

# General Rule as to Deduction of Expenses in Employment

## Part 05-02-20

This document should be read in conjunction with section 114 of the Taxes  
Consolidation Act 1997

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## 1 Introduction

This manual provides guidance in regard to the principles, based on case law, for determining the tax deductibility of general expenses, as they arise in respect of money expended in the performance of the duties of the employment. It also provides guidance on claiming tax relief in respect of qualifying employment related expenses and the Flat Rate Expense (“FRE”) allowance regime.

The legislation in respect of deductions for employment expenses is contained in section 114 Taxes Consolidation Act (“TCA”) 1997. To qualify for a deduction under this section the employee must incur the expense and not be reimbursed for that expense by the employer. In addition:

- for expenses incurred in respect of travelling, the holder of the office or employment must be necessarily obliged to incur such expenses in the performance of the duties of the office or employment, and
- for expenses other than those incurred in relation to travel, such expenses must be incurred wholly, exclusively and necessarily in the performance of the duties of the office or employment.

Expenses incurred must be paid by the employee to be deductible as an expense of the employment. The Safety, Health and Welfare at Work (General Application) Regulations 2007 provide for the obligations of employers in relation to the provision of personal protective clothing and equipment (“PPE”) and should be borne in mind when considering whether an expense is incurred wholly, exclusively and necessarily in the performance of the duties of the employment. It can be inferred from the provisions of the regulations that if PPE is required for the performance of the duties then the employer will provide the PPE.

A separate Tax and Duty Manual (“TDM”) [Part 05-01-06](#) Tax treatment of the reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees, is available in relation to travel expenses incurred and defrayed, which also covers subsistence expenses and Employees’ Motoring / Bicycle expenses. Employers often reimburse employees for expenses incurred wholly, exclusively and necessarily in the performance of the duties of their employment and if the expense is paid by the employer, a deduction is not allowable to the employee.

## 2 Principles

The central test of deductibility when considering general expenses (and flat rate expense allowances – [paragraph 7](#)) operated administratively by Revenue) is whether the expense has been expended wholly, exclusively and necessarily in the performance of the duties of the employment/office. Despite the importance of this test, it has not often come before the Irish courts and, therefore, there is little guidance from Irish case law as to how this phrase should be interpreted.

The UK legislation contains a similar phrase which has come before the UK Courts on many occasions, sometimes on the general meaning of “wholly, exclusively” and on other occasions in relation to the phrase “necessarily in the performance of the duties of the employment/office”. The findings in these cases can be both persuasive

and instructive in an Irish context. There is case law that relates specifically to continuous professional development and to club memberships and education. The “wholly, exclusively and necessarily in the performance of the duties of the employment test” is strictly applied.

The narrow application of section 114 TCA 1997 means that expenses must be incurred wholly, exclusively and necessarily in the performance of the duties of the office/employment. Each and every part of the provision must be strictly conformed to. Duality of purpose, in the context of employment expenses, has been considered on numerous occasions and it has been found that expenditure which is not incurred in the actual performance of the taxpayer’s duties, but merely in order to put the employee in a position to perform his or her duties, is not deductible. To quote from Henderson J. in **Revenue & Customs Commissioners v Banerjee [2011] 1 All ER 985**: **“any duality of purpose is fatal: that is the force of the word ‘exclusively’”**.

The strict application of the rule in section 114 TCA 1997 is further displayed in the words of Vaisey J. in *Lomax v Newton*, 34 TC 558, where Vaisey, J. stated:

“The provisions of this rule are notoriously rigid, narrow and restricted in their operation. In order to satisfy the terms of the Rule, it must be shown that the expenditure incurred was not only necessarily, but wholly and exclusively incurred in the performance of the relevant official duties. As it is certainly not enough merely to assert that a particular payment satisfies the requirements of the Rule, without specifying the detailed facts upon which the finding is based. An expenditure may be necessary for the holder of an office without being necessary to him in the performance of the duties of that office, it may be necessary in the performance of those duties without being exclusively referable to those duties; it may perhaps be both necessarily and exclusively, but still not wholly so referable. The words are indeed stringent and exacting; compliance with each and every one of them is obligatory if the benefit of the Rules is to be claimed successfully.”

