



Travel Allowance Substantiation Concession, More Work Than Substantiating

Many decades ago the government introduced substantiation concessions for people travelling in their job and receiving a travel allowance. Basically, if the amount you claim is reasonable you do not need to keep receipts. Every year the ATO releases a detailed ruling of the amount that it considers reasonable depending on where you are travelling to. This is created by researching costs in these areas. Yet, the ATO is now taking the attitude that unless you can prove you have spent that amount you cannot claim it. Which defeats the purpose of the concession and actually makes the requirement more cumbersome than simply keeping receipts. The ATO even take it so far as to deny any deduction at all unless you can reach their high benchmark of proof. Basically, this means the ATO are claiming that while it is clear you travelled away from home overnight for your work you did not need to eat or need accommodation for sleeping!

What the Law says - Section 900-50(1)

You can deduct a *travel allowance expense for travel within Australia without getting written evidence or keeping travel records if the Commissioner considers reasonable the total of the losses or outgoings you claim for travel covered by the allowance.

What the ATO Say - TD 2024/3

4. The reasonable amounts only provide the maximum amount you can claim without being required to substantiate your expenditure (refer to paragraph 33 of TR 2004/6). If you rely on the reasonable amounts and we check your tax return, you will still be required to show:

- that you spent the money in performing your work duties (for example, in travelling away from home overnight on a work trip)
- how you worked out your claim (for example, you kept a diary)
- that you spent the money yourself (for example, using your credit card statement or other banking records) and were not reimbursed (for example, a letter from your employer)

The ATO's expectations, in our opinion far exceed the requirements of the law. This year in Shaw's case <https://www.bantacs.com.au/Jblog/a-win-for-employee-truck-driver/#more-1777> the Administrative Review Tribunal agreed that the ATO needed to be more realistic and allowed a tax deduction up to the full reasonable amount. The ATO with its huge taxpayer supported funding has simply appealed the case. There are many examples of this tyrannical behaviour by the ATO, which is why we strongly encourage clients to obtain audit insurance.

What we need this year if you are claiming expenses against a travel allowance:

Ideally receipts for all expenses then we do not have to worry about the ATO ruling. But if you are relying on the “concessions” and have been paid a travel allowance that is appearing on your PAYG summary, please try to obtain as much of the following as possible.

Diary – recording every day you were away from home overnight, where you stayed and the times you ate meals.

Sample Month – Keep receipts for all your meals and accommodation for at least a month as a representative sample. From Shaw’s case it appears it is not too late if you have not done this by 30th June. You can do this now, in the new year and use it as an example of your normal expenses. So, unless you have changed employment you really have no reason not to do this before you come and see us.

Letter from Employer – Ask your employer to provide you with a letter stating the following:

- The number of nights you were required to sleep away from home for work purposes and the location.
- The daily amount of the allowance
- The basis of the allowance i.e. what was for meals and what was for accommodation
- That you were not reimbursed for any of the expenses covered by the allowance.

Supporting Bank Statements – Make sure you pay by card as the ATO require proof that it was you who actually paid the expense.

Ultimately it is up to you what you feel comfortable in claiming. If you tell us the expenses you have incurred, you sign the tax return as true and correct. We accept your word but if you are audited expect a draconian approach from the ATO and please pay your audit insurance premium so we can fight the good fight.

How best to deal with next year:

- 1) Just keep receipts and a travel diary if you are away from home for more than 6 nights. Don’t bother with the “concession”. Note even if you do not receive a travel allowance you can still claim your costs with these receipts.
or
- 2) Persuade your employer to not disclose the travel allowance on your PAYG summary. If this is the case, you do not need to include the travel allowance in your tax return and therefore do not need to bother with expense deductions to offset the allowance. Your employer is entitled to do this if they believe the allowance has been fully expended and the amount is the same or less than the reasonable amount published by the ATO each year. This blog explains the issue to your employer <https://www.bantacs.com.au/Jblog/allowances-on-payg-summaries/#more-321>
or
- 3) As the very minimum, with no guarantees that the ATO won’t just be as belligerent as they were initially in Shaw’s case and deny any deduction at all. Keep a diary of each and every day you travelled noting the times you had a meal and where you stayed each night. Note if it is a caravan park or a hostel the cost will not be able to be claimed against the allowance unless you have a receipt. Keep a representative sample of your meal costs for one month with proper receipts showing date, describing goods, amount and name of supplier. Obtain a letter from your employer verifying the daily allowance you were paid, number of days travelled, that the travel related to your work and that you were not reimbursed for any of

the expenses. Make sure you use a card for all purchases so that you can produce bank statements for the whole year showing each expense for the ATO to examine.

Further Reading:

Record keeping for Truck Drivers

<https://www.bantacs.com.au/Jblog/tax-deductions-and-record-keeping-for-truck-drivers/#more-1361>

For your amusement a bit of a rant about what the ATO has been doing

<https://www.bantacs.com.au/Jblog/reasonable-allowance-concessions-effectively-abolished-by-the-ato/>