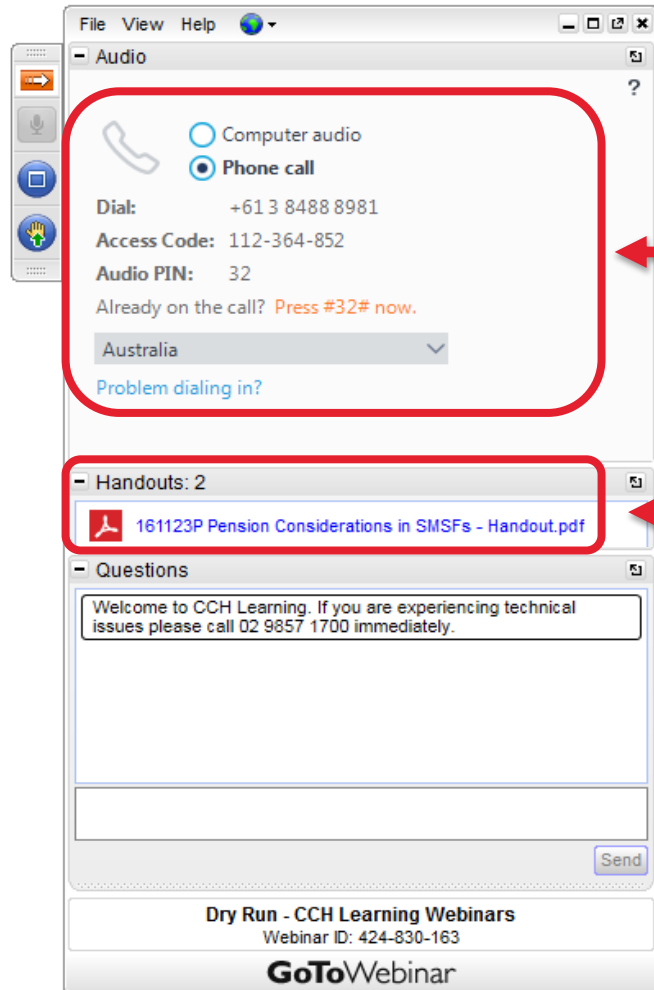

Work- related Expenses Hotspots

Mark Chapman

Thursday 13th June 2024



How to Participate Today



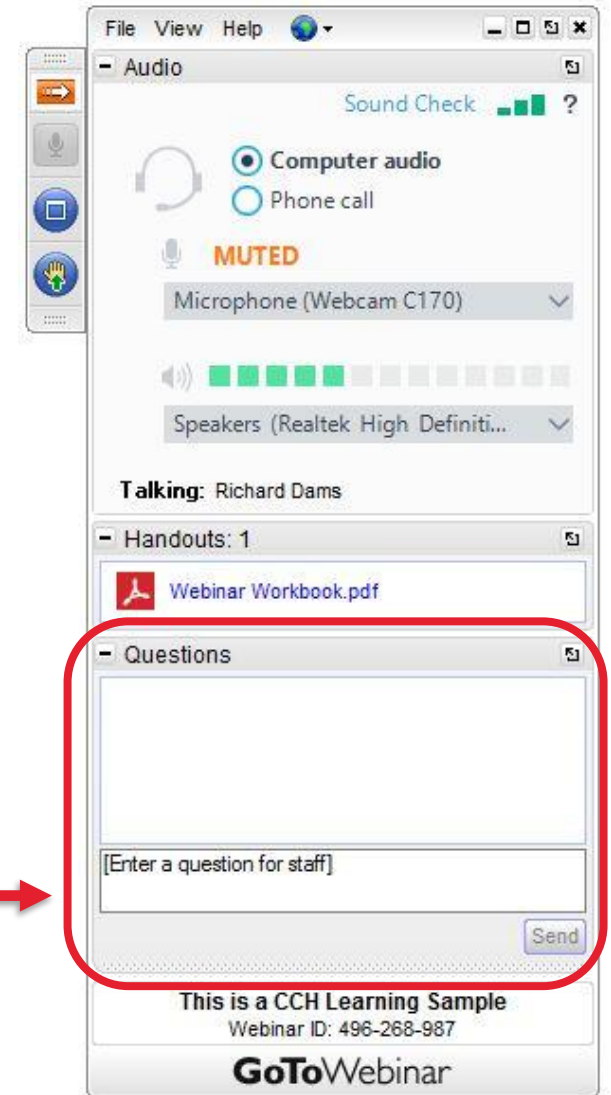
- Sound Problems? Toggle between Audio and Phone
- PowerPoint? In the Handouts Section
- E-learning Recording? Within 24-48 hours you will receive an email notification

Questions?



