



# ***TR 94/20 - Income tax: employee work related deductions for police officers***

 This cover sheet is provided for information only. It does not form part of *TR 94/20 - Income tax: employee work related deductions for police officers*

 This document has changed over time. This is a consolidated version of the ruling which was published on *23 June 1994*



# Taxation Ruling

## Income tax: employee work related deductions for police officers

### other Rulings on this topic

IT 85; IT 112; IT 117; IT 208  
IT 327; IT 2062; IT 2198;  
IT 2230; IT 2261; IT 2326;  
IT 2370; IT 2406; IT 2416;  
IT 2452; IT 2460; IT 2477;  
IT 2481; IT 2543; IT 2566;  
IT 2614; IT 2641; IT 2644;  
IT 2673; IT 2686; MT 2027  
TR 92/8; TR 92/20; TR 93/30  
TR 94/22; TD 92/142;  
TD 92/154; TD 92/157;  
TD 92/163; TD 93/49;  
TD 93/55; TD 93/68;  
TD 93/69; TD 93/108;  
TD 93/112; TD 93/113;  
TD 93/114; TD 93/115;  
TD 93/117; TD 93/159;  
TD 93/174; TD 93/244

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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 deals with deductions for work-related expenses generally claimed by police officers. Police Departments employ two types of personnel: police officers and support staff (eg accountants, clerical staff, forensic scientists, etc). Support staff employed by Police Departments are not covered in this Ruling.
2. This Ruling discusses whether deductions are allowable under either subsection 51(1), sections 51AE, 54 and 55 of the *Income Tax Assessment Act 1936*.
3. This Ruling also gives guidance on substantiation for work-related expenses claims.

### Date of effect

4. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling does not apply to police officers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of the issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).
5. If a police officer has a more favourable private ruling (whether legally or administratively binding), this Ruling applies to that police officer to the extent of the inconsistency only from and including the 1994-1995 year of income.

## Ruling

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6. Deductions for police officers' work-related expenses are listed below in alphabetical order. For further explanation, refer to the paragraphs references in brackets in the Explanations section.

### **Allowances and reimbursement**

7. The receipt of an allowance does not normally entitle police officers to deductions for expenses incurred in relation to the allowance.

8. A claim can only be made against an allowance if expenditure is incurred, it is allowable as a deduction and the requirements of the substantiation provisions are satisfied.

9. If the expenses incurred are allowable and the substantiation requirements are satisfied, the amount allowable is not limited by the amount of the allowance received.

10. Generally, if police officers receive a reimbursement, the amount is not included as assessable income and a deduction is not allowable. However, if the reimbursement is for the cost of a depreciable item, a depreciation expense is allowable. Similarly, if a reimbursement is received for motor vehicle expenses and that reimbursement is calculated on a cents per kilometre basis, the amount reimbursed is included as assessable income and expenses incurred for motor vehicle expenses are allowable deductions. Taxation Determination TD 93/145 and paragraphs 283 to 291 of this Ruling provide further information on the deductibility of depreciation on equipment.

11. Allowances commonly received by police officers, and their tax treatment, are listed below in alphabetical order -

**Airwing allowance:** This allowance is paid to police officers in the Northern Territory. Expenses incurred against an airwing allowance are not allowable. Deductions for the cost of obtaining an instrument flying rating are allowable (paragraphs 59 to 60).

**At sea allowance:** This allowance is paid to police officers in the Northern Territory. Expenses incurred against an at sea allowance are partially allowable (paragraphs 61 to 63).

**Bandsmen allowance:** This allowance is paid to police officers in South Australia and Western Australia. Expenses incurred against a bandsmen allowance may be allowable (paragraphs 64 and 66).

**Boot allowance:** This allowance is paid to police officers in Western Australia. Expenses incurred against a boot allowance may be allowable (paragraphs 67 to 69).

**Bush patrol allowance:** This allowance is paid to police officers in Queensland. Expenses incurred against a bush patrol allowance are deductible (paragraphs 70 to 71).

**Camp allowance:** This allowance is paid to police officers in Western Australia South Australia and Tasmania. Expenses incurred against a camp allowance may be allowable (paragraphs 72 to 77).

**Civilian clothing allowance:** This allowance is paid to police officers in Victoria. Expenses incurred against a civilian clothing allowance are generally not allowable (paragraphs 78 to 80).

**Clothing allowance:** This allowance is paid to police officers in Queensland and Western Australia. Expenses incurred against a clothing allowance are generally not allowable (paragraphs 81 to 83).

**Consolidated allowance:** This allowance is paid to police officers in the Northern Territory. Expenses incurred against a consolidated allowance are not allowable (paragraph 84).

**Depreciation disturbance allowance:** This allowance is paid to police officers in New South Wales. Expenses incurred against a depreciation disturbance allowance are not allowable (paragraphs 85 to 86).

**Detective allowance:** This allowance is paid to police officers in Queensland. Deductions for payments to informants made by police officers during the course of their duties and which have not been reimbursed by the Police Department are allowable (paragraphs 87 and 88).

**Dislocation, depreciation and education allowance:** This allowance is paid to police officers in Queensland. Expenses incurred against a dislocation, depreciation and education allowance are not allowable (paragraphs 89 to 90).

**Diving allowance:** This allowance is paid to police officers in Queensland. Expenses incurred against a diving allowance are not allowable (paragraphs 91 and 92).

**Dog handler's allowance:** This allowance is paid to police officers in Queensland. Expenses incurred against a dog handler's allowance are not allowable (paragraphs 93 to 94).

**Excess fares and travelling allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against an excess fares and travelling allowance are allowable (paragraphs 95 to 96).

**Fingerprint section allowance:** This allowance is paid to police officers in the Northern Territory. Expenses incurred against a fingerprint section allowance are not allowable. Deductions for the cost of obtaining the relevant qualifications are allowable (paragraphs 97 to 98).

**First aid allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against a first aid allowance are not allowable. Deductions for the cost of obtaining a first aid certificate are allowable (paragraphs 99 to 101).

**Freight of perishables allowance:** This allowance is paid to police officers in the Northern Territory. Expenses incurred against a freight of perishables allowance are not allowable (paragraphs 102 to 104).

**Housing allowance:** This allowance is paid to police officers in the Northern Territory. Expenses incurred against a housing allowance are not allowable (paragraphs 105 and 106).

**In-charge allowance:** This allowance is paid to police officers in Tasmania. Expenses incurred against an in-charge allowance are not allowable (paragraphs 107 to 109).

**Incidental expenses allowance:** This allowance is paid to police officers in Tasmania. Expenses incurred against an incidental expenses allowance are allowable (paragraphs 110 to 112).

**In lieu of quarters allowance:** This allowance is paid to police officers in the Northern Territory and Western Australia. Expenses incurred against an in lieu of quarters allowance are not allowable (paragraphs 113 and 114).

**In lieu of uniform allowance:** This allowance is paid to police officers in the New South Wales. Expenses incurred against an in lieu of uniform allowance are generally not allowable (paragraphs 115 to 117).

**Isolated area expenses allowance:** This allowance is paid to police officers in Tasmania and in Western Australia (district allowance). Expenses incurred against an isolated area expenses allowance are not allowable (paragraphs 118 to 120).

**Kilometre allowance:** This allowance is paid to police officers in Victoria. Expenses incurred against a kilometre allowance may be allowable (paragraphs 121 to 122).

**Living allowance:** This allowance is paid to police officers in New South Wales. Expenses incurred against a living allowance are not allowable (paragraphs 123 to 125).

**Locality allowance:** This allowance is paid to police officers in Queensland and South Australia. Expenses incurred against a locality allowance are not allowable (paragraphs 126 to 128).

**Lodging allowance:** This allowance is paid to police officers in Western Australia. Expenses incurred against a lodging allowance are not allowable (paragraphs 129 and 130).

**Meal expense allowance:** This allowance is paid to police officers in Tasmania. Expenses incurred against a meal expense allowance are allowable (paragraphs 131 and 132).

**Meal money allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against a meal money allowance are allowable (paragraphs 133 to 134).

**Motor vehicle allowance:** This allowance is paid to police officers in the Northern Territory, South Australia, Tasmania and Western Australia. Expenses incurred against a motor vehicle allowance may be allowable (paragraphs 135 to 136).

**Night duty allowance:** This allowance is paid to police officers in Queensland. Expenses incurred against a night duty allowance are not allowable (paragraphs 137 and 138).

**Northern Territory allowance:** This allowance is paid to police officers in the Northern Territory. Expenses incurred against a Northern Territory allowance are not allowable (paragraphs 139 to 141).

**On call allowance:** This allowance is paid to police officers in New South Wales and South Australia. Expenses incurred against an on call allowance are not allowable. Deductions for work-related telephone calls, telephone rental expenses and motor vehicle expenses may be allowable (paragraphs 142 to 144).

**One-person station allowance:** This allowance is paid to police officers in Tasmania. Expenses incurred against a one-person allowance are not allowable (paragraphs 145 to 147).

**Out of pocket allowance:** This allowance is paid to police officers in South Australia and Tasmania. Deductions for payments to informants made by police officers during the course of their duties and which have not been reimbursed by the Police Department are allowable (paragraphs 148 and 153).

**Out of uniform allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against a plain clothes allowance are generally not allowable (paragraphs 154 to 156).

**Overnight expenses allowance:** This allowance is paid to police officers in Tasmania. Expenses incurred against an overnight expenses allowance are allowable (paragraphs 157 to 158).

**Overtime meal allowance:** Deductions for expenses incurred against an overtime meal allowance paid under an industrial award are allowable (paragraphs 159 to 160).

**Passive duty allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against a passive duty allowance may be deductible (paragraphs 161 to 165).

**Plain clothes allowance:** This allowance is paid to federal police officers and to police officers in the Northern Territory, Queensland, South Australia and Tasmania. Expenses incurred against a plain clothes allowance are generally not allowable (paragraphs 166 to 168).

**Relieving allowance:** This allowance is paid to police officers in Queensland and Tasmania. Expenses incurred against a relieving allowance are allowable (paragraphs 169 and 170).

**Relocation expenses allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against a relocation expenses allowance are not allowable (paragraphs 171 to 172).

**Sea going allowance:** This allowance is paid to police officers in Tasmania. Expenses incurred against a sea going allowance are not allowable (paragraphs 173 to 174).

**Search, attendance and escort allowance:** This allowance is paid to police officers in Western Australia. Expenses incurred against a search, attendance and escort allowance are not allowable (paragraphs 175 to 176).

**Sea victualling allowance:** This allowance is paid to police officers in Tasmania. Expenses incurred against a sea victualling allowance are not allowable (paragraphs 177 to 179).

**Special emergency response team allowance:** This allowance is paid to police officers in Queensland. Expenses incurred against a special emergency response team allowance are not allowable. Deductions for the cost of attending training courses, telephone calls, telephone rental expenses and motor vehicle expenses are allowable (paragraphs 180 to 181).

**Special expenses allowance:** This allowance is paid to police officers in New South Wales. Deductions for payments to informants made by police officers during the course of their duties and which have not been reimbursed by the Police Department are allowable (paragraphs 182 to 183).

**Specialist allowance:** This allowance is paid to police officers in New South Wales and Tasmania. Expenses incurred against a specialist allowance are not allowable. Deductions for the cost of obtaining the relevant qualifications are allowable (paragraphs 184 to 185).

**Spending allowance:** This allowance is paid to federal police officers and to police officers in the Northern Territory. Deductions

for payments to informants made by police officers during the course of their duties and which have not been reimbursed by the Police Department are allowable (paragraphs 186 to 187).

**Stockings allowance:** This allowance is paid to police officers in New South Wales and Queensland. Expenses incurred against a stockings allowance are not allowable (paragraphs 188 to 190).

**Temperate clothing allowance:** This allowance is paid to police officers in the Northern Territory. Expenses incurred against a temperate clothing allowance are generally not allowable (paragraphs 191 to 192).

**Transfer expenses allowance:** This allowance is paid to police officers in Tasmania. Expenses incurred against a transfer expenses allowance are not allowable (paragraphs 193 to 195).

**Travel allowance:** Deductions for expenses incurred against a reasonable travel allowance paid under an industrial award for the cost of accommodation, food, drinks and incidentals are allowable (paragraphs 196 to 197).

**Travel expenses allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against a travel expenses allowance are allowable (paragraphs 199 to 200).

**Uniform and boot allowance:** This allowance is paid to police officers in Western Australia. Deductions for the purchase cost and maintenance of uniforms are allowable. Deductions for the purchase cost of footwear may be allowable (paragraphs 201 to 205).

**Uniform footwear and maintenance allowance:** This allowance is paid to police officers in Victoria. Deductions for the maintenance of uniforms are allowable (paragraphs 206 to 207).

**Water police overnight allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against a water police overnight allowance may be allowable (paragraphs 208 to 212).

**Whyalla living allowance:** This allowance is paid to police officers in South Australia. Expenses incurred against a Whyalla living allowance are not allowable (paragraphs 213 to 215).

12. Work-related expenses commonly incurred by police officers, and their tax treatment, are listed below in alphabetical order -

**Ammunition:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional ammunition used for work-related or training purposes are allowable (paragraphs 216 to 217).

**Beepers, paging units, mobile phones and answering machines:** Deductions for the purchase cost and rental cost of such items are



allowable. An apportionment must be made between work-related and private use (paragraphs 218 to 220).

**Brief cases:** Deductions for the purchase cost of brief cases may be allowable for police officers in certain circumstances (paragraphs 221 to 222).

**Bullet proof jackets/vests or body armours:** Deductions for the purchase cost of bullet proof jackets/vests or body armours are allowable (paragraphs 223 to 224).

**Child care expenses:** Deductions for expenses incurred by police officers on child care expenses are not allowable (paragraphs 225 to 227).

**Clothing, uniforms and footwear:** Expenditure on the purchase and maintenance of clothing is allowable where it is:

- (a) protective
- (b) occupation specific;
- (c) compulsory and meets the requirements of IT 2641;
- (d) non compulsory and registered with the TCFDA or approved in writing by the Australian Taxation Office; or
- (e) conventional but satisfies the deductibility tests as explained in TR 94/22) (paragraphs 228 to 260).

**Plain clothes:** Deductions for the cost of purchasing, replacing and maintaining plain clothes are generally not allowable (paragraphs 238 to 243).

**Physical training clothing:** Deductions for the purchase cost of physical training clothing which are unique and particular to the Police Department are allowable. Deductions for the purchase cost of physical training clothing which form part of a non-compulsory uniform may be allowable. Deductions for the purchase cost of conventional physical training clothing are not allowable (paragraphs 244 to 248).

**Stockings:** Deductions for the purchase cost of stockings are not allowable (paragraphs 249 to 253).

**Maintenance of uniforms and protective clothing:** Deductions for the cost of laundering, dry cleaning, altering or repairing of clothing which is deductible under subsection 51(1) as compulsory uniforms, non compulsory uniforms or protective clothing are allowable (paragraphs 254).

**Sunglasses:** Deductions for the purchase cost of sunglasses are generally not allowable (paragraphs 255 to 260).

**Commissioned Officers Corps' subscription fees and related expenses:** In the Northern Territory, commissioned police officers may belong to the Commissioned Officers Corps. Deductions for the subscriptions fees and any expenses incurred in attending functions, such as food, drinks and entrance fees, are not allowable deductions (paragraphs 261 to 266).

**Computers and software:** The purchase cost of computers and software may be depreciated or deductible in full in the year of purchase. An apportionment must be made between work-related and private use (paragraphs 267 to 273).

**Conferences, seminars and training courses:** Deductions for expenses incurred by police officers in attending conferences, seminars and training courses to maintain or improve their current knowledge or ability to perform their duties are allowable (paragraphs 274 to 282).

**Depreciation of equipment:** Deductions for depreciation of equipment used for work-related purposes are allowable. An apportionment must be made between work-related and private use (paragraphs 283 to 291).

**Driver's licence:** Deductions for the cost of obtaining or renewing a driver's licence are not allowable (paragraphs 292 to 295).

**Equestrian related equipment:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional and/or more sophisticated equipment are allowable. An apportionment must be made between work-related and private use (paragraphs 296 to 299).

**Fines:** Deductions in respect of fines and penalties payable to a court or under a law of the Commonwealth, a State, Territory or a foreign country are not allowable (paragraph 300).

**First aid courses:** Deductions for expenses incurred in obtaining a first aid certificate may be allowable (paragraph 301).

