

Work-related Expenses Hotspots

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CCH Learning:

Hi everyone. Welcome to today's webinar regarding Work-related Expenses Hotspots. I'm Alison Wood from Wolters-Kluwer CCH Learning, and I'll be your moderator for today.

Just a few quick pointers before we get started. If you are having sound problems, you can toggle between audio and phone. In your handout section is the PowerPoint for today. And shortly after the session, you will receive an email letting you know when the e-learning recording is ready to be viewed.

You can ask questions at any point during the session today. Simply type in the questions box. I will collate those questions and ask them at the Q&A at end of today's webinar.

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Your presenter today is Mark Chapman, who is the director of tax communications for H&R Block Australia. Mark has over 25 years experience as a tax professional in both the UK and Australia, specialising in tax for small businesses and individuals. He's the member of the Institute of Chartered Accountants in England and Wales, the Chartered Institute of Taxation, and also a fellow of CPA Australia. He holds a master's of taxation law with the University of New South Wales. So without any further ado, I'll now pass you over to Mark to commence today's presentation.

Mark Chapman:

Thank you Alison and thank you everybody for taking the time to come along to today's session Work-related Expenses Hotspots, obviously a very topical subject as we're just about to head into another tax season. I'm going to talk for around about an hour. And as Alison said, if there are questions, do please feel free to ask them in the chat box. And at the end of the session, I will do a quick Q&A to deal with any of those questions which come up. If there are any questions which I can't deal with for some reason or which possibly you might have a question which occurs to you after the session has ended, my email is on the final slide as well and you can email me directly.

So without further ado, let's get into the session. So what are we going to cover? Well, basically the first half of the session is looking at the big picture. It's talking about what you've got to do to obtain a deduction, those general rules, What sorts of expenses are generally deductible and what sorts of expenses will get you into trouble? We'll talk about substantiation, the interaction between allowances and deductions, etc.

So the first half of the session is very much setting the scene. The second half of the session gets into the weeds if you like. I'll discuss specific work-related expenses, particularly to highlight some recent ATO guidance, which possibly gives us a bit more of a background as to what is allowable and what isn't. And also talk about some new allowances, which can be claimed particularly in relation to electric vehicles. So that's the approximate menu for today's session. Let's start by setting the scene.

The ATO estimates the tax gap for individuals is approximately \$8.7 billion or about 6.4%. Now, they believe that that is primarily caused by incorrectly claimed work-related expenses. There are other large components in terms of rental property deductions on not disclosing their income in relation to rental properties.

However, by far, the largest component of this is incorrectly claimed work-related expenses. So, in other words, where somebody is either claiming too much for a legitimate work-related expense or is claiming an illegitimate work-related expense to which they're not actually entitled.

So common mistakes, claiming deductions where there's no connection to income, claiming for private expenses, or indeed not keeping records or not having records to show that an expense was incurred. So they're all three examples of typical mistakes in relation to work-related expenses.

Now the general rules for claiming work-related expenses are set out in a fairly recent tax ruling. That's TR 2020/1, which sets out the basic criteria for claiming work-related expenses.

So first of all, the expense needs to be incurred. So in other words, the money for the expense must have been actually spent. So that must have been incurred in the course of gaining or producing the employee's accessible income. So in other words, there must be a sufficient nexus or connection between the expense and the derivation of the actual income source.

The second criteria is that the employee was not being reimbursed. In other words, the employee must have actually borne the cost, and must not have had a reimbursement either by their employer or indeed any other entity.

The third criteria is the expense must be generally substantiated with written evidence. So a receipt, an invoice, or similar document that contains information on the name of the supplier, the amount of the expense incurred, and the nature of the goods or services purchased or provided.

And fourthly, an amount is only deductible to the extent that it's incurred, gaining or producing accessible income. So for example, if you have a mobile phone and it is used for work purposes and privately, you can only claim the work-related portion of your mobile phone bill. You can't claim all of it. And of course you need to be able to substantiate what that work-related portion actually is. There's basically, for a very useful exercise to work out whether an expense is an allowable deduction or not.

So first of all, the answers to the following must be yes. So has the expense been incurred? Does the expense have a direct relationship to the occupation? And can the expense be substantiated? So if the answers to all three of those questions is yes, then prima facie, you've got an allowable deduction.

However, we then need to go on to consider another set of questions. And if the answers to those is no, then we can't in actual fact claim a deduction. So first of all, was the expense reimbursed? Is the expense capital in nature? Was it private or domestic? Did it produce exempt or non-accessible income? And was a deduction prohibited by another part of the act? So if the answer to any of those questions, any of them is actually no, then we can't claim a deduction, even if the answers to the first three questions is yes.