Alison Wood
CCH Learning Moderator

Type your
question and click
Send





GROW YOUR SKILLS, GROW YOUR KNOWLEDGE, GROW YOUR BUSINESS.

Subscribe to CCH Learning and gain **unlimited access** to all live webinars, E-Learnings and supporting documentation.

Plus, your CPD hours will be recorded automatically.

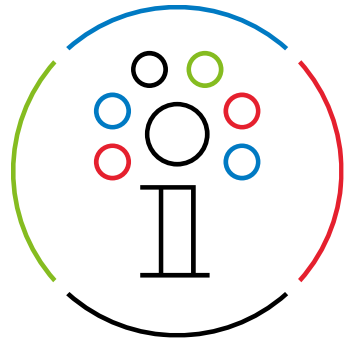
[Find Out More!](#)

Your Presenter



- Mark Chapman
- Director of Tax Communications
- H&R Block

Today's session will cover



Work-related expenses hotspots

- The 'golden rules' to a successful deduction claim:
 - Nexus
 - Incurring the expense and being reimbursed
 - Substantiation
- Overview of recent key ATO rulings and other guidance on WRE
- "Standard" deductions – when do they apply and when don't they apply?
- ATO audit traps for WRE claims
- The complete guide to working from home claims
- New ATO guidance re:
 - Charging electric vehicles
 - Self-education claims

Tax Gap

- The estimated net tax gap for individuals not in business is approximately 6.4 per cent, or \$8.7 billion
- Primarily driven by incorrectly claimed work-related expenses.
- Common mistakes include:
 - claiming deductions where there is no connection to income
 - claims for private expenses
 - no records to show that an expense was incurred.

General rules for claiming work-related expenses

- TR 2020/1
- The expense must be **incurred** (ie, the money for the expense must have been spent) in the course of gaining or producing the employee's assessable income (ie, there must be a sufficient **nexus** between the expense and the derivation by the employee of their salary or wage income)
- The expense must not have been **reimbursed** (ie, the employee must have borne the cost and must not have been reimbursed by their employer or any other entity)
- The expense must generally be **substantiated** with written evidence, eg a receipt, 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/services purchased/provided (s900-10, s900-15 and s900-115)
- An amount is only deductible to the **extent** incurred in gaining or producing assessable income

Reminder: Is an expense an allowable deduction?

- The answers to the following must be YES
 - Has the expense been incurred?
 - Does the expense have a direct relationship to the occupation?
 - Can the expense be substantiated?
- The answers to the following must be NO
 - Was the expense reimbursed?
 - Is the expense capital in nature?
 - Was it private or domestic?
 - Did it produce exempt or non-assessable income?
 - Was a deduction prohibited by another part of the Act?

What not to do...

- IBM exec who claimed deductions in excess of \$100,000 including “business” meals taken on the way to a family ski holiday, sunscreen and sunglasses (he worked indoors), over \$5,000 in payments to his seven-year-old son for secretarial support and depreciation of an outdoor patio setting
- Wine expert who claimed \$9,000 of wine bought on holiday in Europe for personal consumption
- Taxpayer who claimed logbook car expenses on dates he was out of the country
- Taxpayer who claimed dental expenses, believing a nice smile was essential to finding a job
- Claim for Lego sets the taxpayer bought as gifts for their children
- Taxpayer tried to claim the cost of their wedding reception

Common invalid claims

- Personal grooming (hair, make-up, etc) – TR 96/18
- Child-care
- Gym memberships and other club memberships
- Cost of attending social functions
- Driver's licence
- Fines (eg speeding, parking)
- Glasses and contact lenses
- Rent, mortgage and other 'ownership' costs when working from home
- "Conventional" clothing
 - Business suits
 - Retail staff in clothing outlets
- Home to work travel
 - Bulky tools
 - Undertaking incidental work-related tasks on the way to or from work (eg, collecting the mail)
- Medical expenses (IT 2217)
 - Eg, sleep apnea machines, hearing aids, wheelchairs, artificial limbs, counselling.