**Fitness expenses:** Deductions for expenses incurred in maintaining a certain degree of fitness may be allowable (paragraphs 302 to 310).

**Gauntlets, holsters, hand grips, handcuffs, holders, pouches, utility belts, etc:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional and/or more sophisticated equipment are allowable (paragraphs 311 to 312).

**Glasses and contact lenses:** Deductions for the purchase cost of prescription glasses or contact lenses are not allowable (paragraphs 313).

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**Guard dogs and security systems:** Deductions for expenses incurred in maintaining guard dogs or installing security systems for the protection of police officers and their families are not allowable (paragraphs 314 to 317).

**Guns and related equipment:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional and/or more sophisticated equipment used for work-related purposes are allowable (paragraphs 318 to 320).

**Gun cleaning materials:** These items are normally supplied and replaced by the Police Department. Deductions for the purchase cost of additional gun cleaning materials are allowable (paragraphs 321 to 322).

**Hairdressing expenses:** Deductions for the cost of hairdressing are not allowable (paragraphs 323 to 325).

**Home office expenses:** Deductions for the running expenses of an home office are allowable for police officers who perform work duty at their place of residence or are entitled to claim self-education expenses. Deductions for the running and occupancy expenses of an home office are allowable for police officers who perform their work duty from their home-based offices (paragraphs 326 to 336).

**Informant expenses:** Deductions for payments to informants made by police officers during the course of their duties and which have not been reimbursed by the Police Department are allowable (paragraphs 337 to 340).

**Meals:** Deductions for the purchase cost of meals consumed while on duty are not allowable unless an award overtime meal allowance has been paid (paragraphs 341).

**Motor vehicle expenses:** In most instances, deductions for the cost of travelling between a principal place of residence and a regular place of employment are not allowable even if no public transport is available. Deductions for motor vehicle expenses may be allowable under certain circumstances (paragraphs 342 to 349).

**Newspapers:** Deductions for the purchase cost of newspapers are not allowable (paragraphs 350 to 352).

**Parking fees and tolls:** Deductions for the cost of parking fees (but not fines) and tolls may be allowable (paragraphs 353 to 355).

**Pistol club membership fees:** Deductions for pistol club membership fees are allowable deductions (paragraphs 356 to 357).

**Police Academy:** Deductions for expenses incurred in attending training courses held at the Police Academy are allowable as self-education expenses (paragraphs 358 to 363).

**Police Citizens Youth Welfare Association:** Donations of \$2 or more to the Queensland Police Citizens Youth Welfare Association are allowable deductions (paragraphs 364 and 365).

**Police dogs:** Deductions for expenses incurred in maintaining and training police dogs are allowable (paragraphs 366 to 370).

**Police Legacy scheme:** Donations of \$2 or more to all State Police Legacy schemes except Tasmania are allowable deductions (paragraphs 371 to 372).

**Police Widows scheme:** Donations of \$2 or more to the Victorian Police Widows scheme are allowable deductions (paragraphs 373 and 374).

**Professional library:** Depreciation on a professional library is allowable as a deduction provided there is a direct nexus between the content of the reference books and the duties performed by police officers (paragraphs 375 to 380).

**Relocation expenses:** Deductions for storage, removal and depreciation expenses incurred by police officers when transferring from one district to another are not allowable (paragraphs 381 to 388).

**Self-education expenses:** Deductions for self-education expenses are allowable provided there exists a real connection between the course of study undertaken and the derivation of police officers' assessable income. If the course of study is undertaken at a recognised place of education then the total amount allowable under subsection 51(1) as self-education expenses is reduced by \$250 (paragraphs 389 to 427).

**Sick leave bank:** Deductions for contributions made towards a sick leave bank are not allowable ( 428 to 431).

**Stationery, street directories and diaries:** Deductions for the purchase cost of stationery, street directories and diaries used for work-related purposes are allowable (paragraphs 432 and 433).

**Technical or professional journals, periodicals and textbooks:** Deductions are allowable for the purchase or subscription cost of technical or professional journals, periodicals and textbooks, provided there is a direct nexus between the content of the publication and the duties performed by police officers (paragraphs 434 to 437).

#### **Telephone expenses**

**Telephone calls:** Deductions for the cost of work-related telephone calls are allowable (paragraphs 438 and 440).

**Telephone installation cost:** Deduction for the cost of installing a telephone is not allowable (paragraphs 441 to 444).

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**Telephone rental expenses:** Deductions for telephone rental expenses may be allowable. An apportionment must be made between work-related and private use (paragraphs 445 to 456).

**Telephone silent number:** Deduction for the cost of obtaining a silent telephone number is not allowable (paragraphs 457 and 458).

**Tools and equipment:** Deductions for the purchase cost of tools or equipment used for work-related purposes are allowable. An apportionment must be made between work-related and private use (paragraphs 460 to 461).

**Unions or associations fees:** Deductions for unions or associations fees are allowable (paragraphs 462 to 464).

**Watches:** Deductions for the purchase cost of conventional watches are not allowable. Deductions for the purchase cost of watches with special characteristics used for work-related purposes are allowable (paragraphs 465 to 470).

## Explanations

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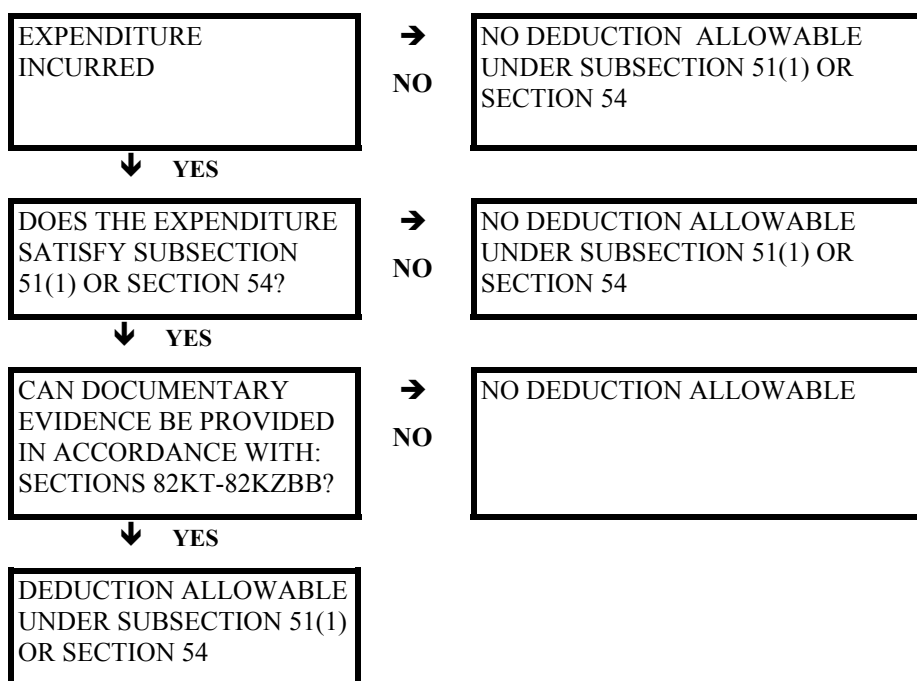
### Deductibility of work-related expenditure

13. Whether or not a deduction is allowable for the types of work-related expenses set out in the Ruling is determined by looking at subsection 51(1), section 54, section 55 and sections 82KT to 82KZBB.

14. Under subsection 51(1), a deduction is available for all losses and outgoings to the extent to which they are:

- incurred in gaining or producing assessable income; or
- incurred in carrying on a business for the purpose of gaining or producing assessable income

except to the extent to which they are losses or outgoings of capital, or of a capital, private or domestic nature, or are incurred in relation to the gaining or producing of exempt income.



15. In short, for expenditure on an item to be a tax deduction, the expense must:

- actually be incurred, and
- meet deductibility tests, and
- satisfy the substantiation rules under sections 82KT to 82KZBB of the ITAA.

### **Expense actually incurred**

16. The expense must actually be incurred by a teacher to be allowable. A deduction is not allowable for expenses not incurred or for expenses that are reimbursed. In addition, a deduction is not allowable for items provided free of charge.

### **Expense meets deductibility tests**

17. The expense must be relevant and incidental to the earning of the income (*Ronpibon Tin NL v. FC of T* (1949) 78 CLR 47; 4 AITR 236). In this case the taxpayer companies were mining companies which, as a result of World War II, were unable to continue part of their normal operations in Malaya. They claimed the entirety of their management and administration expenses. A portion of the deduction was allowed and on the question of deductibility in general it was said that (CLR at 56; ATR at 435):

'For expenditure to form an allowable deduction as an outgoing incurred in gaining or producing the assessable income it must be incidental and relevant to that end.'

18. There needs to be a perceived connection between the expense and the income earning activity (*Hatchett v. FC of T* 71 ATC 4184; (1971) 2 ATR 557). In this case a primary school teacher was denied the costs of studying at university. Although it was argued that this expense would increase the chance of a promotion and in turn, result in earning more income, it was held not to be allowable as there must be a 'perceived connection' between the outgoing and the income gained.

19. The expense must have the essential character of an income producing expense (*Lunney v. FC of T; Haley v. FC of T* (1958) 100 CLR 478; 11 ATD 405, (*Lunney's case*)). The taxpayers in these cases claimed the costs of travelling to and from work. It was held that to be deductible under subsection 51(1) the expenditure must be relevant and incidental to gaining the income, and that this depends on the essential character of the expenditure. The Court said (CLR at 498; ATD at 412.):

'The question whether the fares which were paid by the taxpayers are deductible under s51(1) should not and, indeed, cannot be solved simply by a process of reasoning which asserts that because expenditure on fares from a taxpayer's residence to his place of business is necessary if assessable income is to be derived, such expenditure must be regarded as 'incidental and relevant' to the derivation of such income...

...Whether or not it should be so characterised depends upon considerations which are concerned more with the essential character of the expenditure itself.'

20. In *Lunney's case* it was held the expenditure incurred in travelling to and from work did not have the essential character of an income producing expense. Its character was private.

21. In *FC of T v. Cooper* 91 ATC 4396; (1991) 21 ATR 1616 (*Cooper's case*), Hill J said (ATC at 4414; ATR at 1616):

'...the fact that the employee is required, as a term of his employment, to incur particular expenditure does not convert expenditure that is not incurred in the course of the income producing operations into a deductible outgoing.'

(In *Cooper's case* a professional footballer was denied the cost of purchasing food and drink. His coach had instructed him to consume additional food, so he would not lose weight during the football season.)

22. However, the fact that an expense is voluntary does not preclude an item from being deductible. See Taxation Ruling IT 2198 - *Allowable deductions: expenditure voluntarily incurred by employee taxpayers.*

23. A further important consideration may be the taxpayer's subjective purpose in incurring an expense. In the High Court decision of *Fletcher v. FC of T* 91 ATC 4950; (1991) 22 ATR 613 (*Fletcher's case*) it was held that subjective purpose may be taken into account, where an expense is voluntarily incurred and the connection between the production of the income and the expense is not objectively clear. *Fletcher's case* also emphasised that subsection 51(1) issues may turn on a characterisation of the expense.

24. A deduction will be denied under the exclusion clauses of subsection 51(1) where it is incurred for an item that is either:

- private or domestic in nature
- capital or capital in nature
- incurred in earning tax exempt income

25. Expenditure on items that are private or domestic in nature is expressly denied under the exclusionary clauses of subsection 51(1). Private or domestic expenditure is considered to include costs of living such as food, drink, shelter and clothing. In *Case T47*, 1968 TBRD 243; 14 CTBR (NS) 56 J.F. McCaffrey stated (TBRD at 243; CTBR at 307):

'In order to live normally in society, it is a prerequisite that individual members thereof be clothed, whether or not they go out to work. In general, the expenditure thereon is properly characterised as a personal or living expense...'

### **Expense satisfies the substantiation rules**

26. The following paragraphs give guidance on general rules of substantiation.

#### ***\$300 limit for substantiation***

27. If the total claim for work related expenses is less than \$300 then the substantiation provisions do not apply in accordance with subsection 82KZB(2) of the ITAA.

28. Expenses that are related to Overtime Meal Allowances and Award Travel Allowances and car expenses that are claimed using the Set Rate per km or 12% of cost method are not included in the \$300 limit [82KZB(2)].



29. Where the total of 'employment-related' expenses, travel and car expenses exceeds \$300, then the total of the claims must be substantiated, not just the excess (see TD92/163).

***What records must be kept***

30. Receipts for expenses must be kept which have the following details:

- name of the person or business who supplied the goods or services;
- date on which the expense was incurred;
- amount in the currency in which the expense was incurred;
- nature of the goods and services supplied;
- date on which the document was made out.

31. In addition the document must be in the English language. If the expense was incurred outside Australia the document must be in a language of the country where the expense was incurred [ 82KU(1)].

***Diaries***

32. An entry in a diary or similar document:

- (i) is required in addition to receipts for activities undertaken while travelling where you either received a travelling allowance or you incurred travel expenses [82KZ(2)];
- (ii) may be used instead of receipts for expenses of \$10 or less up to a total of \$200 [82KU(6) and (7)]; or
- (iii) may be used instead of receipts for expenses which the Commissioner is satisfied are undocumentable expenses (such as tollway or parking meter expenses) [82KU(6), (7) and (8)].

***What entries must be made in a diary***

33. In relation to an eligible expense, a travel allowance or a travel expense the following entries must be made for each activity engaged in by the taxpayer:

- date the entry was made;
- place where the activity was undertaken;
- date and approximate time when the activity started;
- duration of the activity; and
- nature of the activity.

***When must entries be made***

34. The entries must be in the English language and must be made before, at the time of, or reasonably soon after the activity ended [82KZ(2)].

***When do entries need to be signed***

35. Diary entries in a **travel diary** do not need to be signed by the person making the entry. However, **diary entries for expenses** mentioned in paragraphs 36 and 37 need to be signed at the time of making the entry [82KU(6)]. Where a number of entries are made on the same day only one signature at the time of the last entry is required.

***Small amounts under \$10 per expense***

36. Where a taxpayer incurs expenses under \$10 per item and the total expenses in a year of income is less than \$200 the taxpayer does not need to provide receipts [82KU(7)].

37. In relation to these expenses an entry must be made in a diary which records:

- the same details required for a receipt;
- the date of the entry; and
- the name of the person making the entry and their signature [82KU(6)].

38. Examples of such expenses would be take-away meals, writing materials or trade magazines.

***Undocumentable expenses***

39. A taxpayer does not need to provide receipts for expenses incurred where the Commissioner is satisfied that it would be unreasonable to expect the taxpayer to get a receipt [82KU(8)].

40. A signed diary entry recording the same details as a receipt, the name of the person making the entry and the date of the entry must be made at the time the expense was incurred or as soon as is reasonably practical to the time of incurring the expense.

**Methods of claiming motor vehicle expenses*****Quick reference guide***

41. The following table is a quick reference to the four available methods:

**TR 94/20**

<b>Method</b>	<b>Available if</b>	<b>Requirements</b>
<b>Set rate per kilometre subsection 82KX</b>	Up to 5000 business km. Not if leased for less than 12 months.	Reasonable estimate of business km travelled.
<b>12% of cost subsection 82KW(3) and (4)</b>	More than 5000 business km. Not if leased for less than 12 months.	Reasonable estimate that more than 5000 business km travelled. Documentary evidence of cost of car. Limited to 12% of \$48,415 (section 57AF).
<b>1/3 of actual car expenses subsection 82KW(2)</b>	More than 5000 business km. Not if leased for less than 12 months.	Reasonable estimate that more than 5000 business km travelled. Documentary evidence of car expenses or, for fuel and oil expenses, odometer records.
<b>Log book method subsections 82KUA to KV</b>	Any business km.	At first, keep log book for 12 continuous weeks. May need to repeat if more cars, changed use. Odometer records at start and end of log book period. Odometer records for start and end of subsequent years. Documentary evidence of car expenses or, for fuel and oil, odometer records.

***Definition of Car***

42. A car is a motor vehicle (including a four wheel drive vehicle), being:

- a motor car, station wagon, panel van, utility truck or a similar vehicle, or
- any other road vehicle designed to carry a load of less than 1 tonne or fewer than 9 passengers,

but does not include:

- a motor cycle or similar vehicle;
- a taxi taken on hire;
- a motor vehicle on short term hire [82KT(1)].