So for example, we might well have incurred a speeding fine as part of our work when we were travelling from one client to another client. Now the expense has obviously been incurred, because we're paid the speeding fine. Does the expense have a direct relationship to occupation? Well, yes, because we were travelling from one client's office to another client's office. Can the expense be substantiated? Well, potentially yes, because we'll have the actual copy of the speeding fine, which shows the extent of the fine, etc.

However, looking at that second set of questions, was a deduction prohibited by another part of the act? Well, yes, because there is a part of the act which specifically prohibits a deduction for fines, and therefore that knocks us out of claiming an allowable deduction.

So there are numerous examples of what not to do. The ATO has publicised some of the more colourful instances of people who were claiming expenses for work-related deductions, which they weren't actually entitled to. Most of them are fairly humdrum and not very eye-catching.

However, amongst the more eye-catching ones are these ones, such as an IBM executive who claimed deductions in excess of \$100,000, including business meals taken on the way to a family ski holiday. Sunscreen and sunglasses, which ordinarily would be potentially deductible. But unfortunately, he worked indoors. Over \$5,000 in payments to his seven-year-old son, secretarial support, a depreciation of an outdoor patio setting. That is clearly an example of somebody who is in the technical parlance taking the Mickey out of the ATO.

There was a wine expert who claimed \$9,000 of wine bought on holiday in Europe for personal consumption. There was a taxpayer who claimed logbook expenses for his car on dates that he was actually out of the country. That's quite a common one. Lots of people attempt to claim logbook expenses for 52 weeks of the year, even though most employees are entitled to four weeks leave. And they potentially might take a week or two weeks of sick. So the ATO really focuses on that.

There's a taxpayer who claimed dental expenses, believing that a nice smile was essential to finding a job. Now, as we'll see in a few moments, all kinds of medical expenses are basically knocked out of the park immediately. There isn't, generally speaking, any connection to your work or occupation in relation to medical expenses.

There's a taxpayer who claimed for Lego sets, bought as gifts for their children. Just simply no basis for that. I can't imagine why somebody thought that was allowable, rather than trying it on. And there's a taxpayer who tried to claim the cost of their wedding reception.

Now, that previous slide was an example of some of the more colourful disallowed claims. But on a daily basis, we do see people attempting to claim consistently for certain items which are not actually allowable. Personal grooming, hair, make-up, etc. That is almost always disallowed.

TR 96/18 talks about this, and basically, the ATO's position is that if you have say a performer, an actor who has to put on specific make-up or a hairpiece in order to undertake a role, then there's an allowable deduction. If you are an air hostess, a stewardess who has to apply certain specific type of make-up, which is compatible with the high pressure environment within an aeroplane at height, again, there's a deduction allowable there. But otherwise, forget it. Personal grooming, no chance.

Child care. Lots of taxpayers think that because they have to pay for child care in order for them to go out to work, that's actually a work-related expense. But it isn't. The payment for child care is actually a prerequisite to going out to work. It's incurred at a point too soon if you like, and therefore there's no tax deduction.

Gym memberships and other club memberships. There's no deduction allowable for those either. In relation to gym memberships, if you are in a profession which requires a very, very high level of fitness, such as a professional sports person, or a member of the SAS, or something like that, you could potentially claim that kind of expense, but otherwise forget it. There's no deduction allowed for the cost of gym memberships.

And other club memberships, we might argue that you socialise with other potentially clients at social clubs, tennis clubs, golf clubs, etc. And it's therefore work related. But that is too tenuous. Club memberships are

basically for your pleasure. And the fact that incidentally, you might do some business there doesn't make it deductible.

The cost of attending social functions, not allowable. Your job might require you to go to a certain restaurant or bar or event, but nevertheless, there is almost never a tax deduction available for any costs incurred.

Drivers licences, fines, going back to the example which I just gave earlier on, speeding fines, parking fines, they're specifically disallowed. Glasses and contact lenses. Normal glasses, contact lenses, they're never allowable. Where you get specific lenses for looking at a screen, you might get a tax deduction for that. But generally speaking, the cost of glasses and contact lenses isn't allowable.

The cost of rent, mortgage, and other ownership costs when working from home. I'll talk about this in a bit more detail on one of the latest slides, but basically there's no deduction for these so-called ownership costs. You can claim a deduction for running costs but not ownership costs.

Conventional clothing, things like business suits, or where a retail employee is obliged to wear a certain wardrobe, that particular store's clothing. Again, there's no tax deduction for that. There are specific rules around what clothing is deductible, and that doesn't include conventional clothing. However, it's defined.

Home-to-work travel. This is a very common one. Lots of people try to claim the cost of the journey from home to work and back again as a tax deduction. They think it's work-related, because it's necessary to get you to work. It isn't. Again, it's procured at a point too soon and there's no deduction available there. And that includes incidentally where you potentially undertake incidental work-related tasks on the way to or from work such as collecting the mail.