## 2.1 Wholly and Exclusively

The taxpayer’s sole purpose for incurring the expense must have been for the purposes of the performance of the duties of the employment. Where a non-employment purpose is identified, then the expenditure is not allowable. The taxpayer’s purpose includes his or her conscious as well as subconscious purpose.

The **wholly and exclusively** provision rules out circumstances where an expense is incurred, and that expense serves a dual purpose.

- In *Mallalieu v Drummond (Inspector of Taxes) [1983] STC 665*, the taxpayer, a barrister, purchased dark clothes to comply with Bar Council rules for court appearances. This expense was found to have a dual purpose of preserving warmth and decency as well as satisfying the Bar Council rules and so the cost was not tax deductible.

In *Sargent (Inspector of Taxes) v Barnes [1978] 33 TC 491*, the principle of exclusivity was also examined. A dentist made a detour on his journey home from his practice each day to visit a laboratory to order/collect dentures. The work done was

exclusively referable to the practice and the journey between the laboratory and the practice was necessary. However, the cost of travelling between the laboratory and the practice was part of the journey made and to and from his home and his place of business. Therefore, the expense was not incurred wholly and exclusively for the purpose of the business.

## 2.2 Necessarily incurred in the performance of the duties

“Necessarily” means that the duties of the office or employment could not be performed without incurring the expense. “In the performance of the duties” means in the actual performance or carrying out of the duties of the employment. Any expenditure incurred before or after performing the duties of the office or employment would be ruled out. Expenditure incurred by an employee/office holder which merely puts the employee in a position to exercise the employment would not be incurred in the performance of the duties of the office or employment.

The objective test of necessity requires that the expense is incurred. However, it must be considered whether the duties could be performed without incurring the expense. The expense should not arise because of the personal circumstances or preference of the taxpayer. For the expense to be allowable, it must be incurred in the actual performance of the duties of the office or employment or as a direct consequence of those duties.

It is the duties of the office or employment which must impose the test of necessity, not the employer.

- In *Brown v Bullock* (40TC1) a bank manager was required by his employer to join a club and the employer paid the annual subscription. The taxpayer was also a member of another club which was thought by the employer to derive some benefit to his role, so the employer paid half the annual subscription. The amount paid was treated as emoluments and the taxpayer felt it should be allowed as an expense deduction. It was held that the expense was not incurred in the performance of the duties as bank manager. Although the employer imposed the necessity to incur the expense, the duties of the employment could be performed without incurring the expense.
- *Nolder (H.M. Inspector of Taxes v Walters)* [1930] 15 TC 380 which concerned an airline pilot who often had to drive to the airport on the receipt of a phone call to fly a plane to various destinations. It was held that the pilot’s travel expenses were not allowable as they were incurred in putting the pilot in a position to carry out his duties and not incurred in the actual performance of those duties.

## 3 Claiming Employment Expenses (other than FRE allowances)

Outside of the FRE allowance regime (which is outlined in [paragraph 7](#)), employees retain their right to claim a deduction under section 114 TCA 1997, in respect of actual vouched expenses incurred wholly, exclusively and necessarily in the performance of the duties of their employment, but the test is to be strictly applied.

Therefore, if there is no FRE allowance available for an employment category and the employee has incurred qualifying employment related expenses that have not been reimbursed by his or her employer, the amount incurred can be claimed in the manner set out below.

To claim a deduction for employment expenses (outside of the FRE allowance regime) employees must file an [Income Tax Return](#) after the year end.

To make a claim for employment expenses, the following steps are required:

- Sign in to [myAccount](#).
- Click on 'Review Your Tax for the previous 4 years' link in 'PAYE Services'.
- Request a Statement of Liability for the relevant tax year.
- Click on 'Complete Income Tax Return'.
- In the 'Tax Credits & Reliefs' page, select 'Your Job-Other PAYE Expenses' and input the claim details.
- Complete and sign your Income Tax Return.

