AV CHARTERED ACCOUNTANTS

COMMITTED TO YOUR BUSINESS SUCCESS

Client Newsletter – Tax & Super

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Records for claiming work-related expenses

When completing your tax return, you're entitled to claim deductions for some expenses, most of which are directly related to earning your income.

To successfully claim a deduction for work-related expenses, it's important that you must have spent the money yourself and weren't reimbursed, it must be directly related to earning your income, and importantly you must have a record to prove it.

You can only claim the work-related part of expenses. If an expense relates to both work and personal use, the ATO will expect that you apportion use on a reasonable basis and only claim the work-related portion.

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About this newsletter

Welcome to **AV Chartered Accountants** client information newsletter, your monthly tax and super update keeping you **abreast of** current issues, news and changes you need to know about.

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Records for claiming work-related expenses *continued*

For an expense to be deductible, it must be:

- incurred in performing your employment activities – for example, travel, home office and phone expenses
- sufficiently connected to your employment activities – for example, work tools/equipment, eligible clothing and self-education expenses. The connection between the expense and your income earning activities must be more than remote or minor, and the incurring of the expense not merely peripheral to the activities.

RECORDS YOU NEED TO KEEP

If your work-related deductions (not including certain car, travel allowance expenses and meal allowance expenses) are more than $300, you must have records to support your claims.

Records are usually a receipt from the supplier of the goods or services. The receipt must show the:

- name of supplier
- amount of expense
- nature of goods or services
- date the expense was paid, and
- date of the document.

Record keeping exceptions

In some instances you may not need records, but you will still need to be able to show you actually spent the money and how you calculated your claim. Exceptions to the record keeping rules are there to make things simpler – they do not allow you to claim an automatic deduction up to the specified amount where the money has not been spent.

KEEPING YOUR RECORDS

You need to keep your records for five years from the date you lodge your tax return.

If you are claiming for the cost of a depreciating asset that you have used for work (for example a laptop) you must keep purchase receipts and a depreciation schedule, or details of how you calculated your claim for decline in value, for five years following your final claim.

As the ATO may ask that you produce your records during the five years, it is important that you have sufficient evidence to support your claims.

Commissioner's discretion

If you are unable to obtain a receipt from a supplier, you can still claim a deduction if the ATO can be convinced that the nature and quality of the evidence shows that you:

- spent the money, and
- are entitled to claim a deduction.

Evidence can include bank statements or credit card statements which show the amount that was paid, and when and who it was paid to, as well as other documents that outline the nature of the goods or services provided.

MYDEDUCTIONS

The records you keep don't have to be in paper form. Records made and stored electronically are recognised as documents – this includes photos of your receipts.

Keeping track of your records on the go is easy with the ATO app myDeductions tool, which is free at your app store. In myDeductions you can keep records of:

- any work-related expenses (including car trips)
- interest and dividend deductions
- gifts or donations
- cost of managing tax affairs
- other deductions.

At tax time you can send these records to us for use in completion of your return.

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How the record keeping rules apply to different expenses

CAR EXPENSES

The type of car expense records you need to keep depends on whether you use the cents per kilometre method or logbook method to record the expenses.

Method 1: Cents per kilometre

You don't need receipts, but you need to be able to show how you worked out your business kilometres (for example, by producing diary records of your work-related trips).

If you use the cents per kilometre method, your claim is based on a set rate (68c per kilometre from 1 July 2018) for each business kilometre travelled. You can claim a maximum of 5,000 kilometres per car.

Method 2: Logbook

Your claim must be based on the percentage of work use of your car. To work this out you need to keep a logbook. Your logbook is valid for five years, but you can start a new one at any time. Your logbook must:

- cover a minimum continuous period of 12 weeks and be broadly representative of your travel throughout the year
- include the purpose of every journey, odometer reading at the start and end of each journey and total kilometres travelled during the period
- include odometer readings at the start and end of each income year.

You can claim fuel and oil costs based on your actual receipts, or you can estimate the expenses based on odometer readings from the start and the end of the period in which you used the car during the year.

You must keep:

- original receipts for all other expenses for the car
- details of how you calculated your claim for decline in value for your car, including the effective life and the method used.

If your claim relates to the transport of bulky tools and equipment, you will need:

- a record of all work items carried
- the weight and size of all work items
- evidence that the items are essential to your work
- evidence that your employer provided no secure storage at the workplace.

➡ *If you borrowed a car or used a vehicle other than a car (for example, a motor cycle or a vehicle with a carrying capacity over one tonne, such as a utility truck or panel van) you cannot claim your expenses using either of the two methods.*

Instead, you need to keep all your receipts (such as fuel and repairs), and claim the work-related portion of these costs as a travel expense, not a car expense. Also remember to include on your tax return any allowances that you receive from your employer for car expenses.