There's an exception in relation to home-to-work travel for bulky tools, where you're obliged to carry something, some piece of equipment or some tool, because there's nowhere safe to put it at work, and therefore you have to carry it to your home, and potentially transport it back again the next day. That potentially you can claim a deduction for home-to-work travel there. But do be careful. The ATO audits those claims very carefully.

There was an example of a hairdresser who was trying to claim the cost of a set of scissors onto the bulky tools exemption. Well, they weren't bulky, and the ATO got wise to that when they audited the taxpayer.

And medical expenses. This is covered by IT 2217. Medical expenses, however defined. For sleep apnea machines, hearing aids, wheelchairs, artificial limbs, counselling for mental health conditions, etc. No deductions for any of it, because the ATO believes that that kind of thing is inherently private, and domestic, and not in fact work-related.

Substantiation. This is covered in detail by PS LA 2005/7. So substantiation typically needs to show the amount that you've actually spent, that you have actually spent the money, the receipt or the invoice has actually been paid. What you spent it on, who the supplier was, when you paid, and the date of substantiation.

Now the obvious way that you could substantiate a work-related expense is by producing a receipt or an invoice. You don't actually need to produce the paper copy, electronic records suffice. So if a taxpayer simply takes a photograph of the receipt and stores it on some piece of software such as an app on a mobile phone for example, that's fine. There's no need to keep the original. But there does need to be nevertheless a record of that, either in paper form or in electronic form. It has to be said, a lot of invoices, receipts particularly to actually fake. So it is better if you don't keep paper copies.

I often have to go to, for example, Melbourne Airport if I'm flying off somewhere else. So I get a taxi. So at the end of the journey, the taxi driver gives me a receipt, and I put it in my wallet. And then two months later, I come and look at it and I've just got a blank piece of paper, the ink has faded. Therefore, I can't claim any deduction. So these days, I simply take a photograph of the invoice when it's fresh and store that on my phone.

Another form of substantiation which is acceptable is a diary, in specific contexts. So in the context, for example, of home office claims and also some travel claims such as overseas travel. Or a log book, which is going to be applicable for motor vehicle claims except where the cents per kilometre method is used.

A question that's often asked is, can bank credit card statements be used as a method of substantiation? Well, yes, but with a very big proviso. So the criteria which I just mentioned on the previous slide do still need to be met. Therefore, if it isn't possible to meet the criteria based on the information in the bank or credit card statement, it isn't possible to keep the bank or credit card statement as a form of substantiation. Now that's difficult in many cases.

Now, it might well be that you bought some work-related stationary from say Officeworks. Now on the basis that most things, almost everything at Officeworks is tax-deductible. That's probably going to be okay. But Coles for example, if you incurred some expenses at Coles, how does the ATO know that those were genuinely work-related expenses as opposed to you simply doing your grocery shopping? They don't. And therefore, the bank or credit card statement would not be allowable in that case.

Employer verification letters. We've had a few clients recently over the last few years, even though we've provided substantiation in the forms that I've just spoken about, receipts, invoices, etc., where the ATO has actually said, "Yeah, but have you got an employer verification letter? Because you can't have a deduction if you don't have an employer verification letter." Well, we've gone back to the ATO and said, "Well, an employer verification letter is not an acceptable form of substantiation."

If we look at taxation ruling in 2020/1, an expense can be deductible even without employer support. So example six in that ruling talks about self-education courses, which will be deductible if the normal deductibility tests are met, even if you don't have an employer verification letter or indeed employer support.

Equally, having employer support in the form of a verification letter does not automatically make an item deductible. Where a restaurant requires waiters to wear a white collared shirt, black trousers, black shoes, and that waiter has an employer verification letter, that's meaningless because the employer still can't claim a deduction because that's conventional clothing. That's example five in that ruling.

In addition, records need to be kept for five years from the date of lodgment of the tax return. I'm not sure how many people actually do that. I'm not sure if necessarily I could do that. To go back five years is a big ask. But nevertheless, that is what the legislation does say. Records do need to be kept for five years from the date of lodgment of the tax return.

Looking at this perspective of the tax agent himself or herself, the question often arises, does a tax agent actually need to verify all substantiation? Well, the ATO can't really provide any guidance surrounding this. I have actually heard the ATO however say that, well the zealous ATO officers have suggested that tax agents do need to be able to verify all the substantiation.

Well, according to the TPB, they don't potentially need to verify all substantiation. Tax agents instead most exercise professional judgement. So it isn't necessary to independently verify the accuracy of all information provided by a client, but a tax agent should not simply accept what they're told by their client.

So therefore, you need to consider the client's individual circumstances, the availability of records, the complexity of transactions, etc., in deciding whether to take the client's word for it.