## 4 Membership fees paid to a professional body

Professional membership fees are only deductible under section 114 TCA 1997 where those fees are incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his or her employment.

Circumstances in which professional fees are incurred wholly, exclusively and necessarily in the performance of the duties of an office or employment are set out in TDM [Part 05-02-18](#) Deduction for Expenses in Respect of Annual Membership Fees Paid to a Professional Body which includes a number of examples demonstrating the circumstances where a deduction may apply.

## 5 Continuous Professional Development (CPD)

It is an accepted principle in tax law that expenditure which merely enables an individual to perform his/her duties, or to perform the duties more efficiently, is not expenditure in the performance of the duties and, consequently, no deduction is due in respect of such expenditure. As such, costs associated with the Continuous Professional Development do not qualify for tax relief under section 114 TCA 1997.

The cost of, and costs associated with, courses attended during office hours and extra-curricular courses have featured in many tax cases over the years. It was generally found that the costs were either not necessarily incurred (individuals undertaking voluntary courses after office hours) or not incurred in the performance of the duties of the office or employment. Generally, a distinction is made between expenditure incurred in the performance of duties (which is deductible) and expenditure incurred to put the taxpayer in a position to perform the duties (which is not), *Snowdon v Charnock* [2001] STC (SCD) 152 refers.

- In the case of *Humbles v Brooks* 40 TC 500, a headmaster at a primary school was required to teach history and attended a series of history classes at weekends for the purposes of improving his skills. It was held that no deduction was due as the expenses were not necessarily incurred in the performance of duties of the employment.
- In the case of *Blackwell v Mills* 26 TC 468, a student assistant in the research laboratory was required by his employer, in addition to performing his laboratory duties, to attend classes in preparation for a university degree. It was held that the expenses associated with the course were not incurred in the performance of the duties of the employment and no deduction was due.
- The requirement that expenditure be incurred in the performance of the duties also denied a claim for the cost of journals by a medical officer who had to keep up to date with developments in his specialisation (*Simpson v Tate* 9 TC 314).

In the circumstances where an employer pays or refunds the cost of continuing professional development which is wholly and exclusively for the purposes of the trade or profession, Revenue accepts that such payment or refund comes within the scope of their published practice. Courses relevant to the business of an employer are not regarded as a taxable benefit.

A course is regarded as relevant to the business of an employer where it leads to the acquisition of knowledge or skills which are:

- necessary for the duties of the employment, or
- directly related to increasing the effectiveness of the performance of the present or prospective duties of the office or employment.

The Revenue published practice on the payment or reimbursement by an employer of course or exam fees is detailed in TDM [Part 05-01-01j](#) The provision of staff awards.

## 6 Deductibility of typical expenses that may be incurred by an employee

**Laundry** - normal laundry of clothing or uniforms does not meet the wholly, exclusively and necessarily in the performance of the duties of employment test. Generally, laundry expenses are only allowed where they are necessary for infection control purposes.

**Uniforms** – a uniform bearing an employer logo or of a style that is identifiable as a uniform, which employees are obliged to supply and wear will generally meet the conditions for claiming a deduction.

**Clothing** – clothing expense other than a uniform, as described above, would not meet the conditions of section 114 TCA 1997, as this expenditure fails the duality of

purpose test. For example, the purchase of black trousers and a white shirt for work would not be allowable.

**Footwear** – expenses in regard to footwear do not meet the conditions for a deduction as this expenditure fails the duality of purpose test.

**Statutory/regulatory requirements** – a registration fee where there is an annual statutory obligation to be a member of a particular body to carry out the duties of the employment (e.g., Irish Medical Council for doctors) is an allowable deduction and will likely be included in a FRE allowance where one exists for the particular profession.