43. Expenses of operating trucks and commercial vehicles are not usually covered by the substantiation provisions.

***Definition of Car Expenses***

44. Car expenses include:

- operating costs;
- repairs;
- depreciation;
- interest on money borrowed to buy the car;
- other borrowing costs;
- lease costs including preparation, registration and stamping of the lease or of assignment or surrender of the lease; and
- costs (other than principal or interest) of discharging a mortgage given as security for repayment of money borrowed to buy the car [82KT(1)].

45. Car expenses do not include:

- expenses incurred in respect of travel outside Australia; or
- a taxi fare or similar expense [82KT(1)].

***Elections***

46. A taxpayer can elect one of the four methods for substantiating motor vehicle expenses. That election should be made before the date of lodgment of the return to which the election relates. The Commissioner will allow further time for this election to be made [82KY(1)]. A taxpayer can change the method for substantiating motor vehicle expenses from year to year.

47. The election should be held with the calculations of the car expenses by the taxpayer and must be produced when requested by the

Tax Office. In the case of an electronically lodged return the election should be held with the paper return.

48. Where no election is made the claim for car expenses will be the greater of:-

- one third of actual expenses; or
- 12% of cost of the car; or
- set rate per kilometre where the car has travelled less than 5000 kilometres for business purposes [82KY(2)].

49. The substantiation requirements of each of these methods must still be met for the claim to be allowed.

### ***Log books***

50. A daily log book must have the following particulars:

- date of the journey;
- odometer readings at the beginning and end of the journey;
- number of kilometres travelled;
- purpose of the journey;
- name of the driver;
- date on which the journey was made; and
- name of the person making the journey (see MT 2026).

The entry must be signed by the person making the entry [82KT(1)].

51. Where a number of journeys are made in the one day, it is acceptable for the last entry of the day to be signed. Where the car makes several consecutive business journeys during the day, those consecutive trips can be treated as one for log book purposes [82KT(2)].

52. For a more detailed explanation of the Log Book Method see IT 2549 and MT 2026.

### **Retention periods for documents**

53. For car or travel expenses which are incurred in the course of producing assessable income which is not salary or wages the retention period is from when the expense was incurred or record was commenced to 7 years after the return of income was lodged.

54. For salary and wage earners the record retention period is 3 years 6 months after the date of the of lodgment of the return of income in which the claim is made.

55. If an objection, request for amendment, review or appeal arising out of an objection decision has not been finalised at the end of the retention period, the retention period extends until the matter is determined or disposed of [82KT(1) and 82KZA].

***When do records need to be produced***

56. Subsection 82KZA(2) requires the Commissioner to serve a notice in writing on a taxpayer which gives a specified period of not less than 28 days to produce documentary evidence relating to expenses to the Tax Office.

***What form of records must be produced***

57. When a notice has been served, the taxpayer must produce the documentary evidence related to the expenses including:

- receipts;
- odometer records;
- log books;
- travel diaries; and
- expense diaries.

58. In addition the taxpayer must produce a schedule in the English language and in a form approved by the Commissioner:

- a cross-reference to the documentary evidence of the expense;
- in relation to the cross-reference, a summary of the particulars set out in the documentary evidence together with, in a case where the expense was incurred in a foreign currency, particulars of the amount of the expense in Australian currency [82KZA(3)]

**Allowances**

***Airwing allowance***

59. In the Northern Territory, police officers attached to the Airwing squad are paid an allowance according to the instrument flying rating they hold. This allowance is paid in recognition of the special skills and qualifications obtained by police officers to carry out their duties. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against an airwing allowance are not allowable deductions under subsection 51(1).

60. However, deductions are allowable to police officers in receipt of this allowance for the cost incurred in obtaining the instrument

flying ratings as self-education expenses. Such expenses contribute directly to police officers' increase in salary. Paragraphs 389 to 427 of this Ruling provide further information on the deductibility of self-education expenses.

**At sea allowance**

61. In the Northern Territory, police officers employed in the Police Marine and Fisheries squad are paid an at sea allowance when their vessel is absent from its home port, and docked at another port, overnight. There are two components to this allowance. The first component is a travel allowance. The second component is a lump sum paid instead of an overtime meal allowance, penalty and overtime payments.

62. Deductions for expenses incurred against the travel component of this allowance are allowable deductions under subsection 51(1). Paragraphs 196 to 197 of this Ruling provide further information on the deductibility of a travel allowance.

63. The component of this allowance paid instead of an overtime meal allowance, penalty and overtime payments is a lump sum calculated as 37.5% of the daily base salary of a senior constable. This component is not a reimbursement or a payment for expenses incurred by police officers in the normal course of duty. Expenses incurred against this component of the allowance are not allowable deductions under subsection 51(1).

**Bandsmen allowance**

64. In South Australia, a bandsmen allowance is paid to police officers attached to the Police Band for performing community relation services in the form of entertainment, maintenance costs of special performance uniforms, cleaning materials for musical instruments, purchasing or repairing costs of musical instruments' parts and sheet music.

65. Deductions are not allowable in respect of entertainment expenses for food, drink or recreation under subsection 51(1) pursuant to section 51AE.

66. However, deductions are allowable for the cost incurred in maintaining special performance uniforms (paragraph 254), cleaning materials for musical instruments, purchasing and repairing musical instruments' parts and sheet music.

**Boot allowance**

67. In Western Australia, police officers are paid an allowance to purchase footwear as part of their compulsory uniform. Police officers have the choice of wearing black steel-capped boots or black conventional shoes.

68. Black steel-capped boots are considered protective footwear and deductions for the purchase cost of these items are allowable under subsection 51(1). Paragraphs 229 to 230 of this Ruling provide further information on the deductibility of protective footwear.

69. The purchase of conventional shoes is considered to be private in nature and no deductions are allowable under subsection 51(1) regardless of the colour imposed by the Police Department. Paragraphs 238 to 243 of this Ruling confirm that expenses incurred on conventional footwear are not deductible.

#### **Bush patrol allowance**

70. In Queensland, police officers who are required to camp in the bush while carrying out surveillance or other duties are paid a bush patrol allowance. This allowance is paid as partial reimbursement for the wear and tear on tents, sleeping bags and other camping equipment provided by police officers in lieu of accommodation.

71. Depreciation for the purchase cost of tents, sleeping bags and other camping equipment provided by police officers are allowable deductions under subsection 51(1) or subsection 54(1). Paragraphs 283 to 291 of this Ruling provide further information on depreciation of equipment.

#### **Camp allowance**

72. This allowance is paid to police officers in South Australia and Tasmania.

73. In South Australia, police officers who are required, in the performance of their duties, to camp and are away from their normal place of residence for a period of time are paid a camp allowance. There are three distinct components to this allowance which are paid as individual components. The first component is paid in lieu of a food component of a reasonable travel allowance, the second component as partial reimbursement for the wear and tear on tents, sleeping bags and other camping equipment provided by police officers and the third component as a compensation for the inconvenience, isolation and discomfort of their employment conditions.

74. In Tasmania, police officers who are required, in the performance of their duties, to camp and are away from their normal



place of residence overnight are paid a camp allowance. This allowance is not a living away from home allowance or a travelling allowance. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions.

75. Expenses incurred against the isolation component of the allowance are not allowable deductions under subsection 51(1). It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

76. Expenses incurred against the overtime meal allowance are allowable deductions. Paragraphs 159o 160 provides further information on the deductibility of an overtime meal allowance.

77. Depreciation for the purchase cost of tents, sleeping bags and other camping equipment provided by police officers are allowable deductions under subsection 51(1) or subsection 54(1). Paragraphs 283 to 291 of this Ruling provide further information on depreciation of equipment.

### **Civilian clothing allowance**

78. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all personnel employed as police officers by the Police Department.

79. In Victoria, a civilian clothing allowance is paid to all police officers who are required to wear plain clothes while on duty. It is paid to cover expenses incurred by police officers in purchasing conventional clothing.

80. The cost of conventional clothing worn at work is generally a private expense. It is our view, that in most cases plain clothes police officers will be unable to show a sufficient connection between expenditure on plain clothes and income earning activities. Therefore, expenses incurred against a clothing allowance are generally not allowable deductions under subsection 51(1). Paragraphs 238 to 243 of this Ruling confirm that expenses incurred on conventional clothing are generally not deductible.

**Clothing allowance**

81. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all personnel employed as police officers by the Police Department.

82. In Queensland and Western Australia, a clothing allowance is paid to all police officers who are required to wear plain clothes while on duty. It is paid to cover expenses incurred by police officers in purchasing conventional clothing.

83. The cost of conventional clothing worn at work is generally a private expense. It is our view, that in most cases plain clothes police officers will be unable to show a sufficient connection between expenditure on plain clothes and income earning activities. Therefore, expenses incurred against a clothing allowance are generally not allowable deductions under subsection 51(1). Paragraph 238 to 243 of this Ruling confirm that expenses incurred on conventional clothing are generally not deductible.

**Consolidated allowance**

84. In the Northern Territory, a consolidated allowance is paid in lieu of shift penalties payable when police officers work overtime. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a consolidated allowance are not allowable deductions under subsection 51(1).

**Depreciation disturbance allowance**

85. In New South Wales, police officers are paid a depreciation disturbance allowance as compensation for accelerated depreciation on personal household effects when transferring from one locality to another.

86. Expenses incurred against a depreciation disturbance allowance are not allowable deductions under subsection 51(1). Paragraphs 381 to 388 of this Ruling confirm that expenses incurred on relocation are not deductible.

**Detective allowance**

87. In Queensland, a detective allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

88. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 337 to 340 of this Ruling provide

further information on the deductibility of payments made to informants.

## **Dislocation, depreciation and education allowance**

89. In Queensland, police officers are paid a dislocation, depreciation and education allowance when they are transferred from one locality to another as compensation for the inconvenience of moving, depreciation of furniture and disruption to the education of their children.

90. Expenses incurred against a dislocation, depreciation and education allowance are not allowable deductions under subsection 51(1). Paragraphs 381 to 388 of this Ruling confirm that expenses incurred on relocation are not deductible.

## **Diving allowance**

91. In Queensland, police officers are paid a diving allowance every time they are required to participate in a diving exercise for work-related purposes. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes.

92. Expenses incurred against a diving allowance are not allowable deductions under subsection 51(1).

## **Dog handler's allowance**

93. In Queensland, police officers attached to the Dog Handler's Squad are paid an allowance representing additional income for extra duties and responsibility undertaken during the course of their duties. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a dog handler's allowance are not allowable deductions under subsection 51(1).

94. However deductions are allowable for the cost of maintaining, feeding, grooming, exercising and training police dogs. Paragraphs 366 to 349 provides further information on the deductible of expenses incurred in relation to police dogs.

## **Excess fares and travelling allowance**

95. In South Australia, an excess fares and travelling allowance is paid to police officers temporarily assigned to duties at a police station other than their usual police station which involves travel in excess of that usually incurred. The period of the temporary transfer

can not exceed 6 consecutive weeks. Wages are paid at ordinary rates for the extra travelling time taken to get to work. Fares and motor vehicle expenses are reimbursed for the extra cost involved in travelling to the alternate place of employment.

96. Expenses incurred against an excess fares and travelling allowance are allowable deductions under subsection 51(1). Paragraphs 342 to 449 of this Ruling provide further information on the deductibility of motor vehicle expenses.

### **Fingerprint section allowance**

97. In the Northern Territory, a fingerprint allowance is paid to police officers attached to the Fingerprint squad. This allowance is paid as a recognition of the expertise and special qualifications obtained by police officers to carry out their duties. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a fingerprint section allowance are not allowable deductions under subsection 51(1).

98. However, deductions are allowable to police officers in receipt of this allowance for the cost incurred in obtaining the relevant qualifications (eg Associate Diploma of Applied Science in Dactylography) as self-education expenses. Such expenses contribute directly to an increase in police officers' salary. Paragraphs 389 to 427 this Ruling provide further information on the deductibility of self-education expenses.

### **First aid allowance**

99. In South Australia, police officers who are appointed as a First Aid officer are paid a daily allowance in recognition of the extra responsibility assumed.

100. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a first aid allowance are not allowable deductions under subsection 51(1).

101. However, deductions are allowable for the costs incurred in obtaining a first aid certificate. Such expenses contribute directly to police officers' increase in salary. Paragraph 301 of this Ruling provides further information on the deductibility of first aid courses.

## **Freight of perishables allowance**

102. In the Northern Territory, police officers permanently stationed in an isolated locality are paid an allowance for the cost of freight of perishables to the isolated locality.

103. This allowance is paid to reimburse police officers for the additional transportation expenses incurred to the isolated locality. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a freight of perishables allowance are not allowable deductions under subsection 51(1).

104. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

## **Housing allowance**

105. In the Northern Territory, a housing allowance is paid to police officers who are not supplied with their own private accommodation by the Police Department.

106. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a housing allowance are not allowable deductions under subsection 51(1).

## **In-charge allowance**

107. In Tasmania, police officers are paid an allowance as compensation for the disturbance of leisure time after normal hours of duty, stand by availability, extra responsibility and in lieu of overtime.

108. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against an in-charge allowance are not allowable deductions under subsection 51(1).

109. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

**Incidental expenses allowance**

110. In Tasmania, police officers are paid an incidental expenses allowance when they attend training courses, conferences or similar functions where accommodation, drink and food are provided free of charge.

111. This allowance represent the incidentals component of a reasonable travel allowance paid under an industrial award.

112. Expenses incurred against an incidental expenses allowance are allowable deductions under subsection 51(1). Paragraphs 196 to 197 of this Ruling provide further information on the deductibility of the various components of a reasonable travel allowance paid under an industrial award.

**In lieu of quarters allowance**

113. In the Northern Territory and Western Australia, an in lieu of quarters allowance is paid as a rental subsidy to police officers who have not been provided with rent free housing by the Police Department.

114. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against an in lieu of quarters allowance are not allowable deductions under subsection 51(1).

**In lieu of uniform allowance**

115. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all personnel employed as police officers by the Police Department.

116. In New South Wales, an in lieu of uniform allowance is paid to all police officers who are required to wear plain clothes while on duty. It is paid to cover expenses incurred by police officers in purchasing conventional clothing.

117. The cost of conventional clothing worn at work has been held to be normally a private expense. Therefore, expenses incurred against an in lieu of uniform allowance are generally not allowable deductions under subsection 51(1). Paragraphs 238 to 243 of this Ruling confirm that expenses incurred on conventional clothing are generally not deductible.

## **Isolated area expenses allowance**

118. In Tasmania, police officers are paid an isolated area expense allowance to compensate for the additional costs incurred by police officers living in an isolated area including telephone, freight, fuel and depreciation costs.

119. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against an isolated area expense allowance are not allowable deductions under subsection 51(1).

120. Taxation Determination TD 93/49 confirms that expenses against such allowance are not deductible.

## **Kilometre allowance**

121. In Victoria, police officers are paid a kilometre allowance when they are authorised by the Police Department to use their private motor vehicle in the performance of their duties or to travel between their home and their place of duty under certain circumstances.

122. Expenses incurred against a kilometre allowance may be allowable deductions under subsection 51(1). Paragraphs 342 to 347 of this Ruling provide further information on the deductibility of motor vehicle expenses.

## **Living allowance**

123. In New South Wales, police officers are paid a living allowance to compensate for additional costs incurred by police officers residing in a remote area.

124. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a living allowance are not allowable deductions under subsection 51(1).

125. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

## **Locality allowance**

126. In Queensland and South Australia, a locality allowance is paid to police officers who are required to live in a remote location to compensate for additional costs incurred by residing in a remote area.

127. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a locality allowance are not allowable deductions under subsection 51(1).

128. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

### **Lodging allowance**

129. In Western Australia, a lodging allowance is paid to police officers stationed in the metropolitan area who have not been supplied with living quarters by the Police Department.

130. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a lodging allowance are not allowable deductions under subsection 51(1).

### **Meal expense allowance**

131. In Tasmania, a meal expense allowance is another terminology used to describe an award overtime meal allowance.

132. Expenses incurred against a meal expense allowance are allowable deductions under subsection 51(1). Paragraphs 159 to 160 of this Ruling provide further information on the deductibility of an overtime meal allowance paid under an industrial award.

### **Meal money allowance**

133. In South Australia, a meal money allowance is another terminology used to describe an award overtime meal allowance.

134. Expenses incurred against a meal money allowance are allowable deductions under subsection 51(1). Paragraphs 159 to 160 of this Ruling provide further information on the deductibility of an overtime meal allowance paid under an industrial award.

