

# ***IT 117 - Travelling expenses - between home and employment***

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TAXATION RULING NO. IT 117

TRAVELLING EXPENSES - BETWEEN HOME AND EMPLOYMENT

F.O.I. EMBARGO: May be released

REF

N.O. REF: 73/4879 F134

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED: 28.08.74

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1100656	TRAVELLING EXPENSES - BETWEEN HOME AND EMPLOYMENT	51(1)

OTHER RULINGS ON TOPIC: IT 112, 113

PREAMBLE

This ruling was issued as a consequence of a decision of Board of Review No.2, reported as 19 CTBR(NS) Case 61: 74 ATC Case F43. the case dealt with a claim for a deduction for expenses incurred by the taxpayer in travelling between home and place of employment.

FACTS

2. The question at issue in the reference concerned the deductibility of expenses incurred by the taxpayer in travelling on week days between his home, some 20 miles distant from a capital city, and his place of employment in the city, and between his home and a different place of employment, also in the city, at weekends. The taxpayer was also engaged in growing strawberries on land adjoining his home.

3. It was the taxpayer's contention that, throughout the year under review, he was engaged in the business of strawberry growing and that the deduction he sought represented the cost of travelling between two places of income production which was allowable under section 51.

4. The Commissioner accepted that, as from the beginning of May in the year under review, the taxpayer was engaged in partnership in a business of strawberry growing. It was also accepted that the taxpayer travelled 803 miles on purely business purposes and some 441 miles for dual purposes e.g. on some occasions when he taxpayer travelled to his place of employment in the city he also attended to some matter in relation to his business. During the course of the hearing the Commissioner's representative conceded that one-half of the costs of the journeys totalling 441 miles might be treated as being deductible. As to the balance of the costs of travelling between his home and his places of employment it was argued for the Commissioner that any amount so spent were not incurred in gaining or producing his assessable income in the relevant sense and, in any event, they were of a private or domestic nature.

5. The Board did not find it necessary to decided the question whether the taxpayer was carrying on business. It proceeded on the basis that, throughout the year, the taxpayer was engaged either alone or in partnership in the commercial growing of strawberries at the place where he resided. After reviewing all the authorities the Board felt compelled by the decision in Lunney v FC of T (1958) 100 CLR 478 to conclude the matter against the taxpayer on the grounds that the cost of travelling between home and a place of employment must in every instance be rejected as a deduction even if, at the place of the taxpayer's residence, he also has a place of income production. In the result the Board allowed the taxpayer a deduction of \$74 attributable to the 1,024 miles accepted by the Commissioner as business mileage.

RULING

6. Although there must be some doubt whether the Board's interpretation of the decision in Lunney's case would be followed in every case of this nature he decision is accepted as strengthening he official view that this sort of travelling expenditure is not of a business character but essentially of private or domestic nature.

7. In other cases of this nature, therefore, the approach of the Board should be followed and a deduction for travelling expenses limited to the amounts spent for purely business purposes. No deduction is to be allowed for the cost of travelling between home and the place of employment or business even, if on some occasions, the taxpayer attends to some business matter or other.

COMMISSIONER OF TAXATION