

HOME OFFICE EXPENSE DEDUCTIONS :

The guidance for home office deductions is contained in Taxation Ruling TR 93/30, a link to this document is :

<https://www.ato.gov.au/law/view/document?DocID=TXR/TR9330/NAT/ATO/00001>

A home office is (simplistically) divided into two types :

- Where part of a home has the character of a “place of business”, used for income producing activities; and
- Where a room is used as a study or home office merely as a matter of convenience

Para 4 of TR93/30 explains :

“Whether an area of the home has the character of a place of business is a question of fact which depends on the particular circumstances of each case. This is likely to be the case where a part of a residence is set aside exclusively for the carrying on of a business by a self-employed person (e.g., a doctor's surgery). Another example is where part of the home is used as a taxpayer's sole base of operations for income producing activities (e.g., where no other work location is provided to an employee by an employer).

Para 12 of TR 93/30 explains :

The absence of an alternative place for conducting income producing activities has also influenced a court or tribunal to accept a part of a taxpayer's residence as a place of business. Examples include:

- a self-employed script writer using one room of a flat for writing purposes and for meetings with television station staff (*Swinford's Case*);
- an employee architect conducting a small private practice from home (*Case F53*, 74 ATC 294; *Case 65*, 19 CTBR(NS) 452);
- a country sales manager for an oil company whose employer did not provide him with a place to work (*Case T48*, 86 ATC 389; *Case 47*, 29 CTBR(NS) 355)

Para 13 of TR 93/30 explains :

“In circumstances such as those referred to in paragraph 12,.a place of business will exist only if:

- it is a requirement inherent in the nature of the taxpayer's activities that the taxpayer needs a place of business;
- the taxpayer's circumstances are such that there is no alternative place of business and it was necessary to work from home; and
- the area of the home is used exclusively or almost exclusively for income producing purposes

The deductible expenses in respect of a home office can be divided into two broad categories:

- Expenses relating to ownership or use of a home which are not affected by the taxpayer's income earning activities (i.e., occupancy expenses). These include rent, mortgage interest, municipal and water rates, land taxes and house insurance premiums
- Expenses relating to the use of facilities within the home (i.e., running expenses). These include electricity charges for heating/cooling, lighting, cleaning costs, depreciation, leasing charges and the cost of repairs on items of furniture and furnishings in the office

Typically where part of the home is used as a place of business both occupancy and running expenses may be claimable, whilst where used as a matter of mere convenience only running expenses may be claimed.

Should occupancy expenses be claimed, caution is advised, as in accordance with guidance in IT2673, a link to this document is :

https://www.ato.gov.au/law/view/document?src=qa&pit=99991231235958&arc=true&start=1&pageSize=10&total=1&num=0&docid=ITR%2FIT2673%2FNAT%2FATO%2F00001&dc=false&qaid=qa_pbr&stype=find&cat=E%2BF&tm=phrase-docref-IT%202673

(specifically regarding section 160ZZQ(21) of the ITAA 1936 as amended)

Extract from IT2673 is as follows :

RULING

Scope of subsection 160ZZQ(21) broadly stated

4. Broadly speaking, subsection 160ZZQ(21) applies most commonly to deem a capital gain to have accrued to a taxpayer (or a capital loss to have been incurred by the taxpayer) in a situation where:

- (a) a dwelling owned by the taxpayer is disposed of;
- (b) the dwelling was, during a particular period, the sole or principal residence of the taxpayer; and
- (c) the dwelling was, during the whole or part of that period, also used for the purpose of gaining or producing assessable income.

5. 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.

We recommend discussion with us prior to determining your home office expenses deduction.