And the TPB does say that additional care is required in certain scenarios, where there's been, for example, a new law or a substantial change in the law, whether nature and circumstances of the client change. So especially with new clients, if you've got a client who's been with you for 20 years, they have a consistent pattern of claiming certain deductions. You probably don't need to verify all of their documentation. But if somebody walks in the door, it's the first time you've done their return attempting to claim whatever, you probably do want to have a look in a bit more detail at their claims and potentially you will need to see the substantiation.

Or in situations where there are unusual transactions in the context of the regular business or activities of the client. So for example, where somebody does not typically claim motor vehicle expenses, and they come in one year, and they attempt to claim several thousand dollars worth of vehicle expenses. But on the face of it, their occupation hasn't changed. You might want to look into that in a bit more detail, and you might want to see the substantiation to support that claim

So TPB(I) 17/2013, that basically sets out the TPB's position surrounding whether the tax agent does need to see the substantiation. It says, "Where a statement provided by a client seems credible and for assisting clients is consistent with previous statements, the registered agent has no basis on which to doubt the information supplied. The registered agent may discharge their responsibility by accepting the statement provided by the client without further checking."

In this case, the registered agent is not just accepting what the client tells them or gives them at face value. Rather, the registered agent is exercising their professional judgement based on the information previously provided by the client and the nature of the client themselves. And making a decision of further checking is not required in the particular circumstances.

On the other hand, if the information supplied by a client does not seem credible in accordance with how a competent and reasonable person possessing the knowledge, skills, qualifications, experience of a registered agent objectively determined or perceive the information, or appears to be inconsistent with a previous pattern of claim or statement, further inquiries would be required having regards to the terms of engagement with the client.

Now the ATO does set out a number of circumstances where it's possible for clients to make unsubstantiated tax deductions. So they are set out in taxation ruling 97, stroke 24. And the first one is where there's sufficient evidence to prove that you're entitled to a tax deduction, despite the lack of acceptable written evidence. Just in relation to that one, a taxpayer's estimate of an expense supported only by an assertion that the estimate is reasonable does not constitute sufficient evidence.

The second one is where there was a reasonable expectation that written evidence would not be necessary. For example, a taxpayer had a reasonable expectation at the time of incurring the expenses that they would not need to be substantiated because one of the exception categories applied, such as work expenses less than \$200, reasonable travel allowance expenses, reasonable award overtime meal expenses, award transport, payment expenses, or laundry expenses of 150 or less.

And the third one is whether written evidence has been lost or destroyed, and you've taken reasonable steps to prevent this from occurring. So that's the kind of natural disaster scenario, where somebody's house is burned down in a bushfire, for example. All of their records were in house, they've gone up in smoke, and therefore the evidence has been lost or destroyed. It is reasonable to take the taxpayer's word for it in those sorts of situations.

The ATO also says that relief is available where the commissioner considers it unreasonable to expect taxpayer to have obtained written evidence of an expense. So in situations where you typically don't get any form of written documentation to support the cost, it is okay to claim that deduction.

So things like toll bridge fees, parking metre fees, cash payments made by police officers to informants, entrance fees to show us where the entry ticket has to be handed in on entry. In all those situations, you're going to incur an expense and you potentially won't have anything to show for it. But nevertheless, the commissioner says it is reasonable to claim a deduction on any of those types of expenses without that substantiation. So those expenses could be more than \$10, and it doesn't count towards the \$200 limit for small expenses.

In addition, there are several work-related expenses that are exempt from the general substantiation rule. So if these types of expenses are incurred, they can be made without detailed written evidence. Examples are work expenses which don't exceed \$300. Laundry expenses which don't exceed \$150.

Car expense is calculated using the cents per kilometre method, travel expenses for domestic and overseas work-related travel. Over time, meal allowance expenses or small expenses, which are those costing less \$10, where the total of those expenses does not exceed \$200. So it isn't necessary to have an invoice, or a travel diary, or anything like that in relation to those expenses. However, it is necessary to be able to demonstrate that you did actually incur the expense in the first place.

So the ATO, while they might not want to see a receipt or an invoice, does want some reassurance that you've actually incurred the expense, which really brings me on to a particular bugbear which are clients, and indeed in some cases their agents who treat these as standard deductions.

So there are certain agents who automatically give clients 5,000 kilometres under the cents per kilometre method. That is not allowable if the individual didn't actually do 5,000 kilometres. The ATO frequently picks up on these. They establish a particular pact with an agent, they can see that it's happening. And typically, agents who are doing this do get pinged by the ATO as do their clients. If you don't have reason to be claiming the cents per kilometre method, if you don't actually in reality do any cents per kilometres, then it clearly isn't acceptable to claim using that method.

And similarly, for all of those other deductions which I've just set out on the previous slide. The basic rule is that a substantiation exception does not remove the requirement for employees to show the ATO if requested, that the amount satisfies the deductibility criteria and indeed how the claim is calculated.