TRAVEL EXPENSES

There are specific record keeping requirements for travel expenses, depending on:

- whether your travel allowance is shown on your payment summary
- whether your travel was domestic or overseas
- the length of your travel and your occupation.

Travel records you should keep include:

- a travel diary or itinerary, if your travel was for six nights or more
- receipts for all meals, airfares, accommodation, car parking and tolls
- an explanation of how the travel was work related, the number of nights you slept away from home and the location.

If your travel allowance is shown on your payment summary and you want to make a claim against it, you must have written evidence for the whole amount, not just the excess over the reasonable amount.

➡ *Reasonable amounts for accommodation, meals and incidentals are provided to make record keeping simpler, not to provide an automatic deduction – you can only claim the amount you spent. Although you may not need records, you will still need to be able to explain how you calculated your claim.*

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How the record keeping rules apply to different expenses *continued*

CLOTHING, LAUNDRY AND DRYCLEANING EXPENSES

- **Clothing.** You need to keep receipts to claim for the purchase of occupation-specific clothing, protective clothing, or unique and distinctive uniforms.
- **Laundry.** To claim a deduction for laundering occupation-specific clothing, protective clothing or unique and distinctive uniforms, you must keep details of how you calculated your claim.
- **Dry-cleaning.** If you use a dry-cleaning service for the clothes, you need to keep receipts.

➡ *If your laundry claim is under $150, you do not need to keep records. Although you may not need records, you will still need to be able to explain how you calculated your claim.*

PHONE AND INTERNET

- **Claiming less than $50.** If the work use of your phone is incidental, and you are not claiming a deduction of more than $50, you may make a claim based on the following:
  - $0.25 for each work call made from your landline
  - $0.75 for each work call made from your mobile
  - $0.10 for each text message sent from your mobile.
- **Claiming more than $50.** To claim a deduction of more than $50 you must:
  - keep all your phone and internet bills for the year
  - show how much is related to work.
- **If your bills are itemised.** Highlight all your work-related calls in a four-week period, which can then be applied to the full period.
- **If your bills are not itemised or only part of the service is itemised.** Keep a diary covering a representative four-week period showing how often you used your phone and internet for work. This pattern of work use can then be applied to the full period.
- **Bundled plans.** If you have a bundled plan, keep a diary covering a representative four-week period showing how often you use each service for work. This pattern of work use can then be applied to the full period. Work out your work use by recording:
  - internet:
    - the amount of data downloaded for work as a percentage of the total data downloaded by all members of your household
  - phone:
    - the number of work calls made as a percentage of total calls
    - the amount of time spent on work calls as a percentage of your total calls.

➡ *Unless you only use your phone and/or internet for work, you will have to determine the work-related portion of your expenses. Keep a record of the calculation and only claim that amount.*

WORKING FROM HOME

When claiming running costs for your home office (such as electricity and home office equipment) the types of records you need to keep depends on the method you use to work out your claim – fixed rate or actual costs.

- **Fixed rate.** If you are using the fixed rate method (52c per hour from 1 July 2018), either keep records of your actual hours spent working at home for the year, or keep a diary for a representative four-week period to show your usual pattern of working at home.
- **Actual costs.** If you are claiming the actual costs you have incurred, keep your receipts for items you will claim outright (for example, receipts for stationery or statements for electricity and gas).

SELF-EDUCATION EXPENSES

You must keep receipts for all self-education expenses, including course fees, text books, stationery and travel expenses. You must also be able to explain how the course directly related to your employment at the time of study.

If you are claiming the portion of a depreciating asset that you have used for self-education (such as a laptop), you must keep receipts and a depreciation schedule, or details of how you calculated your claim for decline in value.

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Essentials on taxable payments annual reports

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Operators in some Australian industries as well as select government entities are required by the ATO to lodge a taxable payments annual report (TPAR). The information provided in these reports provides the ATO with the information that allows it to identify contractors who have:

- not included all their income on their tax return
- not lodged tax returns or activity statements
- not registered for GST where they are required to do so
- quoted the wrong ABN on their invoices.

It also allows the ATO to help individual contractors (sole traders) by pre-filling information about these payments into their tax return. There is no requirement for businesses to provide their contractors with details of the information reported, however contractors are within their rights to request this information.

The TPAR lets the ATO know about payments that are made to contractors for providing services. Contractors can include subcontractors, consultants and independent contractors, and they can be operating as sole traders (individuals), companies, partnerships or trusts.

The taxable payments reporting system was initially introduced to address longstanding compliance issues the ATO had identified in the tax affairs of contractors in the building and construction industry.

Tax compliance issues that were identified included non-lodgement of tax returns, income being omitted from tax returns that were lodged, non-compliance with goods and services tax (GST) obligations, failure to quote an Australian business number (ABN), and use of an invalid ABN.