**Purchase of a computer** – it is unlikely that an employee would be required to purchase a computer from their own resources to fulfil the duties of the employment. Where an employee does incur the cost of purchasing a computer, no expense deduction is allowed, since it is an item of capital expenditure. The wholly, exclusively and necessarily in the performance of the duties of the employment test would not be met. There is a Benefit in Kind (“BIK”) exemption under section 118(5D) TCA 1997 for an employer to provide computer equipment where certain conditions are met. TDM [Part 05-02-13](#) refers to remote working where arrangements may allow an employer to provide computer equipment without a deduction of tax. See TDM [Part 05-01-01i](#) for full details of the BIK exemption which may be available on employer provided office furniture and equipment.

**Personal protective equipment (PPE)/safety equipment** – it would be unusual for an employee to be expected to supply their own PPE. If such equipment was required to carry out the duties of the employment, the employer would supply the equipment, in accordance with the provisions of the Safety, Health and Welfare at work (General Application) Regulations 2007. The equipment in question would be items such as hard hats, high vis jackets, safety boots, etc and not personal security assets as described in section 118A.

**Tools** – if an employee is required to supply his/her own tools, the expense incurred by the employee would generally be allowable where the tools are used exclusively and are necessary in the performance of the duties of the employment.

**Trade Union membership** – does not meet the test of wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

## 7 Flat Rate Expense (“FRE”) allowances

For ease of administration, where a large number of employees incur broadly identical qualifying expenses which are not reimbursed by their employer, Revenue has over the years provided a facility whereby a flat rate expense allowance may be claimed.

Expenses covered by an FRE allowance must be wholly, exclusively and necessarily incurred by an employee in the performance of the duties of an employment. They generally relate for example, to tools or uniforms that an employee needs for work and may also cover an annual statutory registration fee.

It should be borne in mind that employers have obligations under the Safety, Health and Welfare at Work (General Application) Regulations 2007<sup>1</sup> to provide protective clothing and equipment to employees. As mentioned earlier, it can be inferred that an expense of personal protective equipment “necessarily” required will be covered by an employer in order to fulfil obligations under the regulations.

The FRE allowance regime applies where a specific commonality of expenditure exists. The expense should apply to all employees in that category and not be discretionary. The amount of the deduction is agreed between Revenue and representatives (usually trade union officials but not always) of groups or classes of employees. All employees of the class or group in question can then, where appropriate, claim the agreed deduction.

The FRE regime developed incrementally over the last 40 to 50 years and was established at a time when the numbers of employees/PAYE taxpayers filing an Income Tax Return was relatively low. This is in contrast to the position today, whereby due to significant IT developments in Revenue systems in recent years, as well as the promotion of online channels, Revenue is now providing an easy to use, free, on-line Income Tax Return filing solution for taxpayers.

Outside of the FRE allowance regime, employees retain their right to claim a deduction under section 114 TCA 1997, in respect of actual vouched expenses incurred wholly, exclusively and necessarily in the performance of the duties of their employment, but the test is to be strictly applied. Details of how to make a claim for a deduction under section 114 TCA 1997 are provided in [paragraph 3](#).

### 7.1 FRE allowance increases that apply from 1 January 2023

Details of agreed FRE allowances are available on the [flat rate expenses list](#). Flat rate expense allowances for individual claimants can be claimed via the PAYE Services

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<sup>1</sup> <http://www.irishstatutebook.ie/eli/2007/si/299/made/en/print>

function available in [myAccount](#). The paragraphs that follow provide guidance on how to claim an FRE allowance.

With effect from 1 January 2023, the rate of FRE allowance for eight employment categories has increased. The eight employment categories are:

- Cardiac Technicians
- Occupational Therapists
- Phlebotomists
- Physiotherapists
- Radiographers & Radiation Therapists
- Respiratory & Pulmonary Function Technicians
- Speech & Language Therapists
- Veterinary Nurses.

[Paragraph 7.2.3](#) provides guidance on how to claim the increased FRE allowance for 2023 and 2024.

## 7.2 Claiming an FRE allowance

Taxpayers must make a claim for each individual year of assessment in order to benefit from an FRE allowance where relevant.

A claim for an FRE allowance can be made online and is a quick, easy and free process. Details of how to claim an FRE allowance are provided in the following paragraphs below:

- How to claim an FRE allowance for the current tax year - [paragraph 7.2.1](#),
- How to claim an FRE allowance for the previous 4 years - [paragraph 7.2.2](#),
- How to claim an increased FRE allowance for 2023 and 2024 (where applicable)- [paragraph 7.2.3](#).

