IT 2566 - Income tax : deductibility of travelling expenses of employee, spouse and family incurred by employer in relocating the employee.

This cover sheet is provided for information only. It does not form part of *IT 2566 - Income tax : deductibility of travelling expenses of employee, spouse and family incurred by employer in relocating the employee.*

TAXATION RULING NO. IT 2566

INCOME TAX : DEDUCTIBILITY OF TRAVELLING EXPENSES OF EMPLOYEE, SPOUSE AND FAMILY INCURRED BY EMPLOYER IN RELOCATING THE EMPLOYEE.

F.O.I. EMBARGO: May be released

REF N.O. REF: 86/2377-5 DATE OF EFFECT: Immediate

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

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1011654	EMPLOYEE - TRANSFER IN LOCALITY OF EMPLOYMENT TRAVELLING EXPENSES RELOCATION COSTS	51(1), 51AG FBTAA 58F, 143A

OTHER RULINGS ON TOPIC: IT 2173, IT 2199, IT 2406, IT 2481

PREAMBLE This office has recently been asked to comment on the inter-relationship between the exemption from fringe benefits tax (FBT) on costs related to employee relocations and the operation of section 51AG of the Income Tax Assessment Act 1936.

2. The concern raised was that whilst an employer may be exempt from FBT on travel costs relating to a relocation, an income tax deduction for the travel costs associated with moving the employee's spouse and family to the new work location may be denied due to the operation of section 51AG.

RULING 3. Section 51AG applies to a situation where an employee is travelling on duty (e.g., attending a conference) and the employee is accompanied by his or her spouse or family. In general, if the employer pays the travelling expenses of the spouse or family no income tax deduction is allowable for such expenses.

4. By contrast, it is considered that an employee who is travelling to commence employment duties at a new work location is not travelling on duty. The employment duties do not commence until the employee reports for work at the new location. If an employer pays the travelling costs of getting the employee, his or her spouse and family to the new work location such costs are allowable income tax deductions to the employer. Section 51AG does not apply in these situations.

5. This ruling has equal application in situations where the employee is changing work locations but remains in the employ of the same employer and situations where the employee relocates to take up employment with a new employer.

COMMISSIONER OF TAXATION
16 November 1989