### **Motor vehicle allowance**



135. In the Northern Territory, South Australia, Tasmania and Western Australia, police officers are paid a motor vehicle allowance when they are authorised by the Police Department to use their private motor vehicle in the performance of their duties or are required to work additional shifts at times when normal public transport is not available or to travel between their home and their place of duty under certain circumstances.

136. Expenses incurred against a motor vehicle allowance may be allowable deductions under subsection 51(1). Paragraphs 342 to 349 of this Ruling provide further information on the deductibility of motor vehicle expenses.

## **Night duty allowance**

137. In Queensland, a night duty allowance is paid to police officers who are required to work overtime at the completion of a normal shift. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes.

138. Expenses incurred against a night duty allowance are not allowable deductions under subsection 51(1).

## **Northern Territory allowance**

139. In the Northern Territory, police officers are paid an allowance for the inconvenience of living in a remote area.

140. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a Northern Territory allowance are not allowable deductions under subsection 51(1).

141. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

## **On call allowance**

142. In New South Wales and South Australia, police officers are paid an on call allowance.

143. This allowance is paid to police officers who are required to be on call for work-related purposes for a specific period of time. This allowance is paid whether or not they are required to report for duty. In some instances, they may be required to have a personal paging device at all times. Expenses incurred against an on call allowance are not allowable deductions under subsection 51(1).

144. However, police officers who are on call for work-related purposes are entitled to claim for work-related telephone calls, telephone rental expenses and motor vehicle expenses. Paragraphs 438 to 440, 445 to 456 and 342 to 349 of this Ruling provide further information on the deductibility of telephone calls, telephone rental expenses and motor vehicle expenses respectively.

### **One-person station allowance**

145. In Tasmania, police officers are paid an allowance as compensation for availability, being on call and in lieu of overtime, shift and penalty loading.

146. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a one-person station allowance are not allowable deductions under subsection 51(1).

147. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

### **Out of pocket allowance**

148. This allowance is paid to police officers in South Australia and Tasmania.

149. In South Australia, this allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants, the costs of paging services and the entertainment of interstate detectives.

150. In Tasmania, this allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

151. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 337 to 340 of this Ruling provides further information on the deductibility of payments made to informants.

152. Deductions are allowable for the cost incurred in obtaining paging services. Paragraphs 218 to 220 of this Ruling provides further information on the deductibility of beepers and paging units expenses.

153. Deductions are not allowable in respect of entertainment expenses for food and drinks under subsection 51(1) pursuant to section 51AE.

**Out of uniform allowance**

154. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all personnel employed as police officers by the Police Department.

155. In South Australia, an out of uniform allowance is paid to all police officers who are attached to the uniformed branch but are required to wear plain clothes temporarily for work-related purposes. It is paid to cover additional expenses incurred by police officers in purchasing conventional clothing.

156. The cost of conventional clothing worn at work is generally a private expense. It is our view that in most cases, plain clothes police officers will be unable to show a sufficient connection between expenditure on plain clothes and income earning activities. Therefore, expenses incurred against an out of uniform allowance are generally not allowable deductions under subsection 51(1). Paragraphs 238 to 243 of this Ruling confirm that expenses incurred on conventional clothing are generally not deductible.

**Overnight expenses allowance**

157. In Tasmania, an overnight expenses allowance is another terminology used to describe a reasonable travel allowance paid under an industrial award.

158. Expenses incurred against an overnight expenses allowance are allowable deductions under subsection 51(1). Paragraphs 196 to 197 of this Ruling provide further information on the deductibility of a reasonable travel allowance paid under an industrial award.

**Overtime meal allowance**

159. Deductions are allowable for the cost of overtime meals incurred by police officers where an overtime meal allowance is paid under an industrial award.

160. Taxation Rulings IT 2326, IT 2644 and IT 2686 provide additional information on the deductibility of overtime meal expenses. Paragraphs 159 and 160 of this Ruling provide further information on the deductibility of an overtime meal allowance paid under an industrial award.

**Passive duty allowance**

161. In South Australia, police officers who are instructors at the Police Academy and are required in the performance of their duties to

be away from their normal place of residence overnight are paid a passive duty allowance. There are two components to this allowance.

162. The first component of this allowance is not a living away from home allowance or a travelling allowance. It is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. Expenses incurred against this component of the allowance are not allowable deductions under subsection 51(1).

163. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

164. If no accommodation or food are supplied to the police officers, they are entitled to receive the second component of the allowance. This component is a reasonable travel allowance paid under an industrial award.

165. Deductions for expenses incurred against a reasonable travel allowance are allowable. Paragraphs 196 to 197 provides further information on the deductibility of travel allowances.

#### **Plain clothes allowance**

166. Traditionally, police officers wear compulsory uniforms while on duty. These uniforms are generally provided free of charge to all personnel employed as police officers by the Police Department.

167. Federal police officers and police officers in the Northern Territory, Queensland, South Australia and Tasmania are paid a plain clothes allowance when they are required to wear plain clothes while on duty. It is paid to cover expenses incurred by police officers in purchasing conventional clothing.

168. The cost of conventional clothing worn at work is generally a private expense. It is our view that in most cases, plain clothes police officers will be unable to show a sufficient connection between expenditure on plain clothes and income earning activities. Therefore, expenses incurred against a plain clothes allowance are generally not allowable deductions under subsection 51(1). Paragraphs 238 to 243 of this Ruling confirm that expenses incurred on conventional clothing are generally not deductible.

#### **Relieving allowance**

169. In Queensland and Tasmania, a relieving allowance is another terminology used to describe a reasonable travel allowance paid under an industrial award.

170. Expenses incurred against a relieving allowance are allowable deductions under subsection 51(1). Paragraphs 196 to 197 of this

Ruling provide further information on the deductibility of travel allowances.

## **Relocation expenses allowance**

171. In South Australia, police officers are paid a relocation expenses allowance when they are transferred from one locality to another. This allowance is paid to compensate police officers for the travelling expenses involved in relocating, the transportation costs and the depreciation of furniture.

172. Expenses incurred against a relocation expenses allowance are not allowable deductions under subsection 51(1). Paragraphs 381 to 388 of this Ruling confirm expenses incurred on relocation are not allowable.

## **Sea going allowance**

173. In Tasmania, police officers appointed to the Marine and Rescue squad who are required to perform sea going duties and are away from their normal place of residence overnight are paid an allowance in compensation for extra hours of duties performed and other inconveniences relating to such duties. This allowance is not a reimbursement or a payment of expenses incurred by police officers for work-related purposes.

174. Expenses incurred against a sea going allowance are not allowable deductions under subsection 51(1).

## **Search, attendance and escort allowance**

175. In Western Australia, police officers are paid an allowance each time they are required to search, escort and attend court with a prisoner. This allowance is paid as additional income for extra responsibility undertaken for work-related purposes. This allowance is not a reimbursement or a payment of expenses incurred by police officers for work-related purposes.

176. Expenses incurred against a search, attendance and escort allowance are not allowable deductions under subsection 51(1).

## **Sea victualling allowance**

177. In Tasmania, police officers who are required, in the performance of their duties, to proceed to sea for water patrol duty and are away from their normal place of residence overnight are paid a sea victualling allowance.

178. This allowance is not a living away from home allowance or a travelling allowance. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a sea victualling allowance are not allowable deductions under subsection 51(1).

179. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

### **Special emergency response team allowance**

180. In Queensland, police officers attached to the special emergency response team are paid an allowance for attending relevant training activities or for being on call for short periods of time. This allowance is paid for additional responsibility undertaken in the normal course of duty. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes.

181. Expenses incurred against a special emergency response team allowance are not allowable deductions under subsection 51(1). Expenses incurred in attending training courses are allowable deductions as self-education expenses. Such expenses contribute directly to police officers' increase in salary. Paragraphs 389 to 427 provides further information on the deductibility of self-education expenses. Police officers who are on call for work-related purposes are entitled to claim for work-related telephone calls, telephone rental expenses and motor vehicle expenses. Paragraphs 438 to 440, 445 to 456 and 342 to 349 of this Ruling provide further information on the deductibility of telephone calls, telephone rental expenses and motor vehicle expenses respectively.

### **Special expenses allowance**

182. In New South Wales, a special expenses allowance is paid to plain clothes police officers to cover expenses incurred for payments made to informants.

183. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 337 to 340 of this Ruling provide further information on the deductibility of payments made to informants.

### **Specialist allowance**

184. In New South Wales and Tasmania, police officers attached to certain squads are paid an allowance as a recognition of the special qualifications obtained to carry out their duties, as a recognition of their work expertise or for being in charge of a particular squad. This allowance is not a reimbursement or a payment of expenses incurred by police officers for work-related purposes. Expenses incurred against a specialist allowance are not allowable deductions under subsection 51(1).

185. However, if the allowance is paid as a recognition of special qualifications obtained by police officers, deductions are allowable for the cost incurred in obtaining these qualifications as self-education expenses. Such expenses contribute directly to police officers' increase in salary. Paragraphs 389 to 427 of this Ruling provide further information on the deductibility of self-education expenses.

## **Spending allowance**

186. A spending allowance is paid to plain clothes federal police officers and to plain clothes police officers in the Northern Territory to cover expenses incurred for payments made to informants.

187. Deductions for payments made to informants are allowable under subsection 51(1). Paragraphs 337 to 340 of this Ruling provide further information on the deductibility of payments made to informants.

## **Stockings allowance**

188. In New South Wales and Queensland, female police officers are paid a stockings allowance. It is paid to cover expenses incurred by female police officers in purchasing stockings of specific colours which form part of their compulsory uniforms.

189. The cost of stockings is a private expense. Expenses incurred against a stockings allowance are not allowable deductions under subsection 51(1).

190. Paragraphs 249 to 253 of this Ruling confirm that expenses incurred on stockings are not deductible.

**Temperate clothing allowance**

191. In the Northern Territory, police officers who are required to travel from a tropical to a temperate locality on official duty are eligible for a temperate clothing allowance to reimburse reasonable costs incurred in purchasing clothing suitable for the trip.

192. The cost of conventional clothing worn at work is generally a private expense. It is our view that in most cases, plain clothes police officers will be unable to show a sufficient connection between expenditure on plain clothes and income earning activities. Expenses incurred against a temperate clothing allowance are generally not allowable deductions under subsection 51(1). Paragraphs 238 to 243 of this Ruling confirm that expenses incurred on conventional clothing are generally not deductible.

**Transfer expenses allowance**

193. In Tasmania, police officers who are required to relocate to another locality on a permanent appointment or transfer are paid a transfer expenses allowance. This allowance is paid as compensation for additional expenses incurred for removal and relocation expenses. This allowance is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes.

194. Expenses incurred against a transfer expenses allowance are not allowable deductions under subsection 51(1).

195. Paragraphs 381 to 388 of this Ruling confirm that expenses incurred on relocation are not deductible.

**Travel allowance**

196. Police officers who are required to travel for work-related purposes and remain away from their normal place of residence for a period of time are paid a reasonable travel allowance under their industrial award.

197. Deductions are allowable for travelling costs incurred by police officers including accommodation, food, drinks and incidentals under subsection 51(1).

198. Taxation Determination TD 93/174 and Taxation Ruling IT 2543 provide further information on the deductibility of travelling expenses.



## **Travel expenses allowance**

199. In South Australia, police officers who are required to be away from their normal place of residence overnight are paid a travel expenses allowance. This allowance is another terminology used to describe a reasonable travel allowance paid under an industrial award.

200. Expenses incurred against a travel expenses allowance are allowable deductions under subsection 51(1). Paragraphs 196 to 197 of this Ruling provide further information on the deductibility of travel allowances.

## **Uniform and boot allowance**

201. In Western Australia, police officers are paid an allowance to cover the expenses incurred in purchasing and maintaining their uniforms including footwear. In regard to the footwear, police officers have the choice of wearing black steel cap boots or black conventional shoes.

202. The required uniforms to be purchased are unique and peculiar to the Police Department in Western Australia and must be worn at all time while on duty. Expenses incurred in purchasing and replacing such uniforms are allowable deductions under subsection 51(1).

203. Black steel cap boots are considered protective footwear and deductions are allowable for the purchase cost of these items.

204. The purchase of conventional shoes is considered to be private in nature and no deductions are allowable under subsection 51(1) regardless of the colour imposed by the Police Department. Paragraph 242 of this Ruling confirms that expenses incurred on conventional footwear are not deductible.

205. Expenses incurred in maintaining a compulsory uniform are allowable deductions under subsection 51(1). Paragraph 254 of this Ruling provide further information on the deductibility of maintenance of uniforms expenses.

## **Uniform footwear and maintenance allowance**

206. In Victoria, police officers are paid an allowance to cover the expenses incurred in maintaining their compulsory uniforms. Expenses incurred in maintaining a compulsory uniform are allowable deductions under subsection 51(1).

207. Paragraph 254 of this Ruling provides further information on the deductibility of maintenance of uniforms expenses.

**Water police overnight allowance**

208. In South Australia, police officers in the Water Police squad are required in the performance of their duties to attend training courses at location which requires an overnight stay away from their normal place of residence. There are two component to this allowance.

209. The first component of this allowance is not a living away from home allowance or a travelling allowance. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. Expenses incurred against a water police overnight allowance are not allowable deductions under subsection 51(1).

210. Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

211. If no accommodation or food are supplied to the police officers, they are entitled to receive the second component of the allowance. This component represent a reasonable travel allowance paid under an industrial award.

212. Expenses incurred against a reasonable travel allowance are allowable deductions under subsection 51(1). Paragraphs 196 to 197 provide further information on the deductibility of reasonable travel allowance paid under an industrial award.

**Whyalla living allowance**

213. In South Australia, police officers who are posted at Whyalla are paid a living allowance.

214. This allowance is paid to compensate police officers for the inconvenience, isolation or discomfort of their employment conditions. It is not a reimbursement or a payment for expenses incurred by police officers for work-related purposes. Expenses incurred against a Whyalla living allowance are not allowable deductions under subsection 51(1).

215 Taxation Determination TD 93/49 confirms that expenses against such allowances are not deductible.

**Deductions****Ammunition**

216. In the normal course of duty, personnel employed as police officers are issued with ammunition but are also permitted to purchase and use additional ammunition. Police officers may also attend official testing courses or train during their own time for firearm proficiency. Only sufficient practice rounds are issued to enable

police officers to maintain their validation for operational purposes. Therefore some police officers purchase ammunition.

217. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income-producing activities. Therefore, expenses incurred voluntarily by police officers on ammunition used for work-related and training purposes, and which are not reimbursed by the Police Department, are allowable deductions under subsection 51(1).

### **Beepers, paging units, mobile phones and answering machines**

218. These items are used by police officers so they may contact, or be contacted by the Police Department and other police officers on a regular basis for work-related purposes. These items are considered to be necessary for such contacts to be made quickly and effectively when police officers are not on duty or are working outside police stations. When police officers are required to be "on call" or "on stand by" they must remain contactable by telephone and in some instances they are required to have a personal paging device at all times.

219. Depreciation for the purchase cost of beepers, paging units, mobile phones and answering machines is an allowable deduction under subsection 51(1) or subsection 54(1). Paragraphs 283 to 291 of this Ruling provide further information on depreciation of equipment. Rental expenses are allowable deductions under subsection 51(1) and must be apportioned between work-related and private use.

220. Paragraphs 438 to 458 of this Ruling provides further information on the deductibility of telephone expenses.

### **Brief cases**

221. As police officers are normally dealing with confidential material, they rarely take work home. Even so, a deduction will be allowable if police officers can demonstrate that the brief cases are used for work-related purposes. A deduction is allowable to police prosecutors or other police officers who use a brief case to carry confidential material and legal information for court appearances. Taxation Ruling IT 2261 provides further information on the deductibility of brief cases.

222. Depreciation for the purchase cost of brief cases is an allowable deduction under subsection 51(1) or subsection 54(1). Paragraphs 283 to 291 of this Ruling provide further information on depreciation of equipment.

**Bullet-proof jackets/vests or body armours**

223. Light weight bullet-proof jackets/vests or soft body armours which may be concealed under clothing are not normally Police Department to all personnel employed as police officers as a matter of course and which can only be worn over clothing.

224. These light weight bullet proof jackets/vests or soft body armours are considered protective clothing. Expenses incurred in purchasing such items are allowable deductions under subsection 51(1).

**Child care expenses**

225. A deduction for child care expenses is not allowable under subsection 51(1), even if it is a prerequisite for police officers to obtain and pay for child care so that they can go to work and earn income. Similarly, these expenses are also not deductible if incurred by police officers to undertake studies relevant to their employment.