And in situations where the expense exceeds the threshold, for example, where work expenses are \$301, it is necessary to substantiate the entire amount, not just the excess. So in that instance, it isn't okay to just substantiate \$1. You've got to substantiate all \$301.

Allowances. This is another very, very common myth. So where you receive an allowance from an employer, for example, for a car, or for travel or for work-related clothing, for example, that doesn't automatically entitle you to a deduction. You must still meet the basic rules in order to claim a deduction.

Now, for example, where you're paid an allowance for travel, that doesn't meet the normal deductibility criteria. It doesn't matter that you've received an allowance. You can't claim a deduction for that travel because it doesn't meet the deductibility criteria, which I talked about earlier on. And you can only claim the total amount that you actually spent, even if the allowance is more.

So, you might think that you've received an allowance of \$100, so therefore you can claim a deduction of \$100. Well, no, you can claim a deduction for the amount that you actually spent. And if that's less than \$100, then you can only claim that amount.

A typical example would be where a taxpayer receives \$100 overnight allowance, when it was required to stay away from home for one night whilst on a work assignment. He actually stayed with a relative and spent nothing.

Now, there are many taxpayers who would simply claim \$100 deduction in that instance, possibly encouraged by their agent. But in reality, he can't claim a tax deduction for anything because he didn't spend anything.

So that's the end of the first part of the presentation. The second part, we're going to focus on individual deductions and look at some of the ins and outs of those. But first of all, let's take a look at an example in the poll form.

So Ellie is a bank employee, and she made a number of deduction claims. First of all, expenses for a briefcase, computer software. Secondly, for the cost of a flu injection, to protect her from contracting flu from customers. Thirdly, taxi travel to get to work on four mornings that she woke up late. And fourthly, expenditure on comfortable shoes, because her work duties require her to stand for long periods during the day. And the question is, which of these costs are tax-deductible? Is it A only? Is it A and D? Is it B and C? Or is it all four? So I'll just give you a few moments to consider that to give me your responses, and then we will carry on with the session.

CCH Learning:

Thank you very much, Mark. All right, people are convincing voting on this poll. For those of you looking how to participate, there is a blue or orange flower icon on the bottom of your toolbar that will bring up GoTo Webinar in its entirety, and you can click one of the four radio buttons for this poll question. Sorry, just realised, there's four. Thank you. All right, and a couple of questions have already come in for the end. So just a reminder, if anyone else had a question, please pop it in, and we've got 20 minutes left and we'll fit a Q&A in at the end. All right, slowly getting up to majority. So let's have a look at these votes. So we had 73% on A only. Thanks, Mark.

Mark Chapman:

Yes, well, 73% of you're correct. It is A only. So the cost of a flu injection, not deductible. The cost of a Covid test is specifically deductible on the specific provision of the tax act, but the cost of a flu injection is not deductible. Taxi travel to get to work on four mornings that she woke up late, well that's home to work travel, and the fact that it was required, because she woke up late is neither here nor there, that's her problem. And expending to uncomfortable shoes doesn't meet the criteria for work-related deduction. If it was some form of specific special shoe, which is required by her job. For example, non-slip shoes, which are sometimes required by nurses, there'd be a tax deduction. But simply wearing a normal pair of shoes which just happened to be comfortable, there's no deduction there.

So motor vehicle claims. We talked about those earlier on in the session. There are two methods, cents per kilometre method, which is currently 85 cents per kilometre. The important point is that sense check. Is it reasonable that the client did 5,000 kilometres as part of their job? If somebody is working in a shop which only has one branch, how reasonable is it that they actually did any work-related mileage as part of their job? So just stop and think about the client's circumstances, about the client's facts before processing that claim.

The maximum claim is 5,000 kilometres per vehicle per taxpayer. Therefore, if the client expects to travel more than 5,000 kilometres, they should use the logbook method.

So somebody who potentially did 10,000 kilometres for example, will be doing themselves short if they use a cents per kilometre method because they'll only be able to claim a deduction for 5,000 kilometres using that method. Whereas if they had a logbook, they'd be able to claim the whole lot.

However, just note it is \$5,000 kilometres per vehicle per taxpayer. So if the client changes vehicle, they can potentially claim 10,000 kilometres or 15,000 kilometres if they've got three vehicles.

But just bear in mind that normally speaking, if the client does have one car, if the vehicle usage exceeds 5,000 kilometres, then they must use the logbook method or restrict their claim to 5,000 kilometres.

The 5,000 kilometre limit covers all motor vehicle usage. So if it's deductible for work, for self-education, for visiting tax agents, etc., there's only one 5,000 kilometre limit. Once you reach it, you have to stop.