Substantiation

- PSLA 2005/7
- Substantiation should typically show that:
 - You spent the money
 - How much you spent
 - What you spent it on
 - Who the supplier was
 - When you paid and the date of the substantiation
- Receipt/invoice
- Electronic records suffice
- Diary (in the context of home office and some travel claims)
- Logbook (for motor vehicle claims, except where cents per kilometre used)

Substantiation

- Can bank/credit card statements be used as substantiation?
 - Yes, provided the above criteria can be met (difficult in most cases)
- Employer verification letter
 - Helpful, essential or irrelevant?
 - Per TR 2020/1, expense can be deductible even without employer support, eg self-education course (example 6) if normal deductibility tests are met
 - Equally, having employer support does not make an item deductible, eg restaurant requiring waiters to wear white collared shirt, black trousers and black shoes (example 5)
- Records must be kept for five years from the date of lodgement of the tax return

Substantiation

- Does a tax agent need to verify all substantiation?
- Per TPB, tax agents must exercise ‘professional judgement’
 - Not necessary to independently verify the accuracy of all information provided by a client
 - But a tax agent should not simply accept what they are told by their client
 - Consider clients individual circumstances, records available, complexity of transactions, etc
- Additional care required in certain scenarios:
 - New or substantial changes in law
 - Nature and circumstances of the client change (especially new clients)
 - Unusual transactions in the context of the regular business or activities of the client

Substantiation

- TPB(I) 17/2013:
 - “Where a **statement provided by a client seems credible** (and for existing clients is consistent with previous statements) and 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 judgment** based on the information previously provided by the client and the nature of the client themselves, and making a decision that 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 and experience of a registered agent, objectively determined, would perceive the information) or **appears to be inconsistent with a previous pattern of claim** or statement, **further enquiries would be required**, having regard to the terms of the engagement with the client.”

Substantiation

- The circumstances where you can make claims for unsubstantiated tax deductions are (TR97/24):
 - Where there is sufficient evidence to prove you're entitled to a tax deduction despite the lack of acceptable written evidence (a taxpayer's estimate of an expense supported only by an assertion that the estimate is reasonable does not constitute sufficient evidence)
 - Where there was a reasonable expectation that written evidence would not be necessary (eg, 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 \$300; reasonable travel allowance expenses; reasonable award overtime meal allowance expenses; award transport payment expenses; laundry expenses of \$150 or less)
 - Where the written evidence has been lost or destroyed and you have taken reasonable steps to prevent this from occurring

Substantiation

- Relief is also available where the Commissioner considers it unreasonable to expect a taxpayer to have obtained written evidence of an expense
 - Examples include toll bridge fees, parking meter fees, cash payments made by police officers to informants and entrance fees to shows where the entry ticket must be handed in on entry
 - May be more than \$10 and does not count towards the \$200 limit for small expenses

Substantiation exceptions

- There are several work-related expenses that are exempt from the general substantiation rule. These allow employees to make claims without detailed written evidence:
 - Work expenses not exceeding \$300
 - Laundry expenses not exceeding \$150
 - Car expenses calculated using the cents per kilometre method (85 cents/km)
 - Travel expenses for domestic and overseas work-related travel
 - Overtime meal allowance expenses
 - Small expenses (less than \$10 each) where the total of those expenses does not exceed \$200

Substantiation exceptions

- These are not 'standard' deductions!
- A substantiation exception does not remove the requirement for employees to show the ATO (if requested) that the amount satisfies the deductibility criteria and how the claim is calculated
- If the expenditure exceeds the thresholds above (eg, work expenses are \$301), the entire amount needs to be substantiated, not just the excess.