226. The High Court held in *Lodge v. FC of T* (1972) 128 CLR 171; 72 ATC 4174; 46 ALJR 575; 3 ATR 254; that child care expenditure was neither relevant nor incidental to gaining or producing assessable income and therefore not deductible. The expenditure was also of a private and domestic nature.

227. Taxation Determination TD 92/154 confirms that expenses incurred for child care are not deductible.

**Clothing, uniforms and footwear**

228. Deductions for clothing are allowable in the following circumstances where:

- (a) the clothing is **protective** in nature;
- (b) the clothing is **occupation specific** and not conventional in nature; or
- (c) the clothing is a **compulsory uniform** and satisfies the requirements of Taxation Ruling IT 2641;
- (d) the clothing is a **non compulsory uniform** or wardrobe that has been either:
  - (i) entered on the Register of Approved Occupational Clothing of the Textile, Clothing, Footwear Development Authority (TCFDA); or
  - (ii) approved in writing by the Australian Taxation Office (ATO) under the transitional arrangements contained in

section 51AL (all such approvals cease to have effect from 1 July 1995);

- (e) the clothing is conventional and the taxpayer is able to show that expenditure on the clothing has the essential character of an outgoing incurred in gaining or producing assessable income, there is an nexus between the outgoing and the assessable income so that the outgoing is incidental and relevant to the gaining of assessable income, and that the expenditure is not of a private nature (see Taxation Ruling TR 94/22 covering the decision in *FC of T v. Edwards* 94 ATC 4255; 28 ATR 87).

It is our view that in most cases expenditure on conventional clothing will not be deductible. If the taxpayer is able to show in his or her case that a sufficient connection does exist between expenditure on conventional clothing and the gaining of assessable income, it may be necessary to apportion the claim for deduction. A reasonable estimate of the work use relative to private use of clothing should be applied.

### ***Protective clothing and safety shoes***

229. Protective clothing as defined in subsection 51AL(26) is any item of clothing which protects police officers from personal injury (eg safety boots, safety goggles) or protects police officers' uniform or conventional clothing from damage and soilage while performing their duties (e.g. overalls). Protective clothing is normally supplied to all personnel employed as police officers by the Police Department (e.g., Police Officers handling decomposed bodies, Emergency Squads, Water Police, etc). However, police officers may choose to purchase additional items in certain circumstances.

230. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers on protective clothing used for work-related purposes and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1). Taxation Determination TD 92/157 provides further information on the deductibility of protective clothing.

### ***Occupation specific clothing***

231. Occupation specific clothing in relation to an employee, means clothing that, disregarding any features of the clothing that distinctively identifies the employee as a person associated, directly or indirectly, with:

- the employer of the employee; or
- a group consisting of:
  - (i) the employer of the employee; and
  - (ii) one or more associates of the employer (within the meaning of section 26AAB);

distinctively identifies the employee as a member of a particular profession, trade, vocation, occupation or calling (subsection 51AL(26)).

232. Occupation specific clothing must be distinctive and unique, in the sense that by its nature or physical condition it is readily identified as belonging to a particular profession, trade, vocation, occupation or calling. The clothing must be non-conventional in nature to fall within this category. That is, it is not clothing which can be described as ordinary clothing of a type usually worn by men and women regardless of their occupation. Examples of clothing which is considered to be occupation specific are nurses' traditional uniforms, chefs' checked pants and a religious cleric's ceremonial robes.

233. Clothing which could belong to a number of occupations would not fall within the definition of occupation specific clothing. An example of this is a white jacket or coat worn with white trousers. While a white jacket or coat worn with white trousers may indicate that the wearer belongs to the health profession, it is not sufficiently distinctive in design or appearance to readily identify the specific or particular occupation of the wearer. That is, the wearer could be a pharmacist, dentist, laboratory technician, or a number of other occupations.

### ***Compulsory uniforms***

234. Expenses incurred in purchasing and maintaining official regulation uniforms are allowable deductions under subsection 51(1). Taxation Ruling IT 2641 provides further information on the deductibility of the purchase cost of uniforms.

235. This would include the traditional police officer's uniform, the Police Band performance uniform, the ceremonial uniform worn by commissioned police officers in the Northern Territory and the physical training clothing required to be worn by students police officers in New South Wales.

***Non compulsory uniforms***

236. A deduction is allowable for the purchase and maintenance costs of clothing if that clothing meets the criteria of a non-compulsory uniform or wardrobe under subsection 51AL. This section provides that expenditure on non-compulsory uniforms or wardrobes will only be allowable under 51(1) if the design of the clothing has been entered on the Register of Approved Occupational Clothing kept by the Textiles, Clothing and Footwear Development Authority (TCFDA) or if the design of the clothing is approved in writing by the Tax Office under IT 2641. Transitional arrangements enabling the Tax Office to approve designs of non-compulsory uniforms and wardrobes will expire on 30 June 1995.

237. The views of the Tax Office on the deductibility of costs of purchasing and maintaining conventional clothing are set out in TR94/22. It is our view that in most cases, expenditure on conventional clothing will not be deductible.

***Plain clothes***

238. The purchase, replacement, and maintenance of conventional clothing is considered to be private in nature and no deductions are allowable under subsection 51(1).

239. Plain clothes police officers are required by the Police Department to wear a collar and tie and a coat while on duty. They are also required to wear suits when appearing in court. It has been argued that the nature of their work is such that it takes a heavy toll on plain clothes. By way of example, police officers sit for long periods of time in motor vehicles and they can find themselves in altercations when a person resists arrest which can result in damage to their clothing. They can also be required to do specific tasks such as climbing into dirty roof spaces or burnt buildings, or attending at messy scenes of accident or violence where blood or other substances cause unavoidable soiling of clothing.

240. The essence of the decision of the Board of Review in *Case 23 12 TBRD 229* is that, as a general principle, the cost of a person's clothing is incurred not because of his employment, if any, but because of the conventions of civilised life. For income tax purposes, expenditure on conventional clothing is considered to be of a private or domestic nature.

241. There are a number of other cases which qualify this general principle: *Case S85 85 ATC 619*; 28 CTBR(NS) *Case 89*; *Case T83 86 ATC 1114*. In *Case U219 87 ATC 1221*; 12 CTBR *Case 23*, the taxpayer was a plain clothes policeman who was provided with a uniform, but was also required to wear a suit and tie. The taxpayer was paid an allowance for plain clothes, and he claimed a deduction for purchasing conventional clothing. The claim was disallowed by

the Tribunal. The expenditure on plain clothes were considered to be of a private nature.

242. Expenditure on shoes which have no distinguishable features are conventional in nature. Deductions for the purchase cost of conventional shoes are not allowable under subsection 51(1). Taxation Ruling IT 2641 confirms that expenses incurred on conventional shoes are not deductible.

243. If the cost of clothing is not allowable as a deduction then maintenance cost on conventional clothing are not allowable deductions under subsection 51(1).

### ***Physical training clothing***

244. Where it is a condition of employment or compulsory for police cadets/recruits/students to purchase and wear a particular style of physical training clothing which is unique and distinctive to the Police Department then such clothing is deemed to be a uniform.

245. For example, in New South Wales, student police officers are required to purchase and wear physical training clothing (eg tracksuit, shorts, T-shirts, etc) which are of a specific colour scheme with a distinctive logo and design. These items form part of the compulsory uniform worn by student police officers. In such circumstances, expenses incurred in purchasing and maintaining a prescribed uniform are allowable deductions under subsection 51(1), if the uniform satisfies IT 2641.

246. In other States, police recruits/cadets are required to purchase their own clothing for compulsory physical training activities including running/aerobic shoes. These items are conventional clothing and considered to be of a private nature. Deductions are not allowable under subsection 51(1).

247. Certain squads have also designed their own physical training clothing with the logo or emblem of their particular squad. These items of clothing are not compulsory and do not form part of the traditional police officers uniform. Deductions for the purchase and maintenance cost of these items are allowable provided the design of the clothing has been entered on the Register of Approved Occupational Clothing maintained by the Textile Clothing and Footwear Development Authority under section 51AL.

248. Transitional procedures allow deductions for the purchase and maintenance of such clothing until 30 June 1995 if an approval has been received in writing from the Australian Taxation Office stating that the clothing qualifies as a uniform under Taxation Ruling IT 2641.



## ***Stockings***

249. Deductions are not allowable for the cost of purchasing stockings as the expense is considered to be private in nature and not incurred in gaining or producing assessable income.

250. The fact that female police officers are required to wear stockings of specific colours as part of their total uniform at all times while on duty does not alter the private nature of the expense.

251. In *Case N97 81* ATC 521; 25 CTBR(NS) *Case 50* (which involved a registered nurse) Dr Gerber (Member) stated that

'Stockings, by their very nature, are part of conventional attire - whether worn under protest or otherwise...' and added later '... there is nothing unique about stockings which would single out a person wearing them as being a nurse...' (ATC at 524; CTBR at 369). In *Case H32 76* ATC 280; 20 CTBR(NS) *Case 85*, the expense for stockings damaged at work was not allowed. In the case it was stated: 'True, it is damaged that occurs to her stockings during her hours of duty, but that has nothing really to do with procedures and methods relating to the performance of her duties...' (ATC at 282; CTBR at 909).

252. In *FC of T v. Cooper* 91 ATC 4396; (1991) 21 ATR 1616 Justice Hill said:

'... the fact that the employee is required, as a term of his employment, to incur particular expenditure does not convert expenditure that is not incurred in the course of the income producing operations into a deductible outgoing (ATC at 4414; ATR at 1636).

253. The fact that an employer may prescribe a particular style or colour of clothing for employees does not necessarily mean that expenditure on clothing by employees becomes an allowable deduction. The clothing must be unique and unsuitable for normal wear outside work. In *Case U88 87* ATC 470; 18 CTBR(NS) *Case 66* a shop assistant was denied a deduction for black clothes. It was stated that

'The fact that an employer requires garments of a particular colour to be worn and would even terminate employment if another colour was substituted does not in any way detract from the character of the garments as conventional attire, the cost of which must be regarded as a private expense.'

## ***Maintenance of uniforms and protective clothing***

254. Deductions for home laundry and dry cleaning costs will be allowable for maintaining clothing, the cost of which is allowable under subsection 51(1), see paragraph 254. For guidance on how to calculate home laundry expenses, refer to Taxation Ruling IT2452.

### ***Sunglasses***

255. The purchase cost of normal sunglasses used by police officers while on street duty or while driving police vehicles are not allowable deductions under subsection 51(1).

256. The decision to wear sunglasses is a personal choice and do not form part of the required uniform. Sunglasses are not distinctive or unique to the occupation. The expenses incurred in purchasing sunglasses are of a private nature.

257. This decision is supported in *Case N84 81 ATC 451*; 25 CTBR(NS) *Case 43* where a news cameraman was denied a deduction for the cost of sunglasses used in his work due to the essential private nature of the sunglasses.

258. The purchase cost of sunglasses equipped with additional safety features which protect police officers' eyes from glare, ultraviolet radiation, wind or foreign bodies such as insects, debris and other materials may be allowable deductions under subsection 51(1) as protective clothing.

259. For the purchase cost of safety glasses to be allowable, they must have been purchased for their protective function and used as protective eye wear by police officers in the course of performing their duties (eg a motorcycle patrolman). This decision is confirmed in *Case 10 94 ATC 168*.

260. Taxation Ruling IT 2477 and Taxation Determination TD 93/244 confirm that expenses incurred on conventional sunglasses are not deductible.

### **Commissioned Officers Corps' subscription fees and related expenses**

261. In the Northern Territory, commissioned police officers may belong to the Commissioned Officers Corps. This is not a compulsory requirement.

262. Deductions for the subscriptions fees and any expenses incurred in attending functions, such as food, drinks and entrance fees, are not allowable deductions.

263. The connection between the expense and the assessable income is insufficient to satisfy the first limb of subsection 51(1). Commissioned police officers earn their income by performing the

tasks set out on their duty statements and job descriptions. There is no clear nexus between these duty statements and the subscriptions fees to the Commissioned Officers Corps.

264. Police officers personnel may attend a number of functions as dinners, dances and cocktail parties. The expenses incurred in attending these functions are excluded from deductibility under subsection 51(1) as they are private in nature.

265. Commissioned police officers may incur additional expenses in purchasing food and drinks during official functions, or for entertaining guests in an official or informal capacity. While it is recognised that Commissioned police officers may be expected to incur some of these expenses as a part of their duties, section 51AE denies a deduction for entertainment expenses.

266. In *Case Y11* 91 ATC 184; 22 ATR 3063, a senior Australian Defence Force officer involved in negotiations to buy defence equipment was denied a deduction for expenditure incurred in attending a range of lunches, cocktail parties, dinners and other forms of social contact relevant to the performance of his duties. Direct business was done on many of those occasions. It was held that section 51AE(4) operated to deny the claim. It did not matter that the expenditure was directly relevant to employment related transactions.

### **Computers and software**

267. Expenses incurred by police officers when purchasing computers and related software for work-related purposes are allowable deductions under either subsection 51(1) or subsection 54(1).

268. For example, police officers may use computers for the preparation of reports regarding their investigations or other work-related documents such as sketch and scale plans by the Accident Investigation squad, or the preparation of lesson plans and other handout materials by police officers who to present training courses.

269. Police officers may also incur such expenses in relation to self-education expenses. Paragraphs 389 to 427 of this Ruling provide further information on the deductibility of self-education expenses.

270. Depreciation for the purchase cost of computers and related software is an allowable deduction under subsection 51(1) or subsection 54(1). Paragraphs 283 to 291 of this Ruling provide further information on depreciation of equipment.

271. If the related software is purchased separately from the computer, the portion of the cost that relates to use for self-education or work-related purposes is deductible in full in the year of purchase.

272. The cost of repairs to computer equipment is generally deductible under subsection 53(3) to the extent to which the computer equipment is used for work-related purposes.

273. If money has been borrowed to finance the purchase of an item of equipment, for which depreciation is allowable, then the interest payments are deductible under subsection 51(1). The deduction must be apportioned to the extent that the computer equipment is used for private purposes.

### **Conferences, seminars and training courses**

274. Expenses incurred by police officers in maintaining or increasing their knowledge, ability or skills in their particular profession are allowable deductions under subsection 51(1).

275. In *FC of T v. Finn* (1961) 106 CLR 60; 12 ATD 348 an architect voluntarily studied architectural development overseas. The High Court held that

'... a taxpayer who gains income by the exercise of his skill in some profession or calling and who incurs expenses in maintaining or increasing his learning, knowledge, experience and ability in that profession or calling necessarily incurs those expenses in carrying on his profession or calling . . .' (CLR at 70; ATD at 352).

276. In *Case W73 89 ATC 659*; *Case 5260* (1989) 20 ATR 3848 the taxpayers were police officers who undertook a study tour overseas and visited various police stations and interviewed professors of law. It was held that the expenses incurred were allowable deductions under subsection 51(1). The police officers were able to demonstrate that the knowledge obtained during the overseas tour improved their performance in critical areas of their work.

277. Therefore costs incurred in attending conferences, seminars and training courses qualify as allowable deductions provided there is a relevant nexus with the duties performed by police officers. The conferences, seminars and training courses may be held in Australia or overseas.

278. For example, law enforcement agencies in the USA and Germany offer training courses dealing with the use of special weapons and tactical responses for use in emergency or rescue operations. The costs of attending these overseas training courses are allowable deductions under subsection 51(1) whether the attendance

by police officers is voluntary or as directed by the Police Department.

279. Deductions would include travel expenses (fares, accommodation, meals and incidentals) registration fees and other expenditure associated with the attendance at the conferences, seminars or training courses.

280. If the dominant purpose in incurring the expenses is the attendance at the conference, seminar or training course then the existence of any private activity would be merely incidental and the expenses would be fully deductible. Any incidental expenses relating to the private activities are not allowable.

281. If the attendance at the conference, seminar or training course is only incidental to a private activity (e.g., a holiday) then only the expenses directly attributable to the conference, seminar or training course are deductible. Expenses incurred on accommodation, meals and travel directly relating to the private activity are not allowable deductions under subsection 51(1).

282. Taxation Ruling TR 92/8 provides further information on the deductibility of the cost of attending conferences. Paragraphs 389 to 427 of this Ruling provides further information on the deductibility of self-education expenses.