This method can't be applied to motor vehicles more generally. It can only be applied to cars. So motorcycles, minibuses, vehicles which are commercial vehicles, the ones which potentially weigh more than one tonne. Forget it, you can't use cents per kilometre method.

Where two or more people lease a car and each uses that car for work purposes, then each can claim 5,000 kilometres. So one car, two people using it for work purposes. Each of them claim 5,000 kilometres.

And you do need to be able to substantiate that you undertook the journeys. So you don't need a detailed logbook, but you do need a reasonable estimate, which is typically a list of journeys which were taken. That would be reasonable.

The logbook method is the other method. You do need to keep a logbook for 12 weeks. However, it only needs to be kept for once every five years, which softens the pain somewhat, or indeed when usage patterns change to work out that business use percentage.

The use of the logbook method does require you to keep invoices and receipts for all expenses, with the exception of fuel and oil expenses where you can make a reasonable estimate by multiplying the average fuel consumption for the car, which is available online from the green vehicle guide, by the average fuel price from the Australian Institute of Petroleum website. The 12-week period can overlap start of the income year. So it doesn't all need to be within one tax year.

To use the logbook method for two cars, the logbook for each car must cover the same period. It isn't necessary to keep a new logbook each time the employee changes cars, because the logbook is specific to the individual, not the car.

In addition to the logbook, it is necessary to keep odometer records showing the odometer reading of the car at the beginning and end of the 12-week period, as well as at start and end of the year. So that does need to be done every single year. You need to take a note of your odometer records at the start and end of the year.

And as I said before, you do need to exclude holidays and other absences from your claim. The ATO picks up a lot of people for that, so obviously you don't want your clients to be amongst them.

In terms of depreciation, there's the expensive car limit, which is currently \$68,108. Depreciation could only be claimed up to the value of the car limit. So if you go out and buy a fancy BMW or Mercedes, which costs say \$100,000, you're restricted in how much depreciation you can claim to the expensive car limit.

That also applies to GST claims, but it doesn't apply to interest on finance. The whole value of the car can be claimed including excess over 68,108 and salary sacrificed and novated lease cars. Well in those instances,

because the employee doesn't own or lease the car, they aren't entitled to claim any of the costs associated with a car.

So there are many instances of clients who come to us, they've got a car and a salary sacrifice deal. They potentially pay the expenses themselves, the fuel and oil, etc., and they want to claim a deduction for that. Well, they can't because section 51AF of the '36 act provides that no deduction is allowed for car expenses incurred by employees where the employer is providing the car to the employee to use.

Electric vehicles. So this is a new tax deduction which was set out in PCG 2024/2. It's specific to zero emissions vehicles, sorry, electric vehicles. This really has been a much called for tax deduction.

So basically it is a fixed rate deduction, where taxpayer can claim 4.2cents kilometre for the cost of the home electricity incurred in charging their electric vehicles for work-related purposes. So it's a very simple, very straightforward way of calculating it, because typically, lots of taxpayers get themselves into terrible trouble trying to work out the actual amount of power which is consumed by their car when they're actually charging it at home. It's very cumbersome, it's very complicated. You've got to set aside your total power consumption by the potential power consumption of your car, and it's almost impossible in practise for taxpayers to actually work out the actual amount of power which they are incurring, charging an electric car for work purposes. And therefore, the ATO has said that you can simply claim 4.20 cents kilometre for the costs of claiming the electric vehicle home charging.

If the electric vehicle are charged at a commercial car charging station, then once again, you can potentially use the 4.20 cents per kilometre rate. But in that instance, you won't be able to charge the actual costs which been incurred to charge your car.

So that is a new tax deduction, which is relatively new. But because there are so many clients these days who do have electric cars, it is potentially going to be of quite wide application and potentially still wider as time goes on.

In terms of substantiation, the record keeping requirements are that you need to keep a valid logbook to use the logbook method of calculating work-related car expenses. For other motor vehicles other than cars, a logbook isn't strictly necessary, but it is nevertheless recommended to demonstrate work-related use of the vehicle.

In addition to a valid logbook, you do need to keep one home electricity bill in the applicable year to show that electricity costs have actually been incurred. And provided those are satisfied, you can claim that fixed rate for charging your electric vehicle.

In relation to work-related travel, there are lots of taxpayers attempt to claim the substantiation exception, without necessarily understanding the precise rules surrounding that substantiation exception.

So first of all, there needs to be a bona fide travel allowance paid to the employee to cover the cost of food, drink, accommodation, and/or incidentals. Constant bona fide contention is discussions around what constitutes bona fide. How much is a bona fide travel allowance? Well, I can't say because the ATO has never said. There is private binding ruling, which does say that allowance of \$50 per day is not bona fide. It's considered that such amounts received are not a genuine travel allowance. The private binding ruling says, and could not reasonably be expected to cover your meal and incidental expenses. Although that is in black and white in an ATO private binding ruling, I don't entirely agree that it's not sufficient to cover meal and incidental expenses.