### 7.2.1 Making a claim for an FRE allowance for the current tax year<sup>2</sup>

Taxpayers may make a real time claim in the current year for a FRE allowance by following the steps below. By making a claim in year, the relevant allowance is included on an amended Tax Credit Certificate (“TCC”) and the benefit of the allowance is made through payroll.

- Sign in to [myAccount](#).
- Select 'Manage Your Tax for the current year'.
- Click 'Add new credits'.
- Select 'Your job' and click 'Flat Rate Expenses'.

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<sup>2</sup> For the purposes of [paragraph 7.2.1](#), the guidance refers to the 2025 year of assessment.

- Complete and submit the online claim form.

### 7.2.2 Making a claim for an FRE allowance for the previous 4 years

Taxpayers may make a claim for an FRE allowance in respect of the previous 4 years of assessment, by following the steps below:

- Sign in to [myAccount](#).
- Select 'Review Your Tax for the previous 4 years'.
- Request a Statement of Liability ("SOL") for the relevant tax year.
- Click on 'Complete Income Tax Return'.
- In the 'Tax Credits & Reliefs' page, select 'Your Job-flat rate expenses'.
- Complete and submit the online claim form.
- Complete and sign your Income Tax Return.

### 7.2.3 Making a claim for an increased FRE allowance for 2023 and 2024

As noted in [paragraph 7.1](#), an increase in the rate of FRE allowance for eight employment categories applies from 1 January 2023.

If the taxpayer is unsure whether he or she is entitled to claim an increased amount, the steps below should be followed:

- Sign in to [myAccount](#).
- Click on 'Manage Your Tax for the previous 4 years'.
- Request a Statement of Liability ("SOL") for the relevant tax year.
- Check the amount of the FRE allowance received to ensure the correct amount as set out in the [flat rate expense allowance list](#) is included.

If the taxpayer establishes he or she is entitled to a higher amount than is reflected in his or her tax credits, the steps below should be followed, in respect of both 2023 and 2024, in order to claim the increased FRE allowance for each respective year:

- Sign in to [myAccount](#).
- Select 'Review Your Tax for the previous 4 years' and select the relevant year.
- Request and view the Statement of Liability ("SOL") to establish the FRE amount granted for that year.
- If there is no FRE allowance included in the SOL, follow the steps from 'Complete Income Tax Return' in [paragraph 7.2.2](#) above.
- If there is an FRE allowance included in the SOL, you must delete the existing FRE to claim the increased amount.
- Click on 'Complete Income Tax Return'.
- In the 'Tax Credits & Reliefs' page, select 'Your Job-flat rate expenses' and delete the existing FRE.

- Click 'Add new credits'.
- Select 'Your job' and click 'Flat Rate Expenses'.
- Complete and submit the online form to claim the increased amount.
- Complete and sign your Income Tax Return.

#### 7.2.4 Chargeable persons

Chargeable persons who are in receipt of PAYE income have the option to claim an FRE allowance in year (using the PAYE Services facility available on MyAccount and ROS), or after the end of the year by filing an annual income tax return via ROS.

## 8 Four Year Rule

A claim for repayment of tax cannot be allowed where it is made more than four years after the end of the tax year or accounting period to which the claim relates.

This includes claims for a FRE allowance and claims for other employee expenses under section 114 TCA 1997.

## 9 Table of associated Tax and Duty Manuals

<a href="#">Part 05-01-06</a>	Tax treatment of the reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees
<a href="#">Part 05-02-18</a>	Deduction for expenses in respect of annual membership fees paid to a professional body
<a href="#">Part 05-01-01j</a>	The provision of staff awards
<a href="#">Part 05-02-13</a>	Remote Working Relief
<a href="#">Part 05-01-01i</a>	The provision of work-related equipment and supplies
<a href="#">Part 05-02-03</a>	Removal and Relocation Expenses