Allowances

- Receiving an allowance from an employer (for a car, travel or work clothing for instance) does not automatically entitle you to a deduction — you must still meet the basic rules listed above to make a claim.
 - *Example: being paid an allowance for travel that does not meet normal deductibility criteria*
- You can claim only the total amount you actually spent even if the allowance is more.
 - *Example: Bob received a \$100 overnight allowance when he was required to stay away from home for one night whilst on a work assignment. He actually stayed with a relative and spent nothing. He cannot claim a tax deduction.*

Poll: Work-related expenses

- Ellie is a bank employee and made the following deduction claims:
 - a) Expenses for a briefcase and computer software
 - b) The cost of a flu injection to protect her from contracting the flu from customers
 - c) Taxi travel to get to work on four mornings she woke up late
 - d) Expenditure on comfortable shoes because her work duties require her to stand for long periods during the day
- Which of these costs are tax deductible?
 - a) only
 - a) and d)
 - b) and c)
 - a), b), c) and d)

Motor vehicle claims

- Cents per kilometre
 - Currently 85 cents per kilometre (up from 78 cents in FY 2022/23)
 - *Sense check: Is it reasonable that the client did 5,000 kms as part of their job?*
 - Maximum claim is 5,000 kms per vehicle per taxpayer. If the client expects to travel more than 5,000 kms, they should use the logbook method.
 - If client changes vehicle, they can claim 10,000km
 - If client vehicle usage exceeds 5,000 kms, client must either use logbook method or restrict claim to 5,000 kms
 - 5,000 km limit covers all motor vehicle usage – for work, self education, visiting tax agent, etc
 - Cannot be applied to motorcycles, mini buses and cars of 1 tonne or over
 - Where two or more people lease a car and each uses for work purposes, each can claim 5,000km
 - Client must be able to show that they undertook the journeys
 - “Reasonable estimate” (s28-25(3))
 - List of journeys

Motor vehicle claims

- Logbook method:
 - New logbook every 5 years or when usage patterns change to work out business use percentage
 - Must be kept for 12 weeks
 - Must be supported by invoices/receipts
 - Reasonable estimate of fuel and oil expenses can be made by multiplying average fuel consumption for the car (from the Green Vehicle Guide) by average fuel price (from the Australian Institute of Petroleum website)
 - The 12-week period may overlap the start of an income year.
 - To use the logbook method for two cars, the logbook for each car must cover the same period.
 - New logbook is not required when an employee changes cars
 - Odometer records must also be kept showing the odometer reading of the car at the beginning and end of the 12-week period as well as at the start and end of the year
 - Odometer records are required **every year** to establish total km's travelled
 - Exclude holidays and other absences from claim

Motor vehicle claims

- Expensive cars (in excess of car limit of \$68,108 for 2023/24)
 - Depreciation can only be claimed up to the value of the car limit
 - Interest on finance can be claimed on the whole value of the car, including the excess over \$68,108
- Salary sacrifice/novated leases:
 - Because the employee doesn't own or lease the car in these situations they aren't entitled to claim any costs associated with the car.
 - Section 51AF of the ITAA 1936 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 – income tax deduction for costs of charging

- With the use of zero emissions vehicles (electric vehicles) on the rise in Australia, individual taxpayers who incur work-related car and motor vehicle expenses are faced with the compliance challenge of calculating electricity costs incurred when charging electric vehicles at their homes. This is because electricity usage for charging electric vehicles is combined with the total electrical consumption of the household, and often cannot be separately identified and valued.
- To address the compliance challenge for employers and individual taxpayers, the ATO has developed a draft fixed-rate methodology to calculate the cost of electricity when an electric vehicle is charged at the home. This is set out in PCG 2024/2.
- It is the individual's choice if they want to use the methodology outlined in this draft Guideline or if they would like to determine the tax deduction by working out the actual cost of electricity used. However, using the actual basis is often complicated, unwieldy and simply not possible for many taxpayers.
- The choice between the fixed rate methodology and the actual basis is made per vehicle and applies for the whole income or FBT year. However, it can be changed by the employer or individual from year to year

Electric vehicles – income tax deduction for costs of charging

- If clients wish to rely on the fixed rate method, certain criteria need to be met, namely that the client:
 - uses a zero emissions electric vehicle while carrying out their income-earning activities
 - incurs electricity expenses when charging their electric vehicle at home, and
 - has kept the relevant records for the income year.
- Then, simply multiply the cents per kilometre rate (the EV home charging rate) by the total number of business or work related kilometres travelled by the electric vehicle in the relevant income year.
- **The rate is 4.20 cents per kilometre.**
- If electric vehicle charging costs are incurred at a commercial charging station (rather than in the home), a choice has to be made. The EV home charging rate can be used, but only if the commercial charging station cost is disregarded. If the commercial charging station cost is used, the EV home charging methodology cannot be applied. Further, all necessary records such as receipts must be kept to substantiate the claim, as per normal record-keeping rules.

