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This edition of Newsflash is for wage earners. Early in the year I know but let's make sure you are totally ready and keeping the right records to maximise your tax deductions in your 2019 tax return.

How about a New Year's resolution to keep better records. In a recent case, see overtime meal allowance below, even good records won't help most employees, it seems now impossible for the average worker to qualify to claim a reasonable deduction for an overtime meal.

ATO Bullying:

The ATO no longer operate on whether you have actually incurred the expense or not or whether it relates to your work. They go much further than this to find any little reason to deny the deduction even though they know darn well that you have legitimately incurred the expense. They will try to catch you out on a technicality in the law and even if that fails, they will try and dig up totally irrelevant stuff to bluff you out of claiming, such as the receipt being in your spouse's name.

Their biggest weapon is demanding a letter from your employer to verify the legitimacy of everything you claim. Bad luck if your employer will not give you the letter, your supervisor has left or you are no longer working there.

For more details on this please read our blog <https://bantacs.com.au/Jblog/reasonable-allowance-concessions-effectively-abolished-by-the-ato/#more-159>

Start Your Diary Now!

You need to keep a diary for one month, before the end of the financial year, in order to qualify for many work related tax deductions. To assist you with this we have made one available for free on this page <https://www.bantacs.com.au/shop-2/diary-template/> Also make sure you keep at least one month's statement on your mobile showing each call so you can apportion between work and private. If your statement is not itemised, take a screen shot now of recent calls going back 1 month.

When You Receive an Overtime Meal Allowance.

Claiming a tax deduction against an overtime meal allowance has become a thing of the past. Note you are not allowed to claim a meal at all if you have not received an allowance from your employer.

Unfortunately a taxpayer has recently, lost very badly at the Administrative Appeals Tribunal – Mitchell and Commissioner of Taxation 2018 AATA 2507 http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA/2018/2507.html?context=1;query=AA%202018%202507;mask_path= This means that taxpayers will no longer be able to claim for a meal they buy on the way home after working overtime. Claiming a deduction for an overtime meal is now limited to the very lucky few who have an employer who keeps the work canteen open for them or are allowed time off during their overtime to buy food from a nearby shop. The bottom line is if you don't go back to work after purchasing that meal you are not entitled to claim in against your overtime meal allowance. Here is a quote from the case:

“For expenditure on an overtime meal to satisfy s 8-1(1), the meal must be consumed whilst performing overtime duties or consumed on a break in the course of performing those duties. The evidence was that Mr Mitchell generally finished work at 5.30 pm on Mondays to Thursdays and 3.30 pm on Fridays. He generally consumed dinner after finishing his working day. For these reasons, the expenditure incurred by Mr Mitchell on dinner does not satisfy the requirements of s 8-1(1) of the 1997 Act and is not deductible.

Mr Mitchell submitted that this result was “arbitrary”. Whilst it may seem “arbitrary” for a taxpayer who works overtime to be entitled to a deduction for an overtime meal consumed whilst at work but not after leaving work, the result follows from the requirement under s 8-1 that the occasion for the outgoing be found in that which is productive of assessable income. The connection between the meal expense and overtime work is broken if the meal is not consumed whilst performing overtime duties.”

Got that? One hand holding the food the other performing overtime duties! This is an extreme outcome considering the legislation says in connection with working overtime:

SECTION 900-60 Exception for reasonable overtime meal allowance

You can deduct a *meal allowance expense without getting written evidence if:

- (a) the allowance is to enable you to buy food or drink in connection with overtime that you work; and
- (b) the allowance is paid or payable to you under an *industrial instrument; and
- (c) the Commissioner considers reasonable the total of the losses or outgoings you claim that are covered by the allowance.

It should be considered that if the legislators wanted the food to be consumed in such a restrictive manner as the Mitchell case, then they would have said while working overtime not in connection with overtime. Surely the choice of a less common phrase suggests something better than the outcome of this case. But the ATO are right on board for this interpretation. On its web site <https://www.ato.gov.au/Individuals/Income-and-deductions/Deductions-you-can-claim/Other-deductions/Overtime-meals/>

Further in TD 2017/19 the ATO made major changes in its stance on overtime meal allowances, stating that you are required to prove that you worked overtime, apparently the fact you have received an overtime allowance is not enough. In addition, you have to prove you were paid an overtime meal allowance so keep your payslips. Then if you don't have a receipt you need to still prove how much your meal cost. This could be done with a menu from the place where you purchased the meal.

None of this removes the reality for most workers of not being able to buy a meal while working overtime and then return to work to eat it. This means if your employer puts the overtime meal allowance on your PAYG summary (group certificate), you have to include it as income with no tax deduction.

The warning here is that your employer does not have to put the overtime meal allowance on your PAYG summary and if they don't you can ignore the whole issue. Accordingly, now is the time to strike. Make sure your employer reads this. Make sure they do not intend to put the meal allowance on your PAYG summary. If they feel they must, refer them to table 5 of

<https://www.ato.gov.au/Business/PAYG-withholding/Payments-you-need-to-withhold-from/Payments-to-employees/Allowances-and-reimbursements/Withholding-for-allowances/>

Financial and Insurance Advice

We now have the answers damn straight in all matters financial. BAN TACS Financial Services has a facebook page, like us on <https://www.facebook.com/BAN-TACS-Financial-Solutions-1022569537944601> to see our daily post demystifying financial and insurance issues for the average person from our financial planning arm so you know it is objective, relevant and holistic. <https://bantacsfinancialsolutions.com.au/>

As you will see from the photo of our motley crew we are real people just like you, not an institution and we can deal with the financial institutions on your behalf, including insurance claims.

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