

# Why work-related travel claims are easy pickings for the ATO

The Australian Taxation Office (ATO) is on the warpath over work related travel expenses and is prepared to test the boundaries of claims in court.

A recent case before the Administrative Appeals Tribunal (AAT) highlights many of the issues that commonly occur. In this case, a truck driver claimed large work related travel expenses over two years - \$24,736 in the first year, and \$17,489 in the second.

Large work-related claims often pique the interest of the ATO and in this case, the ATO audited the taxpayer's returns, then made amendments to take into account allowances the taxpayer received from his employer for travel but had not declared as income. The taxpayer responded by lodging an amended return, increasing his claim to \$33,503 in the first year (later reducing it back to \$26,235).

The ATO responded by initiating a specific audit of his work-related expenses across both years. The result was that the taxpayer's claims for work-related travel were reduced to \$0 for both years and he was slapped with shortfall penalties totalling just under \$8,000.

At this stage you are probably wondering why you would bait the ATO, particularly when the documentation supporting your claims was inconsistent. But, the

taxpayer objected to the ATO's decision, which launched a further investigation. This time the ATO conceded on some claims. Despite this, the taxpayer brought his case before the AAT.

The AAT found that the taxpayer did not prove that the ATO's amended returns were excessive, primarily because he did not keep records for work-related travel expenditure when away from home overnight driving trucks. The penalties applied by the Commissioner were also found to be reasonable. The issue in this case appears to be that the truck driver just didn't believe that he needed to keep records under the substantiation exemption and that he was entitled to claim the full amount of the Commissioner's reasonable rates each day he travelled.

While this case appears excessive, the main parameters highlight common issues that arise for work related travel claims.

## What paperwork do you need to claim travel expenses?

Every year, the Commissioner publishes the reasonable rates for travel expenses – accommodation, food and drink, and incidental expenses. If claims fall within these reasonable amounts, you can deduct travel allowance expenses within Australia without being required to keep full written evidence of all the expenses. But, even if you can rely on the substantiation exemption, you may still be required to show the basis for determining the amount of your claim – that is, you still might need to prove that you actually incurred the expenses, and the expenses were work related.

An area of concern is where these reasonable rates are applied carte blanche. For example, you might be travelling overnight but don't leave until the afternoon. You have breakfast and lunch as usual before travelling, sleep away from home, then return home the next night. In this circumstance you could not claim breakfast and lunch on the first day because these meals would have been consumed before the travel began.

Also, the ATO's reasonable rates for accommodation expenses are only applicable if you are staying in commercial accommodation such as a hotel, motel or serviced apartment. If you choose to stay with family or friends while you are travelling then you can't claim the ATO's reasonable amount.

If you choose to claim amounts above the Commissioner's reasonable amounts, you need to keep records substantiating all of your claim (not just the amount in excess of the Commissioner's rates).

*" This story highlights an issue that I often talk about – that the value of work related deductions has more than tripled over the past 10 years. And this increase is not being driven by dodgy claims – it is being driven by employers providing less and less of the work related items needed these days, like mobile phones, tablets, professional memberships, and company cars for work related travel. I spend the vast majority of my time as a tax advisor informing clients on what they can legitimately claim, because there are always items that they didn't realise were allowable deductions. And the most important thing to get right when making a legitimate claim is having the appropriate supporting records, to ensure that you can always satisfy an ATO query on your tax return."*



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### Just because you receive a travel allowance does not mean you have a legitimate claim

One of the issues highlighted in this case was the misconception that because someone receives a travel allowance or overtime meal allowance, this automatically entitles them to a deduction. The expenses still need to be incurred in the course of work-related travel in order to be deductible. Also, the ATO's reasonable rates don't apply unless the allowance itself is 'bona fide' – that is, the amount must reasonably be expected to cover accommodation or meal expenses that will be incurred while travelling for work.

### To qualify as a travel expense you need to sleep away from your home

To qualify as a travel expense, you need to travel away from your ordinary residence. The ATO takes that to mean that you're sleeping away from home – not just travelling for the day.

The difference between travelling in the course of your work, living away from home, or relocating is important. The tax treatment between these is quite different.