

# ***PS LA 2002/5 - Counsel travel costs***

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! This document has changed over time. This version was published on *4 February 2002*



# ATO Practice Statement

## Law Administration

PS LA 2002/5

Please note that this Practice Statement was withdrawn on 24 August 2005. For information on Counsel Travel Costs please contact the Legal Services Branch in OCTC

**FOI status: may be released**

*This Practice Statement is issued under the authority of the Commissioner and must be read in conjunction with Law Administration Practice Statement PS LA 1998/1. It must be followed by ATO officers unless doing so creates unintended consequences. Where this occurs ATO officers must follow their Business Line's escalation process.*

**SUBJECT: Counsel travel costs**

**PURPOSE: To provide guidance in the payment of costs of accommodation and travel for counsel when travelling interstate.**

### STATEMENT

1. Counsel is to be paid reasonable costs for travel and accommodation when travelling interstate on behalf of the Commissioner in the conduct of matters. Costs which will be covered include air fares, accommodation, meals and incidentals. Unless special circumstances exist, Counsel is allowed business class travel with accommodation and meals at the SES rates.

### EXPLANATION

2. The Legal Services Directions (Directions) have been issued by the Attorney-General's Department pursuant to section 55ZF of the *Judiciary Act 1903*. These directions bind all Commonwealth agencies and all providers of legal services to the Commonwealth, and exist to ensure the delivery of efficient and effective legal services to Commonwealth agencies. Paragraph 13 of Appendix D to the *Directions on Engagement of Counsel* states:

'Counsel are not to be paid more than reasonable costs of accommodation and travel, taking into account levels applicable to Senior Executive Service officers in the Australian Public Service. Accommodation and class of travel is not to be approved so as to increase the approved Commonwealth daily rate.'

3. If possible officers should negotiate travel costs when originally briefing counsel. Counsel shall be provided with business class travel with accommodation, meals and incidentals at the SES rates (see Attachment 1). These rates can be combined and used as a daily total. For example, if accommodation is more expensive than the provided rate, the difference can be made up out of meal allowances for the day.
4. There will be some instances where amounts claimed by counsel are in excess of these rates. Such amounts are not to be paid unless approved by the ATO General Counsel (Legal Services Branch, National Office) and supported by receipts. If at all possible, any payments in excess of the SES travel rates should be negotiated when counsel is first briefed.

### **Day only travel**

5. For single day travel over ten (10) hours, counsel will be entitled to business class travel, meal allowances and incidentals at the SES rate. For day only travel less than ten (10) hours, counsel shall be provided with business class travel.

### **Overnight stay**

6. Where the travel is overnight, counsel shall receive business class travel, meal allowances, incidentals and accommodation at the SES rate (see Attachment 1).
7. Counsel will be entitled to the meal allowance for breakfast, lunch and dinner on each full day that they are away. Allowances for travelling days are based on time of departure and return and are set out in the table below.
8. Meal allowances payable to counsel on travelling days are based on the deemed time of departure and return. The time of commencement of travel is deemed to be one hour prior to the actual departure time for cities, and a half hour prior to the actual departure time for country areas.

<b>Time</b>	<b>Meal entitlement – day of departure</b>	<b>Meal entitlement – day of return</b>
Before 7.00 am	Breakfast, lunch and dinner	No meal entitlement
7.00am to 1.00pm	Lunch and dinner	Breakfast
1.00pm to 7.00pm	Dinner	Breakfast and lunch
After 7.00pm	No meal entitlement	Breakfast, lunch and dinner

### **Out of chamber fee**

9. An 'out of chamber' fee is an amount paid to compensate counsel for being away from their chambers. The fee will not be paid except in exceptional circumstances. Payment of an 'out of chamber' fee must be approved by the ATO General Counsel.
10. An 'out of chamber' fee cannot be used as a way of increasing counsel's daily rate. The Legal Service Directions state that:

'Any out of chamber fee is to be treated as part of the daily rate for the purpose of considering the appropriateness of that rate. Where an out of chamber fee is agreed or approved, it is to be marked separately on the brief.'

### **Where AGS brief Counsel**

11. AGS will be advised that the attached rates are to apply without exception, and if counsel seeks a higher amount then AGS are to seek instructions from the ATO. Again, rates are to be agreed when briefed or as soon as it is known that travel will be necessary.

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*subject references:* accommodation expenses  
AGS  
airfares  
counsel travel costs  
meal allowances  
out of chamber fees

*legislative references:* *Judiciary Act 1903* section 55ZF

*Other references* Legal Service Directions

*file references:* 2002/000773

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Date issued: **4 February 2002**  
Date of effect: **4 February 2002**

## ATTACHMENT 1

### Rates for Counsel

	<b>Accommodation Expenses</b>	<b>Breakfast</b>	<b>Lunch</b>	<b>Dinner</b>	<b>Incidental expenses</b>
	\$	\$	\$	\$	\$
Adelaide	141.00	19.20	27.15	38.10	19.70
Brisbane	141.00	19.20	27.15	38.10	19.70
Canberra	125.00	19.20	27.15	38.10	19.70
Darwin	135.00	19.20	27.15	38.10	19.70
Hobart	119.00	19.20	27.15	38.10	19.70
Melbourne	167.00	19.20	27.15	38.10	19.70
Perth	128.00	19.20	27.15	38.10	19.70
Sydney	181.00	19.20	27.15	38.10	19.70

Rates current as at 25 May 2004. Tax Office staff should check ATOConnect for current rates (<http://connect/corp/content.asp?doc=/content/corp/1920.htm&page=1#H1>). [Link available to internal staff only.]