The industries

Building and construction service providers have been required to lodge TPARs since 1 July 2012, and operators in this industry are expected to lodge a TPAR by 28 August each year covering payments made over the most recent financial year (for example, the TPAR due in August 2019 will report payments made from 1 July 2018 to 30 June 2019).

The system has since been extended to include other industries. Initially these included cleaning services and courier services, and later was extended to road freight services, IT service providers, and security, investigation or surveillance services. The periods covered and the due dates for each are as follows:

- Cleaning services: for contractor payments from 1 July 2018 (first report due by 28 August 2019)
- Courier services: for contractor payments from 1 July 2018 (first report due by 28 August 2019)
- Road freight services: for contractor payments from 1 July 2019 (first report due by 28 August 2020)

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Essentials on taxable payments annual reports *continued*

- Information technology (IT) services: for contractor payments from 1 July 2019 (first report due by 28 August 2020)
- Security, investigation or surveillance services: for contractor payments from 1 July 2019 (first report due by 28 August 2020).

What needs to be reported

Operators in each of the industries covered need to report payments made to contractors that provide those services to each industry.

The details that are required about contractors are generally contained in the invoices (or grant applications in the case of government bodies) that a business receives from them.

The details for each payee include the:

- ABN (where known)
- name (business name or individual's name)
- address
- total amounts for the financial year of the:
  - gross amount paid (including GST plus any tax withheld)
  - total GST you paid them
  - total tax withheld where ABN was not quoted.

If an invoice received from a contractor includes both labour and materials, whether itemised or combined, the total amount of the payment may need to be reported, unless the labour component is only incidental. The ATO says that a payment for labour is considered to be incidental if the labour component "is immaterial to the actual supply".

These are some payments not required in the TPAR:

- payments for materials only
- payments for incidental labour
- unpaid invoices as at 30 June each year
- PAYG withholding payments
- payments within consolidated groups
- payments for private and domestic services. ■

ⓘ How the record keeping rules apply to different expenses *continued*

SPECIFIC RECORDS REQUIRED FOR DEPRECIATING ASSETS

Some items, like a computer or car, have a limited life expectancy (effective life) and are expected to depreciate over time or decline in value. You must keep receipts that show the:

- name of supplier
- cost of the asset
- nature of the asset
- date you acquired the asset
- date of the document.

You also need to be able to show:

- the date you first started using the asset for work-related purposes
- the effective life of the asset (how long an asset can be used for). If you have not adopted the effective life determined by us, you will need to show how you worked out the effective life.
- the method used to work out the decline in value
- how you have calculated the percentage of work use.

ⓘ We can help with any decline in value deduction for a depreciating asset, and also assist you with some of the relevant record keeping requirements. Remember to ask us for help and guidance for any of your work-related deduction claims. ■

This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.

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ATO actions on trusts and tax avoidance

The ATO says that it recognises that most trusts are used appropriately and for legitimate purposes. It says it will continue to help those who make genuine mistakes or are uncertain about how the law applies to their circumstances.

The ATO has a number of "trust risk rules" in place to identify higher risk compliance issues — but at the same time, it acknowledges that most trusts do not trigger these risk rules.

The ATO's stated priorities in relation to trusts are to:

- undertake focused compliance activity on privately owned and wealthy groups involved in tax avoidance and evasion arrangements using trust structures
- target known tax scheme designers, promoters, individuals and businesses who participate in such arrangements
- lead cross-agency action to pursue the most egregious cases of tax abuse using trusts
- undertake projects to gather intelligence on and deal with specific risks.

The rogue element of the trust landscape is dealt with by the ATO's Tax Avoidance Taskforce – Trusts. This taskforce works by targeting higher risk trust arrangements in privately owned and wealthy groups. The ATO emphasises that these are not ordinary trust arrangements or tax planning associated with genuine business or family dealings.

The trust risk rules

It is the use of trusts for purposes other than genuine business and family dealings that has attracted the ATO's attention. Arrangements that have tweaked the taskforce's focus include those where:

- trusts or their beneficiaries who have received substantial income that are not registered, or have not lodged tax returns or activity statements
- agreements with no apparent commercial basis that direct income entitlements to a low-tax beneficiary while the benefits are enjoyed by others
- there are artificial adjustments to trust income, so that tax outcomes do not reflect the economic substance – for example, where parties receive substantial benefits from a trust while the tax liabilities corresponding to the benefit are attributed elsewhere or where the full tax liability is passed to entities without any capacity or intention to pay
- revenue activities are mischaracterised to achieve concessional capital gains tax treatment – for example, by using special purpose trusts in an attempt to re-characterise ordinary income as discountable capital gains

