Inland Revenue
Te Tari Taake

CASE SUMMARY

The Taxation & Charities Review Authority confirms the Commissioner's denial of deductions was correct

Decision date: 25 June 2026

CSUM 26/10

CASE

L v Commissioner of Inland Revenue [2026] NZTCRA 04

LEGISLATIVE REFERENCES

Income Tax Act 2007, ss BD2, DA1, DA 2, DB18AA, YA1, subpart DE

Goods and Services Tax Act 1985, ss 6, 20, 21A, 21B, 21G.

Tax Administration Act 1994, 141A, 141FB, 149A.

CASE LAW REFERENCES

Grieve v Commissioner of Inland Revenue [1984] 1 NZLR 101 (CA)

Case Q18 (1993) 15 NZTC 5,100 (TRA)

Ricketts v Colquhoun [1926] AC 1 (HL)

Newsom v Robertson [1952] 2 All ER 728

Case W4 (2003) 21 NZTC 11,034 (TRA)

Hong v Commissioner of Inland Revenue [2018] NZHC 2539

LEGAL SERVICES SOLICITOR)

Charles Walmsley

Summary

L (**the taxpayer**) sought deductions for education expenses, motor vehicle expenses, and home office expenses. The taxpayer also challenged the Commissioner's imposition of a shortfall penalty for not taking reasonable care.

The Authority denied the deductions sought on the basis that the deductions were not incurred as part of the taxpayer's business, the taxpayer had failed to keep adequate records or otherwise show the deductions had been incurred, or the deductions had been incurred prior to the taxpayer's registration for GST. The Authority agreed that the taxpayer had failed to take reasonable care in taking the tax positions.

Impact

The decision confirms that preparatory activities undertaken before the commencement of a business do not constitute the carrying on of a business for deduction purposes. It also reinforces the importance of proving both the existence and amount of deductible expenditure and keeping adequate records to support business-use apportionments.

Facts

The taxpayer operated an art gallery and art supplies business. They claimed deductions for education expenses incurred between 2017 and 2022, including art and automotive engineering studies. They also claimed deductions for motor vehicle expenses associated with travel between their residence and the business premises (being in different towns), together with home office expenses. Following GST registration in September 2022, the taxpayer claimed GST input tax deductions for various pre-registration expenses and home office costs. The Commissioner disallowed the claims and imposed shortfall penalties for not taking reasonable care.

Issues

The Authority considered:

- When the taxpayer's business commenced.
- Whether the education expenses were deductible.

- Whether the motor vehicle expenses were deductible.
- Whether the home office expenses were deductible.
- Whether the disputed GST input tax deductions were allowable.
- Whether shortfall penalties were properly imposed.

Decision

Business commencement

The Authority held that the taxpayer did not commence carrying on a business before November 2020. Activities such as creating artwork, listing items for sale, making enquiries about displaying artwork, and undertaking study were preparatory rather than business activities. The earliest objective evidence of business operations was the commencement of trading from her retail premises in November 2020.

Education expenses

The Authority held that the education expenses incurred before November 2020 were not deductible because they were incurred before the business commenced. The remaining disputed 2021 education expenditure relating to automotive engineering was also non-deductible because automotive activities did not form part of the taxpayer's business during the relevant period.

Motor vehicle

The Authority held that travel between a taxpayer’s home and their place of work or business is ordinarily private travel. The Authority accepted that the taxpayer carried out some business-related work and storage at her home. However, the taxpayer failed to prove that travel between their residence and shop constituted deductible business travel. For example, the taxpayer’s records did not identify which trips involved the transportation of business stock.

Home office expenses

The taxpayer claimed different proportions at different times for rent and power of her home residence. The Authority held that in relation to the 2021 tax year the taxpayer had failed to provide adequate evidence of the expenses claimed. The Authority held in relation to the 2021 and 2022 income tax years that there was insufficient evidence to show the reason for the proportions claimed.

GST input tax deductions

The Authority held that the pre-registration expenditure claimed in the October (business expenditure such as office power and shop rent) and November 2022 (educational expenditure) GST periods did not satisfy the requirements of s 21B of the GST Act on the basis that the services had already been consumed. Although the taxpayer may have continued to benefit from the education, that was not equivalent to using those services after registration in making taxable supplies. The December 2022 GST period home office power claim also failed because the taxpayer failed to evidence the basis for the proportion that was claimed.

Shortfall penalties

The Authority upheld the shortfall penalties for not taking reasonable care. It found that the taxpayer's positions lacked evidential foundation and did not constitute acceptable tax positions.

About this document

These are brief case summaries, prepared by Inland Revenue, of decisions made by the Taxation Review Authority, the District Court, the High Court, the Court of Appeal or the Supreme Court in matters involving the Revenue Acts. For Taxation Charities Review Authority matters, names have been anonymized. The findings of the court described in a case summary will no longer represent current law where the matter has been successfully appealed or subsequent amended legislation has been enacted.