Electric vehicles – income tax deduction for costs of charging

- Substantiation:
- If an individual chooses to apply the EV home charging rate for income tax purposes, to satisfy the record-keeping requirements they must have:
 - for cars, a valid logbook to use the logbook method of calculating work-related car expenses. For other motor vehicles, it is recommended a logbook is maintained to demonstrate work-related use of the vehicle, and
 - one home electricity bill in the applicable income year to show that electricity costs have been incurred.

Work-related travel

- Taking advantage of the substantiation exception
 - Bona fide travel allowance must be paid to the employee to cover the cost of food, drink, accommodation and/or incidentals
 - PBR 1051239171004: Allowance of \$50 per day is not bona fide – “It is considered that such amounts received are not a genuine travel allowance and could not reasonably be expected to cover your meal and incidental expenses”
 - Travel allowance is paid to cover a specific trip. It cannot be a general allowance or be rolled into salary or wages
 - The amount claimed cannot exceed the Commissioner’s reasonable amount (TD 2023/3)
 - Must still be able to demonstrate basis of claim and that the expenses were incurred
 - For overseas travel, the substantiation exception only applies to food, drink and incidentals
- No automatic claim where travel allowance received: common myth that a deduction for either the allowance received or the Commissioner’s reasonable amounts can be made.
 - Deduction can only be claimed for the expenses actually incurred

Work-related travel

- Truck drivers
 - Accommodation expenses must be fully substantiated
 - Where no allowance is received, substantiation exception does not apply
 - The amounts for each meal break are separate and **cannot be aggregated** into a single daily amount. This is of particular importance for the days on which travel commences and ends, when some meals may not be deductible because they are not consumed in the course of work travel. The amounts also cannot be moved from one meal to another, eg if the full amount for breakfast is not spent, it can't be carried over to lunch or dinner.
 - Diary may be required to substantiate
- Overseas travel
 - Travel diary required where employee is overseas for six nights or more in a row recording:
 - Nature of the activity
 - Day and approximate time the activity began
 - How long the activity lasted
 - Where the taxpayer engaged in it

Overtime meals

- Only claimable if client receives an overtime meal allowance under an industrial award or enterprise agreement
 - Meals eaten during regular working hours are a private expense
- Not claimable if overtime meal allowance is rolled into salary or wages and not included as a separate allowance on the payment summary or income statement
- Need to be able to show how client spent the money and how claim was calculated, even when relying on substantiation exemption
 - can include the cost of food you prepared yourself to eat during overtime

Working from home – fixed rate method

- The revised fixed rate method applies from 1 July 2022 onwards. The amount of the fixed rate is 67 cents per hour.
- What's covered by the rate
 - energy expenses (electricity and gas)
 - phone usage (mobile and home)
 - internet
 - stationery and computer consumables.
- No additional deduction for any expenses covered by the rate can be claimed.
- For the first time, phone usage and internet expenses are included in the fixed rate method. These were previously excluded from the old fixed rate method, which allowed a separate deduction to be claimed for these expenses. Note that under the new rules, if you use your mobile phone for work purposes when you are out-and-about, as well as at home, you can no longer claim a separate deduction for this use and still use the fixed rate method. If you wish to claim actual use of your mobile phone (or home internet), you must claim using the actual method for **all** working from home expenses (see below).

Working from home – fixed rate method

- What can be claimed separately
 - The decline in value of assets used while working from home, such as computers and office furniture.
 - The repairs and maintenance of these assets.
 - The costs associated with cleaning a dedicated home office.
- The revised fixed rate method doesn't require that you have a dedicated home office space to claim working from home expenses. So, if you work from the kitchen or living room, you can still claim a deduction.

Working from home – fixed rate method

- **Compliance and substantiation**
- You must keep a record of all the hours worked from home for the entire income year.
- The ATO won't accept estimates, or a 4-week representative diary or similar document for any period after 1 March 2023.
- Records of hours worked from home can be in any form provided they are kept as they occur, for example, timesheets, rosters, logs of time spent accessing employer or business systems, or a diary for the full year.
- Records must be kept for each expense that you have incurred which is covered by the fixed rate per hour (for example, if you use your phone and electricity when working from home, you must keep one bill for each of these expenses).