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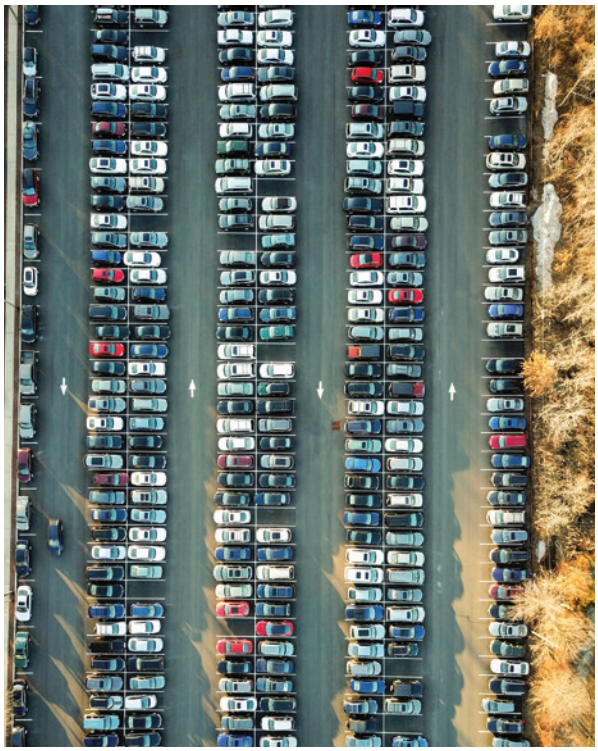

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Personal deductions for car parking expenses

Car parking fees incurred in the course of producing assessable income are generally deductible, but special rules apply if the car is used by an employee to commute between home and work or the car is provided to the employee by the employer.

Non-employees

Self-employed persons, partnerships or trusts are entitled to claim deductions for expenses incurred for car parking fees, provided those fees are incurred in the course of producing their assessable income or as part of the ongoing operations of their business.

Employees

Employees who use their own cars for work-related purposes are generally entitled to claim deductions for the cost of travel and car parking, provided those costs are incurred as part of employment related activities.

A deduction for car parking is denied, however, for the cost of car parking if the car:

- is parked at or near the employee's principal place of employment for more than four hours between 7am and 7pm, and
- was used to travel between either home and work, or work and home.

Other car parking expenses incurred during the day are allowed if the car is being used for work related purposes. A deduction is not denied, however, if the employee is the driver of, or a passenger of the car, and:

- they are entitled (under state or territory law) to use a disabled person's car parking space, and
- a valid disabled person's car parking permit is displayed on the car.

Employer-provided car

If the employer provides the employee with a car, any expenses incurred by the employee in maintaining the car (for example fuel, oil) cannot be claimed as deductions. They can be used to reduce the amount of any FBT. Where the employee incurs car parking expenses that are not reimbursed by the employer, a claim is allowed provided they satisfy the rules above.

If an employer provides an employee with a car park, FBT may be payable by the employer. A business becomes liable for FBT where it provides parking for more than four hours to its employees, and the relevant car parking facility is situated within one kilometre of a commercial car park where the minimum all day cost is more than the current parking fringe benefit threshold ($8.83 a day for the FBT year ending 31 March 2019).

Note that this one kilometre is a radius, and "by the shortest practicable route, from a car entrance to those premises". Also this can be travelled by any means, as long as this produces "the shortest practicable route".

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Personal deductions for car parking expenses *continued*

Road toll and electronic tag expenses

If an employee incurs a road toll expense when using either their own car or their employer's car while travelling when deriving assessable income, a deduction is allowable. However if the purpose of the travel is private (for example, from home to work), or the employer either pays the expense or reimburses the employee, the employee is not entitled to a deduction. However FBT may apply, as an "expense payment benefit" arises where an employer (or associate or third party under an arrangement) makes a payment to discharge an obligation of an employee (or associate) or reimburses same for expenditure incurred. ■

ATO actions on trusts and tax avoidance *continued*

- there are offshore dealings involving secrecy or low tax jurisdictions
- transactions are undertaken for the dominant purpose of changing the character of trust income in order to achieve lower rates of tax (for example, accessing withholding tax provisions)
- changes have been made to trust deeds or other constituent documents to achieve a tax planning benefit, with such changes not credibly explicable by other reasons
- transactions have excessively complex features or sham characteristics, such as circular distributions of income among trusts
- new trust arrangements have materialised that involve taxpayers or promoters linked to previous non-compliance – for example, people connected to liquidated entities that have unpaid tax debts.

The ATO says its taskforce does not operate covertly or by ambush, but rather that it is transparent in its aims to encourage voluntary compliance by publicising its activities and undertaking education projects. Its focus is necessarily on the privately owned and wealthy groups market and on the following risks that can, to a large extent, be ascertained from income tax returns lodged:

- accurate completion of return labels
- present entitlement of exempt entities
- distributions to superannuation funds
- inappropriate claiming of capital gains concessions by trusts.

Failure to lodge a return is also likely to attract taskforce attention. ■