- Taxation Ruling 95/34
- Employees who have no regular place of work and are therefore considered to be travelling in the performance of their duties from the moment of leaving home
- Travel deductible from leaving home. Requires:
  - travel is a fundamental part of the employee's work
  - the existence of a 'web' of work places in the employee's regular employment, that is, the employee has no fixed place of work
  - the employee continually travels from one work site to another. An employee must regularly work at more than one work site before returning to his or her usual place of residence
  - other factors that may indicate itinerancy (to a lesser degree) include:
    - the employee has a degree of uncertainty of location in his or her employment (that is, no long term plan and no regular pattern exists)
    - the employee's home constitutes a base of operations
    - the employee has to carry bulky equipment from home to different work sites



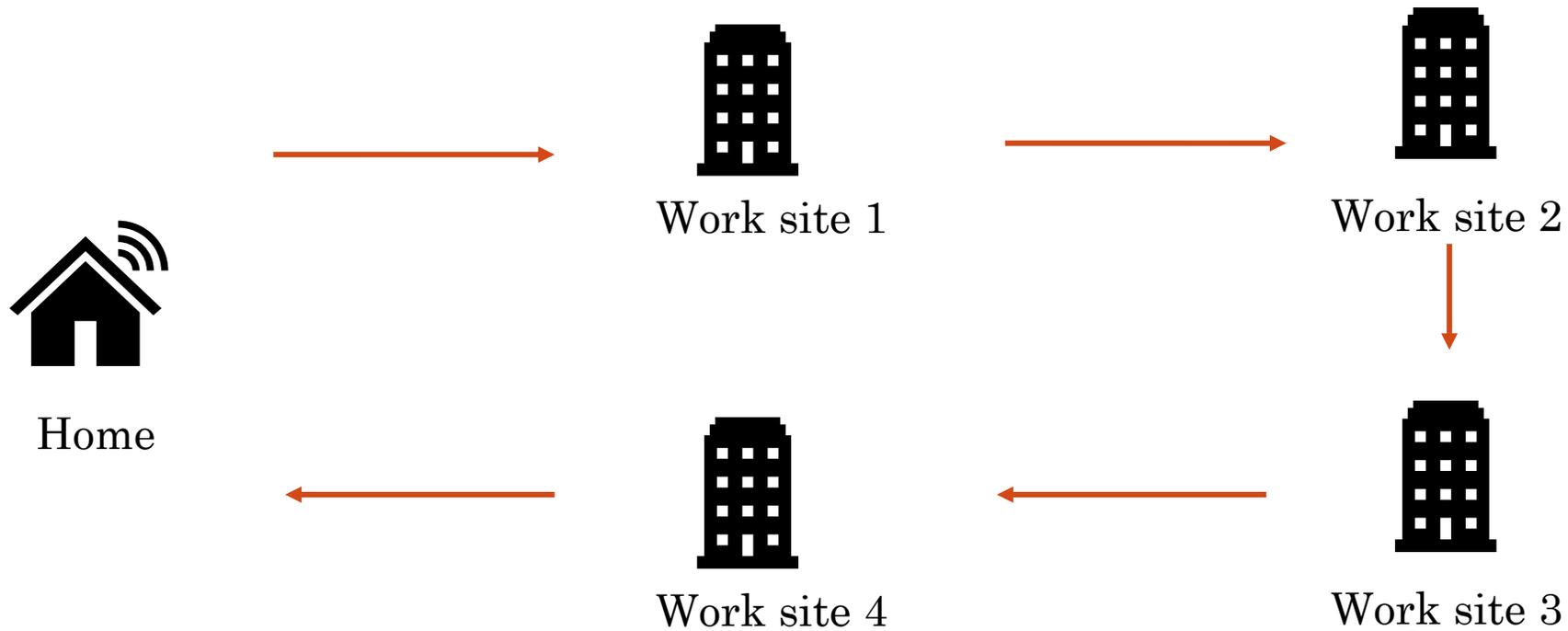
# Itinerant – all in one day



# Itinerant – across more than one day



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# Not itinerant – across multiple weeks



Home

3/5 days a week



Work site 1



Home

2/5 days a week



Work site 2

# Not itinerant – across multiple weeks



Home

Works a week



Work site 1



Home

Then works for a week etc.



Work site 2



# Other variations to deductibility

- Uncertainty as to location of employment
  - Does not mean uncertainty as to employment but generally cannot be certain of location of work sites
  - Not necessarily required as work can be itinerant although degree of uncertainty is minimal or non-existent
  - Example – TR 95/34 at paragraph 49:
    - Hai is a fruit picker who travels around with the view of finding work. When he finds work, he will stay in that location until the work is completed, and then move on in search of other jobs in the industry.
    - Hai is not engaged in itinerant employment and his travelling and transport costs are not an allowable deduction because the expenses are incurred too early to be regarded as being in the course of carrying out the duties of his employment.
  - Similar example - *Case U97 87 ATC 584*; AAT Case 68 (1987) 18 ATR 3491 :
    - Taxpayer was employed as a fireman. He was attached to a fire station located close to his home in a northern suburb of Sydney, but for some years worked as a relief fireman.
    - In that capacity, he was commonly sent to other fire stations in the Sydney fire district. The only distinguishing feature of his claim was that he travelled to one outer station regularly for a number of days then another outer station for another period.



# Other variations to deductibility

- Home as a base of operations
  - Employment duties required to be able to be discharged home
  - Mere correspondence for ease of convenience will not suffice
- Carrying of **bulky** equipment
  - Workplace must not provide secure location to store such items
  - Equipment must be bulky
    - Bulky:
      - Travelling with acoustic bass, electric bass, relevant amps, trumpet and flugel horn - *FC of T v. Vogt* 75 ATC 4073; (1975) 5 ATR 274
      - Travelling with ladder, shovels, trowels and other cement mixing related equipment – TR 95/34 at paragraph 70
    - Not bulky:
      - Travelling with a 20kg duffle bag whose contents could be stored in a locked in the workplace - *Case 43/94* 94 ATC 387; AAT Case 9654 (1994) 29 ATR 1031
      - Travelling with a small tool box (electrician) – TR 95/34 at paragraph 71 noting electrician work may qualify as itinerant



# Self-education travel

- Usual rules apply with key variation in replacing work related with self-education related
- TR 2023/D1 contains modernisation of deductibility of self-education expenses
  - An employee's income-earning activities are based on the exercise of a skill or some specific knowledge and the self-education enables the employee to maintain or improve that skill or knowledge
  - The self-education objectively leads to, or is likely to lead to, an increase in an employee's income from their current income-earning activities in the future.
- Note exceptions that deny deductibility
  - The self-education will enable an employee to get employment, to obtain new employment or to open up a new income-earning activity.
  - The employee is not undertaking income-earning activities to derive assessable income at the time the employee incurred the expenses. These expenses are not connected to any income-earning activity at the time they are incurred.



# Self-education travel

- Travel to place of education will be deductible (but cannot be a place of regular work)
- Accommodation, food and drink expenses follows similar rules
- International travel follows general principles again appreciating distinction between 'living at the location' and travelling for self-education

# Contact details

## Darius Hii

Tax and estate planning lawyer; Chartered Tax Advisor; and Director at  
Chat Legal Pty Ltd

[darius@chatlegal.com.au](mailto:darius@chatlegal.com.au)

0403923374