Working from home – actual method

- The alternative method is to claim a deduction for actual costs incurred including:
 - electricity (lighting, cooling/heating and electronic items used for work, for example a computer) and gas (heating) expenses
 - the decline in value and repair of capital items such as home office furniture and furnishings
 - cleaning expenses
 - phone expenses including the decline in value of a phone handset
 - internet expenses
 - computer consumables
 - stationery, and
 - the decline in value of a computer, laptop or similar device.
- Claims must be substantiated by keeping records and written evidence to determine the work-related proportion of each expenses incurred.

Working from home – actual method

- How to determine the work-related proportion of expenses incurred:
 - keep a diary of the number of actual hours work from home during the income year or
 - keep a diary for a representative four-week period to show usual pattern of working at home
 - floor area of home office
 - must take into account other members of the household when working out expenses such as electricity use, internet, etc. If a member of the household is using the same area of the house or the same service, expenses must be apportioned accordingly

Working from home claims – occupancy costs

- Rent, mortgage interest, water rates, land taxes and house insurance premiums
- Not generally claimable for working from home!
- Can be claimed where home is primary place of business (that is, business is run from home and there is a room exclusively or almost exclusively for business activities)
- Can also be claimed where home is a sole base of income earning activity, ie taxpayer is employed but not provided with office accommodation by their employer
- Occupancy costs cannot be claimed by people working from home due to COVID-19.
- Examples:
 - a small business operator whose main office is in their home
 - a tradesperson or craftsperson who has their workshop at home
 - a doctor or dentist who has their surgery or consulting room at home.
- May impact CGT main residence exemption

Self-education – TR 2024/3

- The ATO has released a new tax ruling to replace TR 98/9, explaining in what circumstances a deduction can be claimed for self education costs.
- This guidance does not change the law or the ATO's practice but clarifies and replaces their existing guidance and is updated to deal with recent AAT decisions and the abolition (from 1 July 2022) of the \$250 non-deductible amount.

Self-education – TR 2024/3

- The guidance explains that self-education expenses are incurred in gaining or producing your assessable income if either or both of the following apply:
 - The individual's income-earning activities are based on the exercise of a skill or some specific knowledge and the self-education enables the individual to maintain or improve that skill or knowledge, noting the following factors:
 - if the knowledge or skills obtained are too general, there will not be a sufficient connection between the expense and the income-earning activity
 - the self-education has a necessary connection to the income-earning activities at the time.
 - The self-education objectively leads to, or is likely to lead to, an increase in income from the taxpayer's current income-earning activities in the future. The following factors are relevant:
 - the increase in income is clearly linked to the self-education undertaken
 - there is a real opportunity for promotion resulting from the self-education
 - the self-education leads to or is likely to lead to a higher pay grade in your current income-earning activities
 - advancement of employment and salary must be a substantial part of your motives for undertaking the self-education.

Self-education – TR 2024/3

- Self-education expenses cannot be deducted if they are undertaken or designed to:
 - Obtain employment
 - Obtain new employment, or;
 - To open up a new income-earning activity.
- Such expenses are incurred at a point too soon to be regarded as incurred in gaining or producing assessable income.