### **Depreciation of equipment**

283. Certain items of a capital nature, used for work-related purposes, are not deductible under subsection 51(1). Equipment that comes within the definition of plant or articles under section 54 may be depreciated. The type of equipment for which depreciation is allowable includes computers, furniture and fittings used in a home office and professional libraries.

284. A deduction for depreciation is allowable under subsection 54(1) on plant and articles used during the year for the purpose of producing assessable income. Also, a depreciation deduction is allowable on plant and articles which are not actually used during the year for income-producing purposes but are installed ready for use for that purpose and held in reserve.

285. There are two methods to calculate a deduction for depreciation. These are the prime cost method and the diminishing value method. Prime cost depreciation is calculated as a percentage of the cost of the equipment. Diminishing value depreciation is calculated initially as a percentage of the equipment's cost and thereafter as a percentage of the written down value.

286. Any equipment or articles purchased on after 1 July 1991 is able to depreciated at a rate of 100% if the cost is not more than \$300, or if the effective life is less than three years (subsection 55(2)). This means an immediate deduction is available for the cost of such items in the year in which they are purchased. However, the article may be depreciated at a rate less than 100% if the taxpayer so elects (subsection 55(8)).

287. If the equipment or articles purchased on or after 1 July 1991 cost more than \$300 or the effective life is 3 years or more, then a deduction for depreciation is allowable based on the rates in subsection 55(5). However, the article may be depreciated at a rate less than this rate if the taxpayer so elects (subsection 55(8)). The current depreciation rates are set out in Taxation Ruling IT 2685.

288. Where the property is used partly in the course of employment and partly for private purposes, then the depreciation expense should be apportioned based on an estimate of the percentage of work-related use (section 61). This principle would apply to musical instruments, tape recorders, camping and sporting equipment.

289. Where the property used is purchased part way through the year, then the yearly depreciation expense should be reduced accordingly.

290. An arbitrary figure is not acceptable when determining the value of equipment for depreciation purposes (*Case R62*, 84 ATC 454; (1984) 27 CTBR(NS) *Case 113*). In determining the value of an item to be depreciated, its opening value is the original cost to the taxpayer less the amount of any depreciation expense that would have been allowed if the unit had been used, since purchase, to produce assessable income (Taxation Determination TD 92/142).

291. To determine the opening written down value of the bookshelf for taxation purposes, it should be depreciated at the specified rate from the date of purchase to 30 June 1993. The depreciation in the 1992 and 1993 years is \$54 and \$47 respectively. The opening written down value of the bookshelf at 1 July 1993 is \$299. In the 1994 tax year the bookshelf is used for work-related purposes and the depreciation expense that is deductible is  $\$299 \times 13.5\% = \$40.36$ , rounded to \$41.

### **Driver's licence**

292. The expenses incurred in acquiring or renewing a driver's licence are not allowable under subsection 51(1). The cost associated with obtaining a driver's licence is a capital expense. The cost of renewing such a licence is a private expense.

293. In *Case R49* 84 ATC 387; 27 CTBR(NS) *Case 104*, it was held that even though travel was an essential element of the work to be

performed by the taxpayer, a driver's licence was still an expense private in nature and therefore not deductible under subsection 51(1).

294. Taxation Determination TD 93/108 confirms that no deductions are allowable for the cost of renewing a driver's licence even if the driver's licence is a condition of employment.

295. However, where a premium is paid on top of the cost of a standard licence, this premium is an allowable deduction under subsection 51(1).

### **Equestrian-related equipment**

296. Police officers who are attached to the Mounted Police unit are generally supplied with standard saddles and other accessories by the Police Department as a matter of course.

297. However, police officers may choose to purchase additional and/or more sophisticated equestrian equipment such as personal protective gear (eg back protectors, knee and shin pads); boot pullers to enable long leather riding boots to be pulled onto foot; boot trees to protect and maintain shape and appearance of long leather boots. Expenses are also incurred on a voluntary basis for boot polish and related items to clean and preserve the issued long rubber boots including brushes and other boot polish accessories.

298. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income-producing activities. Therefore, expenses incurred voluntarily by police officers on equestrian-related equipment used for work-related purposes and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

299. The deductions must be apportioned to the extent that the items are used for private purposes.

### **Fines**

300. Fines and penalties imposed under a law of the Commonwealth, a State, Territory or a foreign country or by a court are not allowable deductions under subsection 51(1) pursuant to subsection 51(4).

### **First aid courses**

301. If it is necessary for police officers to undertake first aid training to assist in emergency situations, the expenses of such training are an allowable deduction under subsection 51(1). No deduction is allowed

if the cost of training has been reimbursed or paid for by the Department.

### **Fitness expenses**

302. All police officers are required to maintain a relatively high standard of physical fitness and in most instances training is undertaken on a voluntary basis. Expenses incurred in maintaining a high degree of fitness including cost of clothing and sporting equipment are considered to be essentially private in nature and deductions are not allowable under subsection 51(1). Gymnasium membership fees are not allowable deductions under subsection 51(1) pursuant to section 51AB.

303. This decision is confirmed in *Case N72 81 ATC 383*; 25 CTBR(NS) *Case 26* where an airline pilot was denied a deduction for a fitness course he undertook to lose weight in order to pass his six monthly medical examination. The expense was not incidental or relevant to the duties performed by the pilot and was considered to be private in nature. In *Case P17 82 ATC 72*; 25 CTBR(NS) *Case 81*, the cost of gymnasium fees was denied to a commercial pilot for similar reasons.

304. Taxation Determination TD 93/112 confirms that expenses incurred on weight reduction are not deductible.

305. However, if police officers can demonstrate that they are required to undertake strenuous physical activity on a regular basis as part of their normal duties then physical training expenses are allowable deductions under subsection 51(1).

306. For example, members of special emergency squads are required to undertake strenuous daily activities including a compulsory daily one hour aerobic style training session prior to starting work and a minimum of three days per week on compulsory intensive training activities. Every three months, these officers must undertake a physical examination and they must pass a certain level of fitness which is documented. Officers who fail the physical examination are put on non-operational duties for one month during which time they are expected to improve their fitness. If they fail to improve their fitness, they will be removed from the squad. We consider that these officers are likely to be able to show that their expenditure meets the deductibility tests under subsection 51(1).

307. Police officers who are working daily with police dogs are also required to undertake strenuous physical training activities on a regular basis. These police officers must have a certain level of fitness in order to train with their dogs so they may achieve maximum performance. Police officers must be able to control their dogs at all times, manoeuvre them around and past obstacles and jump over fences two metres high and other similar obstacles with their dogs.



These activities are carried out with the police dogs on a 8 to 10 metre long rope and police officers must be able to keep up with the police dogs at all times. The Police Department organises some compulsory training activities including 5 to 6 kilometres trails with the police dogs to simulate tracking down suspected offenders. These activities require police officers to have a certain level of physical strength which is obtained by daily strenuous physical training activities. We consider that these officers are likely to be able to show that their expenditure meets the deductibility tests under subsection 51(1).

308. Police officers who are attached to the diving squad and a Police Academy physical training instructors would also be entitled to claim for physical training expenses.

309 Expenses which may be claimed include travel costs and depreciation on sporting equipment. The cost of conventional clothing such as tracksuits, shorts, T-shirts and running shoes are not allowable deductions. Paragraphs 238 to 243 of this Ruling provides further information on the deductibility of conventional clothing.

310. Taxation Determination TD 93/114 provides further information on the deductibility of fitness related expenses.

#### **Gauntlets, holsters, hand-grips, handcuffs, holders, pouches, utility belts, etc**

311. In the normal course of duty, these items are supplied and replaced by the Police Department to all personnel employed as police officers.

312. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income-producing activities. Therefore, the voluntary purchase of additional and/or better or more sophisticated equipment by police officers is an allowable deduction under subsection 51(1) when these items are used for work-related purposes.

#### **Glasses and contact lenses**

313. The cost of purchasing prescription glasses or contact lenses is not deductible under subsection 51(1) as the expense relates to a personal medical condition and is therefore private in nature.

**Guard dogs and security systems**

314. Expenses incurred in maintaining guard dogs for the protection of police officers and their families because of the nature of their duties are considered to be private in nature.

315. Expenses incurred in installing security systems at police officers' normal place of residence are considered to be both capital and private in nature.

316. In *Case T20 86 ATC 211*; 29 CTBR(NS) *Case 23* and *Case V114 88 ATC 906*, the taxpayers were Family Court judges who were advised to improve the security of their private residences for safety reasons. In both instances, it was held that the expenses incurred in installing a security system and maintaining a guard dog were essentially private in nature.

317. Therefore no deductions are allowable for expenses incurred on maintaining guard dogs and installing security systems under subsection 51(1).

**Guns and related equipment**

318. Guns are normally supplied and replaced by the Police Department to all personnel employed as police officers as a matter of course. Related equipment such as speed loaders, sighting devices and slings weapons grips are not normally supplied by the Police Department.

319. Federal police officers and state police officers in Queensland, New South Wales, South Australia, Western Australia, Victoria and the Northern Territory are only permitted to use the Police Department-issued guns while on duty. In Tasmania, police officers may be authorised to supply their own weapons by purchasing them through the agency of the Police Department.

320. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income-producing activities. Therefore, the voluntary purchase of additional and/or better or more sophisticated gun-related equipment, such as a speed loader, a sighting device and a sling weapon grip, is an allowable deduction under subsection 51(1) when these items are used for work-related purposes.

## Gun cleaning materials

321. Gun cleaning materials are generally supplied to all police officers by the Police Department as a matter of course.

322. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers on gun cleaning materials which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

## Hairdressing expenses

323. Police officers must have a neat, well-groomed hairstyle. Deductions for hairdressing expenses are not allowed under subsection 51(1), as expenditure is considered to be private.

324. In *Case U217 87 ATC 1216*, a police officer who claimed 50% of the cost of his haircuts was denied a deduction. It was a condition of his employment that he was required to keep his hair short. The fact that he only claimed half the cost of his haircuts (representing what was above his 'normal' expenditure) was not the issue. The outgoing was private in nature.

325. This decision is supported by the following cases: *Case N34 81 ATC 178*; 24 CTBR(NS) *Case 104*, *Case L61 79 ATC 488*; 23 CTBR(NS) *Case 680* and *Case R54 84 ATC 408*; 27 CTBR(NS) *Case 108*.

## Home office expenses

326. Taxation Ruling TR 93/30 sets out the Australian Taxation Office policy on home office expenses and is summarised below.

327. Generally, expenses associated with a police officer's home are of a non-deductible, private or domestic nature. However, a portion of expenses associated with a police officer's home are allowable deductions where either:

- (a) part of the home is used in connection with the police officer's work-related activities but does not constitute a place of business, i.e., an area of the home is a private study or
- (b) part of the home is used for income-producing activities and has the character of a 'place of business'

328. The Ruling distinguishes between two broad categories of deductible expenses.

- *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 in the home. These include heating/cooling and lighting expenses, cleaning costs, depreciation, leasing charges and the cost of repairs of furniture and furnishings in the office.

329. Where police officers maintain an office or study at home for work-related purposes which are not convenient to carry out at their normal place of work, the occupancy expenses referable to their home office are not deductible. This is clearly established by the High Court decisions in *Handley v. FC of T* 81 ATC 4165; (1981) 11 ATR 644 and *Forsyth v. FC of T* 81 ATC 4157; (1981) 11 ATR 657. However, where it is considered that an area of a home is a place of business, a portion of the expenses from both categories may be claimed as a deduction.

#### ***Private study***

330. If a police officer maintains an office or study at home where work-related tasks can be more conveniently carried out, deductions for the running expenses incurred as a result of the work-related activities are allowable. Deductions for similar expenses will also be allowed to police officers who are entitled to claim self-education expenses. Paragraphs 389 to 427 of this Ruling provide further information on the deductibility of self-education expenses.

#### ***Heating/cooling and lighting expenses***

331. For the running expenses to be deductible, the area of a police officer's home set aside as a private study must be used *exclusively* for these activities (*FC of T v. Faichney* (1972) 129 CLR 38; (1972) 3 ATR 435; 72 ATC 4245). For example, if a police officer works in the lounge room where other family members are able to watch television, the expenditure for lighting and heating/cooling retains its private or domestic character and is not deductible. However, if the police officers use the room at a time when others are not present or uses a separate room, they are entitled to a deduction. This applies even if the room is not set aside solely as a home office.

332. A deduction may be allowable where *additional* heating/cooling and lighting expenses are incurred as a result of work-related duties performed at home. The formula for calculating the additional expense for an appliance is: **A x B x C**

**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.

333. An estimate based on a reasonable percentage of the household annual bill will be acceptable. In determining a 'reasonable percentage', consideration must be given to the fact that the number of appliances in a private study and the total units used by these appliances is generally small in comparison to the total units used by all other appliances in the home.

***Place of business***

334. Whether an area of a home has the character of a place of business is a question of fact. Paragraphs 5, 11, 12 and 13 of Taxation Ruling TR 93/30 provide information on whether or not an area set aside has the character of a 'place of business'. If police officers maintain an office or study at home and they perform their duties working from that home-based office then the office is considered to have the character of a place of business. Currently, some federal police officers are earning their income entirely by working from their home-based offices. This program has been approved by the management of the Australian Federal Police to assess the viability of officers, where the circumstances are appropriate, working from their home-based offices.

335. Under these circumstances, police officers may be entitled to deduct a portion of both the running and occupancy expenses. The amount of occupancy expenses allowable is based on the ratio of the business area to the total floor area of the dwelling.

336. Where the area set aside has the character of a 'place of business', then a capital gain may accrue or capital loss may be incurred on the disposal of the dwelling by the taxpayer. The amount of the capital gain or capital loss will depend on the extent to which, and the period for which, the dwelling was used for the purpose of gaining or producing assessable income (Taxation Ruling IT 2673)

**Informant expenses**

337. Payments made to informants by police officers to obtain evidence or information are allowable deductions whether or not an allowance has been paid to the police officers. Such payments may take the form of cash or goods such as cigarettes and light meals.

338. If the non cash payment is in the form of a meal, a deduction will only be allowable if the meal is light and takes the form of a sandwich or salad. More elaborate meals are deemed to be entertainment expenses under subsection 51AE(4). The provision of alcohol with or without meals is not an allowable deduction under subsection 51(1) pursuant to subsection 51AE(4).

339. If police officers are reimbursed for their informant expenses by the Police Department, then they are not entitled to make claims for informant expenses.

340. Taxation Determinations TD 93/68 and TD 93/69 provide further information on the deductibility of informant expenses.

### **Meals**

341. In relation to an eligible expense, a travel allowance or a travel expense the following entries must be made for each activity engaged in by the taxpayer:

- date the entry was made;
- place where the activity was undertaken;
- date and approximate time when the activity started;
- duration of the activity; and
- nature of the activity.

### **Motor vehicle expenses**

342. The cost of travel by police officers between their place of residence and their normal place of employment is generally considered to be a private expense and is not deductible under subsection 51(1). This principle was established in *Lunney v FC of T*, *Hayley v. FC of T* 100 CLR 478, 7 AITR 166.

343. In each of these cases, travel expenses incurred in travel between home and work were claimed on the basis that the expenditure was incurred in producing income. A joint judgment on both cases by Williams, Kitto and Taylor JJ stated the following;

' The question whether the fares which were paid by the appellants are deductible under section 51 should not and, indeed, cannot be solved simply by process of reasoning which asserts that because expenditure on fares from a taxpayer's residence to his place of employment or place of business is necessary if assessable income is to be derived, such expenditure must be regarded as "incidental and relevant" to the derivation of income. ....But to say that the expenditure on fares is a prerequisite to the earning of a taxpayer's income is not to say that such income is incurred in or in the course of gaining or producing his assessable income.' (at 498-499).

344. The fact that the travel is outside normal business working hours or involves a second or subsequent trip does not change this principle.

The performance of work-related incidental tasks while travelling between police officers' home and their regular place of employment does not, of itself, transform private travel into work-related travel. the cost of this travel is not deductible under subsection 51(1).

345. Police officers are generally entitled to a deduction under subsection 51(1) for travel when transporting bulky equipment even if travelling from home to their normal place of employment. In this case, the costs are attributed to the transport of the bulky equipment rather than to the travel to and from work. See *FCT of T v. Vogt* 75 ATC 4073; (1975) 5 ATR 274.

346. Police officers are not entitled to deduct travelling costs if, as a matter of convenience, work is performed at home and items such as papers, books and material (whether bulky or not) are transported between home and work for that purpose. In *Case Q1*, 83 ATC 1; (1983) 26 CTBR(NS) *Case 65*, the use of a car by a school principal in these circumstances was treated as private use as it was travel from home to the place of employment.