So it's potentially possible for somebody to, for example, eat at McDonald's and have three meals. Not very healthy, but nevertheless it's possible to do it within \$50 per day. So let's assume that \$50 per day is the minimum, but ideally more than that in terms of meals and incidental expenses.

The travel allowance, as well as being bona fide, the travel allowance does need to be paid to cover a specific trip. It can't be a general allowance or be rolled into salary or wages. You can't be in a position where you are simply paid \$2,000 a year in travel allowances, irrespective of how often or how far you travel. There does need to be a specific allowance for each individual trip.

The amount that the taxpayer can claim cannot exceed the commissioner's reasonable amount. The reasonable amounts change every year. The latest ones are set out in TD 2023/3. I would expect there'll be a new tax determination coming out any day now, setting out the reasonable amounts for 2024, but it isn't possible to claim any more than those reasonable amounts and take advantage of the substantiation exception.

What does an exception from substantiation actually mean? Well, you've got to be able to demonstrate the basis of your claim and the expenses were incurred. So you don't need specific invoices or receipts, but you do nevertheless need to show that you actually spend the money in some way. A copy of a menu, copy of a diary, something like that.

And realistically, these days, it is potentially possible to keep all of your documentation. And therefore, is it worthwhile potentially playing that game of roulette with the ATO, where you can't actually prove that you incurred the expenses? For overseas travel, substantiation exception only applies to food, drink, and incidentals, not accommodation. Accommodation is wrapped up within substantiation exception for domestic travel, but not for overseas travel.

There's no automatic claim where a travel allowance is received. There's a very common myth that deduction for either the allowance received or the commissioner's reasonable amounts can be made. Whereas in reality, a deduction is only available for the expenses actually incurred. That's the same point that I made earlier on. If you've got a \$200 allowance and you only spent \$150, then you can only claim \$150. And if the commissioner's reasonable amount is more than \$150, tough, you can still only claim for that one, \$50.

In relation to truck drivers, accommodation expenses must be fully substantiated. And where no allowance is received, the substantiation exception does not apply. The amounts for each meal break are separate these days. It used to be you used to get a daily allowance, but now you get specific amounts for breakfast, lunch, dinner. And indeed it isn't possible to aggregate them to a single daily amount. And you also need to keep a diary or something similar to substantiate.

In relation to overseas travel, you do need to keep a travel diary where you're travelling overseas for six nights or more in a row, recording the nature of the activity, today and approximate time, the activity began, how long the activity lasted, and where the taxpayer engaged in it. Lots of taxpayers don't keep a travel diary, and therefore they're in trouble when it come to claiming an induction.

Overtime meals are only claimable if the client receives an overtime meal allowance under an industrial award or enterprise agreement. Therefore, you do need to check that they are actually entitled to make that claim in the first place. And meals eaten during regular working hours are a private expense, and therefore there's no deduction. Once again, there's no claim allowed if the overtime meal allowance is rolled into salary or wages and not included as a separate allowance on the payment summary or income statement. And the client does need to be able to show how the client spent the money and how the claim was calculated, even though they are relying on the substantiation exemption. It is possible to include the cost of food you prepared yourself to eat during overtime within those claims.

Working from home. Well, the 67 cents per hour, our fixed rate is probably well bedded in now. That first came in last year in relation to the 30th of June 2022, 2023, sorry, and it's still there for this year. 67 cents fixed rate only covers energy expenses, phone usage, internet stationery, and computer consumables. Other home expense

costs are actually claimable separately. However, in relation to those four categories of usage, there's no additional deduction for any expenses covered by the rate.

Now that's particularly tricky in relation to phone usage and internet expenses, because they are included within that fixed rate. And therefore if you claim the fixed rate method, it isn't possible to claim any deduction additionally for mobile phone usage or internet usage. That applies irrespective of whether you are using the mobile phone at home or if you are using it whilst you're out on the road. If you're in a car going somewhere, you're talking to a client on mobile, that doesn't matter. That's all included within the 67 cents per hour fixed rate. That's one of the areas that the ATO is going to be looking closely at this year.

What can we claim separately? Well, the other home office costs. Depreciation, repairs and maintenance, the costs associated with cleaning a dedicated home office are all claimable separately.

It is possible to claim using this fixed rate method, even if you don't have a dedicated home office. So if you are working in the kitchen or in a lounge, nevertheless, you can still claim 67 cents per hour, which is different to the rules for the old fixed rate.

Compliance and substantiation. The ATO has really toughened the rules regarding this. It is necessary to keep a record of the number of hours worked for the entire tax year from the 1st of July last year through to the 30th of June this year. It isn't possible any longer to keep a four-week diary.