Audit flags

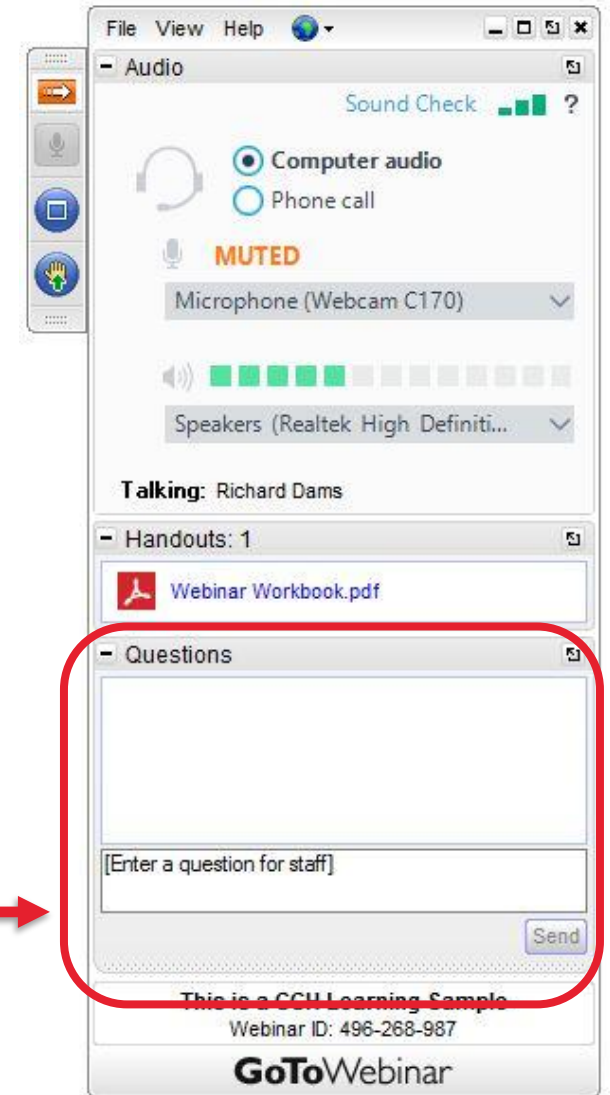
- The ATO recently claimed that there was an \$8.7 billion shortfall between the tax individuals are expected to pay and the tax they actually are paying. The ATO believes that work-related expenses claims are the biggest element in that “tax gap” and have signalled that they’ll be looking closely at these deductions this year. Expect them to focus in particular on:
 - Deductions for working from home expenses. The way these could be claimed changed last year, with the introduction of a new 67 cents per hour fixed rate and enhanced substantiation requirements. Expect the ATO to check claims thoroughly, particularly to verify whether taxpayers have a record of all their working from hours over the entire tax year, in the form of timesheets, a diary or copy of work rosters.
 - Similarly, in relation to working from home, deductions for “occupation” costs like rent, rates and mortgage interest are under the spotlight as they are not allowable unless you’re actually running a business from home.
 - Mobile phone and internet costs, with a particular focus on people who are claiming the whole (or a substantial part) of the bill for their personal mobile as work-related and people who are potentially “double dipping” (ie, claiming the 67 cents per hour working from home rate – which includes an element for mobile phone costs – as well as claiming their mobile costs separately).
 - Motor vehicle claims where taxpayers take advantage of the 85 cent per kilometre flat rate available for journeys up to 5,000kms (the ATO is concerned that too many taxpayers are automatically claiming the 5,000km limit regardless of the actual amount of travel)
 - Incorrectly claiming deductions under the rule that allows taxpayers who have incurred work-related expenses of \$300 or less in total to make a claim without receipts (the ATO believes that some taxpayers are claiming this – or an amount just less than \$300 – without actually incurring the expenses at all).

Questions?

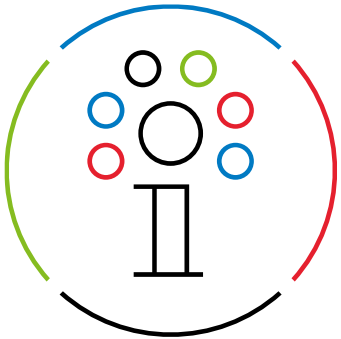


Alison Wood
CCH Learning Moderator

Type your
question and hit
Send



Upcoming Webinars



[View all Webinars](#)

- 18 June – ATO on Bankruptcy & Winding up Cases
- 18 June – Building a Resilient Brain with Mindfulness
- 19 June – Equalising Spouse Super Balances
- 20 June – Carbon Accounting – Setting the Organisational and Operational Boundaries
- 25 June – ‘Read the Deed’ - Effective Trustee Resolutions!
- 25 June - Tax Technical Update - June 2024

Questions?



You can type them in the “Questions” box now,
Or contact me via:

- **Mark Chapman**
- Director of Tax Communications
- H&R Block
- 0415 844 388
- mchapman@hrblock.com.au

Next Steps

Please complete the Feedback Survey.

Within 24-48 hours you will receive an email when the following is ready;



- E-Learning Recording
- Verbatim Transcript
- CPD Certificate
- PowerPoint Presentation

Thank you for
attending



 Wolters Kluwer

 **H&R BLOCK**
TAX ACCOUNTANTS