347. Taxation Rulings IT 112, IT 117, IT 2543, Taxation Determination TD 93/113 and Miscellaneous Ruling MT 2027 provide further information on the deductibility of travelling expenses between a principal place of residence and a regular place of employment.

348. Deductions may be allowable when police officers are required to use their private motor vehicle and travel:

- (a) between two separate places of work where there are two separate employers involved. For example, a police officer has a part time job as a security officer for a car yard. Any travel undertaken between the car yard and the regular place of employment are allowable deductions;
- (b) from the regular place of employment to an alternative location while still on duty and back to the regular place of employment, or directly home. For example, a police officer is required to travel from the regular police station to a district court for work-related purposes. Any travel undertaken from the regular police station to the district court and then back to the regular police station or directly home from the district court is an allowable deduction;
- (c) from home to an alternative place of employment for work-related purposes and then to the normal place of employment. For example, a police officer is required to attend a staff meeting at the Police Headquarters when the regular police station is actually in another suburb. Any travel undertaken from the police officer's home to the

Police Headquarters and then on to the regular police station is an allowable deduction;

- (d) between police stations while on duty. Where police officers are required to travel to their regular police station to report for duty and then travel to another police station for work-related purposes and back to their regular police station, any travel undertaken between the two police stations is an allowable deduction;
- (e) between home and a place of employment and back home where police officers are 'on call' or 'on stand by'. When police officers are 'on call' or 'on stand by', they must be accessible by telephone for work-related purposes and either:
- give work related instructions over the telephone before leaving home for a specific location; or
  - are entitled, under their awards, to penalty payments or to overtime from the moment they receive a telephone call to report at some specific location.

In these instances, deductions are allowable for travel undertaken between home and the specific location and back home as the police officers are deemed to commence duty at home upon receiving the telephone call from the Police Department. It is considered that police officers either perform sufficient work-related tasks to be said to be on duty from the moment they are contacted by the Police Department.

In some States, police officers are provided with fully equipped departmental vehicles due to the nature of their duties (e.g. the Scientific Investigation squad or the Rescue squad). In these circumstances, police officers would not generally incur motor vehicle expenses;

- (f) to a place of education. For self-education purposes:
- the cost of travel between home and the place of education and back home again is deductible;
  - the cost of travel between work and the place of education and back to work again is deductible;
  - if the police officer travels from home to the place of education and then on to work, only the first leg of the trip is deductible;
  - if the police officer travels from work to the place of education and then home, only the first leg of the trip is deductible.



Paragraphs 389 to 427 of this Ruling provide further information on the deductibility of self education expenses.

349. Police officers may be required to travel to the Police Academy for different purposes. In determining the deductibility of travel expenses, the purpose of the journey must first be established. If the purpose of the journey is work-related paragraphs 366(b) and 366(c) will apply. If the purpose of the journey is for self-education purposes paragraph 366(f) will apply.

### **Newspapers**

350. The cost of daily newspapers is generally not allowable as deduction under subsection 51(1). It is a private expense. A police officer may be able to use some part of the information derived in the course of their duties. However, in most circumstances the benefit gained is remote and the proportion of expenditure on newspapers that relates directly to the duties undertaken is incidental to the private expenditure.

351. This decision is supported by the following cases: *Case K68 78* ATC 667; 22 CTBR(NS) *Case 86*; *Case N67 81* ATC 349; 25 CTBR(NS) *Case 18*; *Case P30 82* ATC 139; 25 CTBR(NS) *Case 94*; *Case P114 82* ATC 586; 26 CTBR(NS) *Case 47*; *Case P124 82* ATC 629; 26 CTBR (NS) *Case 55*.

352. These cases can be contrasted with *Case R70 84* ATC 493; 27 CTBR(NS) *Case 124* where a supervisor in the Commonwealth Auditor-General's Department was allowed deductions for the cost of specific issues of *The National Times* and *The Australian Financial Review* as there was a sufficient connection between the duties carried out by the taxpayer and the content of these specific publications. However deductions for the cost of the local newspaper, *The Canberra Times*, were disallowed as the expense was essentially private in nature.

### **Parking fees and tolls**

353. Parking fees (but not fines) and tolls are expenses which form part of the travelling expenses incurred by police officers. This decision is supported by *Case Y43 91* ATC 412; *Case 7273* (1991) 22 ATR 3402.

354. These expenses are generally considered to be private in nature when police officers are travelling between their normal place of residence and their regular place of employment and deductions are not allowable under subsection 51(1).

355. Deductions for parking fees (but not fines) and tolls are allowable if the expenses are incurred while travelling:

- (a) between two separate places of work,
- (b) to a place of education for self-education purposes,
- (c) in the normal course of duty and the travelling expenses are allowable deductions. Paragraphs 342 to 349 of this Ruling provide further information on the deductibility of motor vehicle expenses.

### **Pistol Club membership fees**

356. In order to maintain their firearms skills, federal police officers have established their own pistol clubs for training purposes. The club possesses firearms identical to those issued by the Police Department. The club also supplies the appropriate ammunition to police officers at cost price.

357. The membership fee of the pistol club and the cost of ammunition purchased for training purposes are allowable deductions under subsection 51(1).

### **Police Academy**

358. In all States and Territories, there exists a Police Academy. A Police Academy is an establishment where police cadets/recruits/students and sworn police officers undertake structured training programs. It provides basic recruit training, on-going in-house training, skill maintenance courses and firearms training for police officers.

359. A Police Academy is therefore considered to be a place of education to which section 82A applies. This view is supported by the decision of the Board of Review in *Case M11 80 ATC 78*; 23 CTBR(NS) *Case 97*. Any expenses allowable for attendance at a Police Academy for training purposes must be reduced by any amount reimbursed by the Police Department. As these expenses also form part of self-education expenses, the total amount allowable under subsection 51(1) is then reduced by \$250.

360. If police officers are undertaking external studies at another place of education (ie a university) as well as attending training courses at a Police Academy, section 82A only applies once to the total self-education expenses incurred by police officers.

361. In New South Wales, student police officers are required under their award to relocate their place of residence to a location within the Sydney metropolitan area at their own cost. Therefore, the regular

place of employment for student police officers is based in the Sydney metropolitan area.

362. It is an expressed condition of employment that, before being sworn as police officers, police recruits undertake compulsory training courses at the Goulburn Police Academy. As they are required to travel some distance away from their normal place of residence for up to fourteen weeks at a time, deductions are allowable for:

- travelling expenses between home and the Police Academy at the commencement of the course and back again at the conclusion of the course. Travelling expenses incurred for private purposes during the course including return trips home are not allowable deductions. Where public transport is used for this travel, the student police officers are reimbursed for these expenses and no deductions are allowable under 51AH; and
- meals and accommodation expenses incurred while staying at the Police Academy. Under the current state award, student police officers are charged by the Police Department for the cost of meals and accommodation.

363. Paragraphs 389 to 427 of this Ruling provide further information on the deductibility of self-education expenses. Taxation Ruling TR 92/8 provides further information on the deductibility of fares, accommodation and meals as self-education expenses.

### **Police Citizens Youth Welfare Association**

364. The Queensland Police Citizens Youth Welfare Association is registered as a public benevolent institution with the Australian Taxation Office.

365. Section 78(4) allows deductions for donations of \$2 or more to this association.

### **Police dogs**

366. In most instances, the Police Department installs kennels, supplies all dog food and cleaning detergents and meets all veterinary expenses for police dogs. Police officers would not normally be required to incur expenses in maintaining and training police dogs.

367. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers in maintaining, feeding, grooming, exercising and training police

dogs, as opposed to privately owned dogs, and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

368. Other deductible expenses would include motor vehicle expenses used to convey police dogs to the veterinary and exercise areas when departmental vehicles are not available and the additional expenses incurred on electricity for fridges and freezers used for the storage of dog food and supplies.

369. However, the cost of installing security fences at police officers' private place of residence for the security of the police dogs are not allowable under subsection 51(1) as the expense is both of a capital and private nature.

370. Some police officers buy their own dogs and train them to become police dogs. However, there is no guarantee that the police officers will be allowed to join the relevant squad with their own dogs. These expenses are incurred prior to joining the relevant squad and prior to the derivation of the related assessable income. Under these circumstances, the related expenses are not allowable deductions under subsection 51(1).

### **Police Legacy scheme**

371. The Police Legacy schemes operating in New South Wales, the Northern Territory, Queensland, South Australia, Victoria and Western Australia are registered as public benevolent institutions with the Australian Taxation Office.

372. Section 78(4) allows deductions for donations of \$2 or more to the registered Police Legacy Schemes.

### **Police Widows scheme**

373. The Police Widows scheme in Victoria is registered as a public benevolent institution with the Australian Taxation Office.

374. Section 78(4) allows deductions for donations of \$2 or more to the Victorian Police Widows scheme.

### **Professional library**

375. Law reference books (such as *The Carter's Criminal Code in Qld*) are essential publications for police officers which updates current legislation and case law. As there exists a direct nexus between the expense and the duties carried out by police officers, deduction are allowable for depreciation of the purchase cost of law reference books under subsection 54(1).

376. Depreciation on a professional library may be claimed as a deduction under section 54. If an individual reference book is purchased after 1 July 1991, and the cost does not exceed \$300 or its effective life is less than 3 years, it may be depreciated at 100% in the year of purchase under section 55 (Taxation Determination TD 93/159).

377. For depreciation purposes, reference books may only be included in the professional library if their content is directly relevant to the duties performed by police officers.

378. In *Case P26*, 82 ATC 110; 25 CTBR(NS) *Case 90*, a university lecturer was allowed a claim for depreciation expenses on legal books but denied a deduction for depreciation on general reading and fiction books.

'No doubt the illustrations and anecdotes which he was able to use did serve as useful teaching aids but in my view these were not plant or articles within the meaning of section 54 of the Act, as they were not used or installed ready for use for the purposes of producing assessable income' (ATC at 112; CTBR at 661).

379. Where the cost of a reference book has been claimed as a deduction previously, its cost may not be subsequently added to the value of a professional library and depreciated. For example, a police officer may have claimed a deduction for cost of a reference book as part of their self-education expenses. The cost of this reference book is not able to be included in the value of a professional library for depreciation purposes.

380. Paragraphs 283 to 291 of this Ruling provide further information on the deductibility of depreciation.

### **Relocation expenses**

381. When police officers are transferred from one district to another, deductions are not allowable for expenses incurred as the result of the transfer (eg removal and storage expenses).

382. Where a police officer transfers from one locality to another and incurs expenses in moving from one place of residence to another to take up duties of the new position, these expenses are not incurred in gaining or producing assessable income and is not deductible under subsection 51(1). The police officer is travelling to his work and not between two places of employment.

383. Relocation expenses incurred by police officers to take up a transfer in existing employment are not deductible under subsection

51(1). This applies whether the transfer of employment is voluntary or at the employer's request.

384. This principle would equally be applicable to compulsory transfers in lieu of disciplinary actions or to transfers by the Police Department as part of police officers' employment conditions.

385. In some instances, police officers are paid an allowance from the Police Department as compensation for depreciation, disturbance, removal and storage expenses. This allowance is assessable in full and no deductions are allowable under subsection 51(1).

386. This decision is supported by the following two cases. In *Fullerton v FC of T* 91 ATC 4983; (1991) 22 ATR 757, the taxpayer worked for the Queensland Forest Service (QFS) as a professional forester for over 20 years. In that time, QFS transferred him to a number of different locations. As a result of a reorganisation his position ceased to exist. He had no choice but to accept a transfer as he may have been retrenched. The QFS reimbursed a portion of the relocation expenses and the taxpayer claimed the remainder as a tax deduction. It was held that the expenses on the taxpayer's domestic or family arrangements is not deductible under subsection 51(1), even though the expenses had a causal connection with the earning of income.

387. In Case U91, 87 ATC 525, the taxpayer, a Commonwealth public servant, was transferred at the request of his employer from a State office to the central office of the department in Canberra. She was denied a deduction for expenses incurred in attempting to auction his house. It was held that the expenses were too remote from the income-producing process to be incurred in gaining or producing assessable income.

388. Taxation Rulings IT 2406, IT 2481, IT 2566 and IT 2614 confirm that expenses incurred on relocation expenses are not deductible.

### **Self-education expenses**

389. Self-education expenses are deductible under subsections 51(1) and 54(1), if the self-education is directly relevant to the activities by which a police officer currently derives assessable income or is likely to lead to an increase in income from those activities. Self-education includes courses undertaken at an educational institution (whether leading to a formal qualification or not), attendance at work-related conferences or seminars, self-paced learning and study tours.

390. Paragraphs 274 to 282 of this Ruling provide further information on the deductibility of expenses incurred in attending conferences, seminars and training courses.

391. On occasions, it is difficult to determine whether self-education expenses have a sufficient connection with income production to justify a deduction. The following Court decisions outline the various principles that have emerged.

392. In *FC of T v. Finn* (1961) 106 CLR 60; 12 ATD 348, the High Court held that the expenditure incurred by a senior government architect on an overseas tour devoted to the study of architecture was allowable. Although the Full High Court recognised that the tour expenses were relevant to the activities by which the taxpayer was currently producing income and to the likelihood of his actually gaining more income in the future, the expenditure was also regarded as a professional obligation to keep up to date.

393. In *FC of T v. Hatchett* 71 ATC 4184; (1971) 2 ATR 557, a primary school teacher incurred expenditure in relation to the submission of a thesis to gain a Teacher's Higher Certificate and university fees for an Arts Degree. It was held that the Certificate expenses were allowable as they related to the actual gaining of income. Possession of the Certificate entitled the taxpayer to earn more money in the future and entitled him to be paid more for doing the same work without any change in grade.

394. The university fees were not deductible. There was no connection between these expenses and the activities by which the taxpayer gained his income as a primary school teacher. Even though, his employer contributed towards payment of the fees and it was accepted that the course was likely to make the taxpayer a better teacher in a general sense, this was not sufficient to make the fees deductible.

395. In *FC of T v. Studdert* 91 ATC 5006; (1991) 22 ATR 762, the taxpayer, a Qantas flight engineer, sought a deduction for expenses incurred on flying lessons leading to a private pilot's licence. The Administrative Appeals Tribunal (AAT) at first instance was prepared to accept that it was part of the taxpayer's duties to understand the overall workings of aircraft flight. The AAT allowed the expenditure on the basis that the lessons improved his proficiency in those duties.

396. The Federal Court upheld the AAT's decision allowing the deduction. His Honour, Hill J, relying on the decision in *Finn*, held that the cost of the flying lessons were deductible as they improved the taxpayer's proficiency as a flight engineer. This was sufficient on its own, without reference to the effect of the lessons on the taxpayer's opportunities for promotion in his current occupation.

397. A deduction is not allowable for self-education expenses if the study, viewed objectively, is designed to enable a taxpayer to get employment, to obtain new employment or to open a new field of income-producing activity. In this case, self-education expenses are

incurred at a point too soon to be regarded as incurred in gaining or producing assessable income. This is supported by the decision of the High Court in *FC of T v. Maddalena* 71 ATC 4161; (1971) 2 ATR 541.

398. The intention or purpose of a police officer in incurring the self-education expenses can be an element in determining deductibility. If the main purpose in undertaking a course of study is related to the gaining or producing of income and the private purpose is merely incidental, apportionment of the expenses is not appropriate.

399. If the self-education is undertaken equally for work-related purposes and for private purposes, it is appropriate to equally apportion the self-education expenses between the purposes. If the work-related purpose is merely incidental to the main private purpose, only those expenses directly attributable to the work-related purpose are allowable.

400. Whether or not the particular self-education expense has the necessary connection with the production of assessable income depends upon the relevant facts and circumstances of each particular case.

401. Subject to the general tests under subsection 51(1) being met, the following types of expenses related to self-education are allowable under the subsection:

- (i) course or tuition fees of attending an educational institution. These fees include student union fees.
- (ii) the cost of textbooks, of professional and trade journals, of technical instruments and equipment and of clerical activities (e.g., word-processing and photocopying).
- (iii) fares, accommodation and meal expenses incurred on overseas study tours attended away from a police officer's home or attending an educational institution away from the police officer's home.
- (iv) interest incurred on moneys borrowed to pay for the expenses listed above in subparagraphs (i) - (iii).
- (v) deductions for running expenses of a private study used in connection with self-education. Paragraphs 326 to 336 provide further information on the deductibility of running expenses for a private study.