So you've got to keep a diary, keep copies of time sheets, rosters, etc. for the entire year. Without that, you potentially can't claim the deduction, any deduction. So that again is an area that the ATO is going to be checking this year.

In addition, you do need to keep records for each expense you've incurred, which is covered by the fixed rate per hour. For example, in relation to your phone or electricity, you must keep one bill for each of those expenses.

The actual method is exactly the same as it always was, so I won't spend too much time dealing with that. Home occupancy costs, no deduction if you're just working from home, but you've got to be running a business. Or alternatively, if you are working from home, the home has got to be the sole base of operations for you. You can't have an office somewhere else. And therefore, it isn't generally claimable by people who are simply working from home. So all of those attempted claims or rent, mortgage interest, etc., are typically knocked out in work-related deductions.

And self-education, I won't go through this slide in too much detail, but I simply emphasise that there is a new ruling out, which is TR 2024/3. Now there isn't anything particularly radical in that ruling. It simply restates the existing law. It updates it, for example, for some recent AAT decisions and also for the abolition of the \$250 non-deductible amount. But basically it's the same law. Same rules apply. Those rules set out on this slide. I'd urge you to simply take a look at that or take a look at ruling in order to understand the rules regarding self-education claims.

Some particular audit flags that the ATO is going to be looking at this year. Working from home expenses, particularly expect the ATO to be looking at the substantiation requirements to make sure that employees do have a record of all of their working hours, and not simply a four-week diary.

Similarly, in relation to working from home, they expect them to be looking very closely at those occupation costs, rent rates, mortgage interest, because they're generally not allowable.

Mobile phone and internet costs, that's going to be a particularly hot area where taxpayers are potentially double dipping. They're claiming the six, seven cents per hour fixed rate. And in addition, they're claiming mobile phone costs. That isn't allowable. The 85 cent per kilometre flat rate method for motor vehicle claims will be scrutinised, because the ATO is obviously concerned that too many taxpayers are automatically claiming the 5,000 kilometre limit regardless of the actual amount of travel. And claiming the \$300 without receipts, where the ATO believes that somebody is simply doing that and attempting to claim a standard deduction without actually incurring the expenses. I expect them to push back against that.

We're overrun slightly. It's five past two, but I'll just hand you back now to Alison for a couple of questions, and then we will wrap up the session.

CCH Learning:

Thank you very much, Mark. All right, we've had quite a few questions come through, so we will get to those in a second. I will just quickly mention our upcoming webinars.

So 18 June, we're looking at ATO on Bankruptcy and Winding up Cases, also Building a Resilient Brain, Equalising Spouse super Balances, session on carbon accounting. Then Read the Deed and our Tax Technical Update for the month. So jump on our website to see all of those sessions. All right, first one is from Angela. So can a police officer claim for gym costs?

Mark Chapman:

No, not typically. They're pretty much in the category of various people who need to be fit, but not necessarily usually fit. So they can't qualify for gym costs. Typically, you're looking at professional sports people, special forces. People have a level of physical fitness, we should expect it to be extraordinarily high to claim gym costs. A normal police officer, no, there's no claim.

CCH Learning:

Mark, Shaquille's asked, "The expense is under \$300, can there be multiple expenses each lower than 300?"

Mark Chapman:

No, it's \$300 in total. There can be multiple expenses, but provided the total is less than \$300. But there's no substantiation required. Maybe it goes over \$300, there is full substantiation required.

CCH Learning:

Thank you. One from Marcus. So if there are reasonable claim limits, example, for a long distance truck driver, do you need to provide substantiation if the claim is within that reasonable limit?

Mark Chapman:

No, because it's within the reasonable limit. And therefore, the substantiation exception applies provided all the other criteria, which we talked about on the slide a bit. The substantiation exception applies. Where the individual incurs expenses which are more than the commissioner's reasonable limit, then the substantiation exception is not available and the entire amount needs to be substantiated.

CCH Learning:

Thank you Mark. And this looks like the last one. We got through those quicker than I thought. So Angela has asked, "Can you claim motor vehicle depreciation on top of the set rate per kilometre, or does the SR per kilometre include depreciation?"

Mark Chapman:

Yes, it includes depreciation. You can only claim an amount for depreciation if you use the other method, the log book method.

CCH Learning:

Perfect. All right, we have got through all our questions. Thank you Mark. I will just jump to our next steps there.

All right, so just reminding everyone in the audience to please complete the feedback survey. And shortly after the session today, you will receive an email letting you know when your recording is ready. You can also access a verbatim transcript, CPD certificate, and of course this PowerPoint presentation.

So thank you very much to Mark for the session today, and thank you to everyone in the audience for joining us. We hope to see you back online for another CCH Learning webinar very soon.