402. The following expenses related to self-education are not allowable under subsection 51(1).

- (i) a higher education contribution payment (subsection 51(6)).



- (ii) meals purchased by a police officer, while attending a course at an educational institution in the course of normal travel to and from home.

## **Limit on deductibility**

403. Where self-education expenses are allowable under subsection 51(1), but also fall within the definition of 'expenses of self-education' in section 82A, only the excess of the expenses over \$250 is deductible.

404. 'Expenses of self-education' are defined under section 82A as all expenses (other than higher education contributions (HECS), Open Learning charges and debt repayments under the tertiary student financial supplement scheme) necessarily incurred by a police officer in connection with a course of education provided by a school, college, university or other place of education and undertaken by the police officer to gain qualifications for use in the carrying on of a profession, business, trade or in the course of any employment.

405. A Police Academy is considered to be a place of education to which section 82A applies. Any expenses allowable for attendance at a Police Academy as self education expenses. If police officers are undertaking external studies at another place of education (eg a university) as well as attending training courses at a Police Academy, section 82A only applies once to the total self-education expenses incurred by police officers

406. Where the expenses are allowable under subsection 51(1) and they are not 'expenses of self-education' as defined, the full amount will be deductible.

407. If the course of study is a requirement of the current employment then a real connection between the expenses incurred and the assessable income derived has been established.

408. In some instances, undertaking a particular course of study is a prerequisite for police officers to join certain squads within the Police Department. This requirement does not represent the opening up of new earning activities in police officers' current employment but represent an extension of the same activities undertaken by police officers.

409. Police officers derive their assessable income from being employed by the Police Department, they do not derive their assessable income from being a member of a particular squad of the Police Department. Regardless of the squads they belong to, police officers' employment conditions remain the same as they are still paid under the same federal or state award. Squads are only staffed with police officers.

410. It is the Police Departments' policy that by undertaking external studies, police officers become more competitive for promotion and their self development is enhanced. The Police Departments have determined that it is in the interest of the Departments and its officers to continue to increase their knowledge which can improve their efficiency and the manner in which they discharge their duties.

411 It is also part of the selection process that police officers must be able to demonstrate that they have the ability to carry out a variety of duties by working in different squads. It is therefore a distinct advantage for police officers to undertake external studies when applying for a promotion or a transfer to another squad.

412. *FC of T v. Smith* 78 ATC 4157; (1978) ATR 518 and in *FC of T v. Lascelles-Smith* 78 ATC 4162; (1978) ATR 524, it was held that expenses incurred when undertaking a course of study which lead to a transfer to another section within the same department and would reasonably lead to an increase in future income through promotion are allowable as self-education expenses.

413. This decision is confirmed in *Case 48 93* ATC 520 where a police officer in the Criminal Investigation branch was allowed a deduction for expenses incurred in obtaining a commercial helicopter pilot's licence. The police officer had incurred the expenses to become eligible for transfer in the Police Air Wing squad. The transfer took place twelve months after starting the course. It was held that by obtaining such a licence, the police officer had increased her efficiency and chances of promotion in her existing occupation.

414. While the Police Departments have a policy to encourage police officers to undertake further tertiary studies, there is no recognised list of approved courses. Each application for study approval is considered by the Police Department on its own merit and the relevance to police duties (ie increase in promotional prospects, requirements for a specific position or duty, strong recommendation).

415. Once an application for study has been approved by the Police Department, police officers obtain the status of 'approved students'. Federal police officers have performance contract with their employer. These contracts details the requirements which have to be met by federal police officers in regards to external studies. The successful completion of these performance contracts are considered for promotional prospects.

416. By way of example, courses considered relevant by the Police Department to the duties of personnel employed as police officers would include Justice Administration, Management, Business Principles in Accountancy or Administration, Law, Criminology, Community studies in Police and Corrections and Psychology.

417. Police Departments employ two different categories of employees: police officers and support staff. Support staff include accountants, clerical staff, human resources managers, industrial relation officers, forensic scientists, etc. Police squads are only staffed with police officers. Support staff are not attached to any particular squads.

418. Therefore, a staff member employed as an accountant by the Police Department is not a police officer and this Ruling does not apply to these staff members.

419. Police officers who undertake studies in accountancy to become an accountant would not be entitled to claim self-education expenses as it would open up new income earning activities. However if police officers undertake accountancy studies to help them perform better in their current employment (e.g. the Fraud squad), then they would be entitled to claim self-education expenses.

420. Similarly an accountant employed by the Police Department who undertake studies in Justice Administration to become a police officer would not be entitled to claim self education expenses as it would open up a new field of employment.

421. Self-education expenses allowable as deductions under subsection 51(1) are reduced by the amount which police officers receive or are entitled to receive by way of scholarship, bursary or reimbursement from the Police Department.

422. From 1/7/93, in Queensland it is now a condition of employment that all new police recruits undertake tertiary studies. It is not however conditional on police officers who were sworn in before 1/7/93.

423. During the first twelve months, and before being sworn in, police recruits receive a student allowance in lieu of wages while studying full time at university. These police recruits are entitled to claim self-education expenses as there is a direct nexus between the assessable income derived and the expenses incurred.

424. For the first twelve months, as the police recruits have not been appointed to a particular police station, the university is considered to be the police recruits' regular place of employment.

425. Any travel undertaken between the police recruits' place of residence and the university is considered to be private in nature, ie travel to work, and deductions are not allowable under subsection 51(1).

426. Paragraphs 342 to 349 provide further information on the deductibility of motor vehicle expenses.

427. Taxation Ruling TR 92/8 provides additional information on the deductibility of self-education expenses.

#### **Sick leave bank**

428. In some States, police officers are required under their award to contribute part of their annual leave towards a pool of sick days. This pool is commonly referred to as the 'sick leave bank'.

429. From this bank police officers who have used all their annual sick leave entitlements are able to obtain further sick leave from this particular bank for injuries incurred as a result of duties performed as police officers.

430. In Queensland, police officers contribute two days of their recreation leave on an annual basis. In the Northern Territory and South Australia, police officers are required to contribute one day of their leave entitlement on call. In Tasmania, police officers are required to contribute one day of their recreational leave on an annual basis.

431. Such contributions do not represent expenses incurred by police officers for work-related purposes. Deductions are not allowable under subsection 51(1) for contributions made towards a sick leave bank.

#### **Stationery, street directories and diaries**

432. Stationery, street directories and diaries are normally supplied by the Police Department. In the course of their employment, police officers are required to maintain diaries to record their daily activities. Any type of stationery used by police officers for work-related purposes are allowable deductions under subsection 51(1).

433. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Therefore, expenses incurred voluntarily by police officers on stationery, street directories and diaries used for work-related purposes and which are not reimbursed by the Police Department are allowable deductions under subsection 51(1).

#### **Technical or professional journals, periodicals and text books**

434. The purchase or subscription cost of such items is deductible under subsection 51(1) if the content of the journals, periodicals or textbooks has a direct relevance to the nature of the duties carried out by police officers. They may be used to update knowledge on current

developments in a particular area which is directly relevant to the duties being performed by police officers. For example, a police prosecutor would get a deduction for purchasing the 'Weekly Law Reports'.

435. Journals, periodicals and textbooks with technical content which is too general in nature are not deductible. For example, a police officer employed in the Police Department motor pool would not get a deduction for the cost of motor trade magazines.

436. In *Case P124*, 82 ATC 629; (1982) 26 CTBR(NS) *Case 55*, an air traffic controller was not allowed a deduction for the purchase of aviation magazines. The members agreed that;

'His work did not require him to buy the papers and magazines...[and although] there might be some tenuous connection between the cost of aviation magazines and the maintenance of knowledge necessary for holding a flying licence...but it seems to be that the possible connection is altogether too remote' (ATC at 633-634; CTBR at 422).

437. This can be contrasted with *Case R70*, 84 ATC 493; (1984) 27 CTBR(NS) *Case 123*, in which an accountant employed with the Public Service was allowed a deduction for the cost of publications produced by a business and law publisher. The nexus between the expense and the accountant's occupation was established as the publications contained current technical information which related to her day-to-day work. She was, however, not allowed a deduction for the purchase cost of daily newspapers.

## **Telephone expenses**

### ***Telephone calls***

438. Police Officers need at times to be available for additional work duty. They need to contact or be contacted by the Police Department or other police officers on a regular basis. It is a condition of employment that police officers be either 'on call' or 'on stand by' so they may be recall for work duty at short notice. For these contacts to be made, the use of a telephone is necessary.

439. Where Police Officers are required to make calls for work-related purposes, the cost of such calls are allowable deductions under subsection 51(1).

440. Paragraphs 218 to 220 provides further information on the deductibility of beepers, paging units, mobile phones and answering machines.

### ***Telephone installation costs***

441. Installation costs for telephones are not deductible under subsection 51(1) as they are considered to be a capital expense.

442. In Case M53 80 ATC 357; 24 CTBR(NS) 73 it was held that (ATC at 359; CTBR at 236):

'...on payment of the connection fee, this taxpayer bought into existence an advantage for the enduring benefit of his newly established medical practice.'

443. Expenditure on maintaining a telephone used in the production of assessable income is allowable. This decision is supported by *Case N5 81 ATC 35; 24 CTBR(NS) 78*.

444. Taxation Ruling IT 85 confirms that telephone installation costs are not allowable deductions.

#### ***Telephone rental expenses***

445. Generally, the use of a telephone and hence the rental costs would have a private or domestic character and not be allowable deductions. But consider *Case N5 81 ATC 35; 24 CTBR (NS) 682* where the Board said that:

'...expenditure on maintaining the use of a telephone can, because of its very nature, be properly deductible under section 51, obviously so when installed and used in a place of business and not infrequently when installed in private premises so long as it is used in the production of assessable income.' (ATC at 37; CTBR at 684).

446. The situations where telephone rental will be deductible, especially in the employee context, is summarised at paragraph 3 of Taxation Ruling Taxation Ruling IT 85. It identifies that taxpayers who are either on call or required to contact their employer on a regular basis may be entitled to a deduction for some portion of the cost of telephone rental.

447. Where the phone is not used 100% for work-related purposes then a proportionate deduction only will be allowable. The proportion can be calculated using the following formula:

$$\frac{\text{Business calls (incoming and outgoing)}}{\text{Total calls (incoming and outgoing)}}$$

448. Telephone rental expenses are allowable deductions to police officers if they are required as part of the employment to:

- be 'on call' or 'on stand by',
- contact the Police Department on a regular basis or
- be contacted by the Police Department on a regular basis.

449. Police Officers need at times to be available for additional work duty. It is a condition of employment that police officers be either 'on call' or 'on stand by' for a specific period of time so they may be recalled for work duty at short notice.

450. When police officers are 'on call', the Police Department has the right to recalled police officers after completing a normal shift or from leave to perform work duties. When police officers respond to the call, they are paid overtime from the moment they accept the call from the Police Department to the time they return home.

451. Police officers who are 'on stand by' are required, for a specific period of time, to resume duty immediately upon receiving a call from the Police Department. During this period of time, police officers are paid an additional penalty rate. This amount is paid to the police officers whether or not they actually are recalled for duty.

452. Where it is a condition of employment for police officers to be continuously 'on stand by', and not just for a specific period of time, a special duties allowance is included in their salary whether or not they are actually recalled for work-related purposes.

453. In some States, police officers attached to emergency squads such as scientific investigations, rescue or bomb disposal squads are paid overtime from the time they receive a call until such time as they return home. These police officers are normally provided with a fully equipped departmental vehicle. Specialist officers take responsibility of a situation from the moment they are contacted by the Police Department (scientific/bomb disposal personnel) ie they perform sufficient work-related tasks to be said to be on duty from the point of contact.

454. In these instances, the police officers take responsibility for a situation at the point in time when they are contacted by the Police Department. it is considered that police officers perform sufficient work-related tasks to be said to be on duty from the moment they are contacted by the Police Department.

455. For these contacts to be made, the use of a telephone or mobile phone is necessary. Deductions for a telephone or mobile phone's rental expenses are allowable deductions to be apportioned between work-related and private use.

456. Taxation Ruling IT 85 provides further information on the deductibility of telephone rental expenses.

#### ***Telephone silent number***

457. The cost of obtaining a silent number listing is considered to be private in nature and no deduction is allowed under subsection 51(1).

458. Taxation Determination TD 93/115 confirms that expenses incurred in obtaining a silent telephone number are not deductible.

### **Tools and equipment**

460. As per paragraph 10 of Taxation Ruling IT 2198, an expense incurred voluntarily for work-related purposes may still be deductible if the item purchased can be directly related to income producing activities. Depreciation for the purchase cost of tools and equipment is an allowable deduction under subsection 54(1). Paragraphs 10 to 13 of this Ruling provide further information on depreciation of equipment.

461. By way of example, depreciation for the purchase cost of the following items would be allowable deductions:

- a leatherman tool,
- a kit of tools purchased by police officers attached to the Police Department motor pool,
- diving equipment purchased by police officers attached to the Water Police squad and used during work dives,
- marine charts and associated navigation equipment (i.e., dividers, compass parallel rules),
- bags to carry weapons and other similar items,
- protective boxes with safety locks for issued weapons,
- torches and batteries.
- sheet music, musical instruments parts including repairs and cleaning materials purchased by police officers attached to the Police Band.

### **Unions or associations fees**

462. Union or associations fees are fully deductible under subsection 51(1). Taxation Rulings IT 327, IT 2062 and IT 2416 provide further information on the deductibility of unions and associations' fees.

463. In some States, police officers are able to prepay their union or association fees 12 months in advance. Under sections 82KZL to 82KZO, prepaid expenses are allowable deductions in the year the expense was incurred if the service is provided within 13 months of the prepayment or the amount paid is less than \$1000.

464. If police officers have prepaid their 1995 union or association fees in June 1994 or earlier, they are entitled to a full deduction in the 1994 financial year.



**Watches**

465. The costs of purchasing and repairing ordinary wrist watches, including water proof watches, is considered to be of a private nature and no deduction is allowed under subsection 51(1).

466. In *Case S82 85 ATC 608*; 28 CTBR(NS) *Case 87* a nursing sister was not allowed a deduction for a watch that was used in the course of her employment. The Board's decision was that the watch was 'an item of a private nature...[and]...The use of a watch ...is important to most people in the community whether it be used...to ensure not commencing work too early or finishing too late, or to log time...' (ATC at 612; CTBR at 682).

467. In *Case P71 82 ATC 338*; 26 CTBR(NS) *Case 3* an ambulance officer was not allowed a deduction for a watch he claimed under subsection 51(1); nor was he allowed the deduction under section 54. It was decided that the expense was essentially of a private nature and not incurred in gaining assessable income. 'The evidence does not provide any basis either for concluding that the taxpayer's employment would be threatened by his failure to own a watch and use it for official purposes, or that the level of income was improved by using it for that purpose...' (ATC at 341; CTBR at 17).

468. In *Case N84 81 ATC 451*; 25 CTBR(NS) *Case 43* a television cameraman was not allowed a deduction for the purchase of a watch which was used for work. The deduction was denied on the grounds that the watch did not possess any special attributes 'and although it was used for work, this fact did not change their essential character as private expenditures' (ATC at 453; CTBR at 309). This is supported by the following cases: *Case S82 85 ATC 608*; 28 CTBR(NS) *Case 87* and *Case P71 82 ATC 338*; 26 CTBR(NS) *Case 3*.

469. Special watches such as scuba diving watches are items which can be directly related to the duties performed by police officers in the Diving squad. Deductions for cost of repairs, batteries and watch bands of scuba diving watches are allowable deductions under subsection 51(1).

470. Depreciation for the purchase cost of scuba diving watches is an allowable deductions under subsection 51(1) or subsection 54(1). Paragraphs to of this Ruling provide further information on depreciation of equipment.

**Alternate views**

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471. During the consultation on this Ruling, alternative views were expressed as follows -

472. Conventional clothing: that abnormal expenses incurred on conventional clothing should be an allowable deductions. The ATO view is at paragraph 228.

473. Driver's license: that the cost of obtaining a driver's licence be allowable because it is necessarily incurred by police officers to perform their duties. The ATO view remains unchanged as per TD 93/108.

474. Sunglasses, hats and sunscreen: that expenses incurred on sunglasses, hats and sunscreen should be an allowable deduction. The ATO view remains unchanged as per TD 93/244.

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